



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**

**Consideration of reports submitted by States  
parties under article 73 of the Convention**

**Initial reports of States parties due in 2004**

**Rwanda\***

[21 October 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## I. Introduction

1. The surface area of Rwanda is 26.338 km<sup>2</sup> with a population of about 11 Million inhabitants, of which 51.7 per cent are women and 48.3 per cent are men. The population density is 395 inhabitants by km<sup>2</sup>. The Gross Domestic Product (GDP) per capita rose from 206 USD in 2002 to 541 USD in 2010. The national economy is predominantly based on agriculture. 85 per cent of households depend on agriculture and this sector contributes up to 37 per cent of the Gross Domestic Product. The annual population increase is 2.8 per cent. The GDP increased by 7.5 per cent in 2010<sup>1</sup>. Rwanda aspires to be a middle income country by 2020.

2. In its preamble, the Constitution of the Republic of Rwanda reaffirms its commitment to the principles of human rights enshrined in the United Nations charter as well as in key international instruments related to the promotion and the protection of human rights. The second chapter of the Rwandan Constitution, from article 10 to article 52, provides for the fundamental rights as contained in the Universal Declaration of Human Rights.

3. Rwanda ratified eight key international human rights instruments and most of their additional protocols. Rwanda ratified also eight Conventions recognized as “fundamental” by the Governing Council of the International Labour Organization (ILO). Many other international and regional conventions related to human rights were ratified or are in the process of being ratified. Once ratified, all treaties and conventions are automatically domesticated. According to the Constitution of the Republic of Rwanda (art. 190), duly ratified treaties prevail over national organic laws and ordinary laws. Rwanda has withdrawn all reservations on provisions of key international treaties on human rights.

4. Rwanda formulated programmes that aim at socioeconomic transformations. These programmes include the Vision 2020 [long-term strategy] and Economic Development and Poverty Reduction Strategy (EDPRS) [short-term strategy]. The Country has also formulated several policies and programmes geared towards the promotion and protection of human rights. The policy of Rwanda on migration facilitates the entry and the residence of foreigners on the national territory. This migration policy specifically targets the entry of foreign workers with skills that are not available on the Rwandan labour market<sup>2</sup>.

5. The preparation of this report was coordinated by the inter-institutional Task Force on Treaty Reporting. This group is composed of representatives of the Ministry of Foreign Affairs and Cooperation, Ministry of justice, Ministry of Gender and Family Promotion, Ministry of Health, Ministry of Education, Ministry of Public Service and Labour, Ministry of Internal Security, Ministry of Local Government and the National Human Rights Commission.

6. Wide consultations were made in the framework of information collection on the implementation of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families. The present report was elaborated using a participative approach of different actors, complemented by field visits, discussions and interviews with representatives of public institutions, Civil Society Organisations notably: *Ligue des Droits de la personne dans la région des Grands Lacs* (LDGL); *Congrès des Travailleurs et de la Fraternité* (COTRAF); *Centrale des Syndicats des Travailleurs du*

<sup>1</sup> Current Economic Development and Monetary Policy orientation by end June 2011, National Bank of Rwanda, April 2011.

<sup>2</sup> National Migration Policy, Rwanda, 2008.

Rwanda (CESTRAR); *Collectif des Ligues et Associations de defense des Droits de l'Homme* (CLADHO); African Evangelistic Entreprise in Rwanda (AEE/RWANDA); *Association de la Jeunesse pour la Promotion des Droits de l'Homme* (AJPRODHO); United Nations Agencies and international organizations (UNDP, ILO, IOM, ). Documentary research and validation workshops complemented the information included in the present report.

## **II. General information**

### **A. Description of the constitutional, legislative, judicial and administrative framework governing the implementation of the Convention, and any bilateral, regional or multilateral agreements in the area of migration**

#### **Constitutional framework**

7. The Constitution of the Republic of Rwanda provides for equal rights between all people without any form of discrimination. Article 11 stipulates that “discrimination of whatever kind based inter alia on origin, tribe, clan, colour, sex, social origin, faith, opinion, economic status, culture, language, social status, physical or mental disability or any other form of discrimination is prohibited and punished by the law”. Article 16 stipulates that “all human beings are equal before the law; they have right, without any distinction, to equal protection by the law”. Article 25 reaffirms the right to asylum under the conditions provided for by the law. Articles 37 and 38 recognize to any person the right to free choice of employment without any discrimination, the equality of salary for equal work, the right to form trade unions for the defence and the promotion of legitimate professional interests. Labour unions of workers and associations of employers are free to have collective or specific agreements governing their working relations. The right of workers to strike is recognized and exercised under conditions defined by the law, but the exercise of this right cannot breach the liberty of employment recognisable to each person.

8. Every person has the right to work and to free choice of employment without any discrimination between men and women in the area of employment and salary. Article 42 stipulates that a foreigner legally residing on the territory of the Republic of Rwanda enjoys all rights with the exception of those reserved to the nationals as provided for by the Constitution of the Republic of Rwanda and other laws. In the exercise of his/her rights, every person is subjected only to limitations set by the law in order to ensure the recognition and the respect of rights and liberties of others in a democratic society. These pertinent provisions of the Constitution of the Republic of Rwanda in the area of inalienable human rights and liberties benefit to foreigners, especially migrant workers and members of their families residing on the Rwandan territory.

#### **Legislative framework**

9. Article 190 of the Rwandan Constitution stipulates that “upon their publication in the Official Gazette, international treaties and agreements which have been conclusively adopted in accordance with the provisions of law shall be more binding than organic laws and ordinary laws except in case of the non-compliance of one of the parties”. This means that duly ratified international human rights instruments are part and parcel of the Rwandan internal laws and can be applied by local legal practitioners.

10. A new law on immigration and emigration was recently adopted. In its Preamble, this law refers to the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families and has incorporated its essential provisions.

11. Provisions of the law especially the Penal Code; the Criminal Procedure Code; the Code of Civil, Commercial, Labour and Administrative Procedure and the Code determining the Organization, Functioning and Jurisdiction of Courts, guarantee without any discrimination the effective protection of individuals and collective rights and liberties recognized by the Constitution of the Republic of Rwanda and international legal instruments related to human rights, such as the International Covenant on Economic, Social and Cultural Rights.

#### *Labour Law*

12. Article 12 of law N° 13/2009 of 27 May 2009 regulating Labour in Rwanda, commonly known as the "Labour law" provides that it shall be forbidden to directly or indirectly make any discrimination aiming at denying the worker the right to equal opportunity or to the salary, especially when the discrimination is based upon race, colour, sex, marital status or family responsibilities, religion, faith or political opinions, social or economic conditions, country of origin, disability, previous, current or future pregnancy or any other type of discrimination.

13. Concerning the employment contract of a foreigner, article 18 stipulates that: "Apart from issues related to working permits for foreigners working in Rwanda that are determined by immigration and emigration laws, the contract of employment for foreigners working in Rwanda shall be governed by this law (the Labour Law) and shall be written". It shows the political will of the Government of Rwanda to treat migrant workers in a similar manner as national workers. This Law sets fundamental principles that aim at the protection of high risk workers and their families; it prohibits child labour, forced labour and gender-based violence in the framework of employment (arts. 4, 6, 8 of the Labour Law).

#### *Legislation on social security*

14. The Decree - Law of 22 August 1974 governing the Organization of Social Security in Rwanda protects all workers without any discrimination, including migrant workers and members of their families. Article 2 stipulates that: workers governed by the provisions of the Labour Law shall be subjected to the social security regime, without any distinction, when they exercise a principal activity on the national territory, for the State or the Private Sector, regardless of the nature, the form, the validity of the contract or the amount and the nature of remuneration<sup>3</sup>. Paragraph 2 stipulates that the following categories of workers may also be subjected to the provisions of this Law:

- Rwandan workers employed by an enterprise located in Rwanda and who have been detached on the territory of another country to work there on behalf of this enterprise and;
- Foreign workers employed by an enterprise located abroad and who are detached on the territory of Rwanda to work on behalf of this enterprise.

#### *Other legal instruments*

15. Different legal instruments provide for provisions that promote the rights of workers in their totality, without any discrimination between national and foreigner workers. The following can be cited among others:

- Law No.° 04/2011 of 21 March 2011 on Immigration and Emigration in Rwanda;

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<sup>3</sup> Article 3 of the Law N° 60/2008 of 10 September 2008 Governing Missions, organization and Functioning of Rwanda Social Security Funds.

- Law No. 47/2001 of 18 December 2001 on Prevention, Suppression and Punishment of the Crime of Discrimination and Sectarianism;
- Ministerial order n° 02/01 of 31 May 2011 establishing regulations and procedures implementing immigration and emigration law;
- Ministerial order n°03/01 of 31 May 2011 determining the fees charged on travel documents, residence permits, visas and other services delivered by the directorate general of immigration and emigration.

#### **Judicial framework**

16. In accordance with the above-mentioned article 190 of the Rwandan Constitution, parties or their Counsel may invoke directly provisions of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families and Courts have the obligation to examine them and directly apply them. In other words, migrant workers like Rwandan citizens have the possibility and the right to invoke provisions of the Convention before national courts.

17. According to the judicial proceedings (arts. 320 to 326 of the Code of the Civil, Commercial, Labour and Administrative Procedure), litigations between workers (both national and foreigners) and employers are lodged before specialized courts hearing social cases. And according to provisions of article 9 of Organic Law N° 51/2008 of 9 September 2008 determining Organization, Functioning and Jurisdictions of Courts, every Intermediate Court hearing civil and criminal cases has specialized chambers: Specialised Chamber for Minors, Specialized Chamber hearing administrative cases and Specialized Chamber dealing with labour cases.

#### **Administrative framework**

18. Migrant workers are found in several sectors of the national life. Institutions in charge of regulating movements of migrant workers are mainly the Ministry of Public Service and Labour (MIFOTRA), the Ministry of Local Government (MINALOC), the Directorate General of Immigration and Emigration as well as authorities in charge of territorial administration and security.

19. MIFOTRA deals with issues related to the formulation of policies in areas of labour and employment. The national employment policy, adopted in September 2006, highlights that any productive activity must be exercised under conditions of liberty, equity, security and dignity<sup>4</sup>. Among other missions of this Ministry is the formulation of policies that promote the creation of employment opportunities in conformity with the dignity and the respect of fundamental human rights and strengthening free choice of employment for all without any form of discrimination based on race, religion, colour, sex, political opinion, nationality or origin<sup>5</sup>. Each of the 30 Districts of the country has a Labour inspector who deals with labour issues. They are responsible for the inspection and the settling out of disputes related to labour and employment<sup>6</sup>. The National Labour Council was established with the mission to ensure the monitoring of the implementation of employment policies and examining all problems related to labour, employment, professional training, social security, health and security at the workplace and working conditions and the life of workers without any discrimination<sup>7</sup>.

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<sup>4</sup> National Employment Policy, MIFOTRA, 2007, 3.

<sup>5</sup> Idem, 29.

<sup>6</sup> Article 41 of the Labour Code.

<sup>7</sup> Article 2 of the Order of the Prime Minister N° 62/03 on the Creation, Functioning of the national Labour Council, Official Gazette N° 2/2006 of 1 February 2006.

20. The essential role of the Directorate General for Immigration and Emigration is to facilitate entry of foreigners, tourists, investors and qualified workers into the country and to issue travel documents to Rwandan citizens and foreigners who are entitled to them; issue visas and permits to foreigners; promote national security by effective management of borders and issues related to migration and to ensure cooperation with other national or international institutions in charge of migration issues.

*Human rights treaties and labour conventions ratified by Rwanda*

Multilateral instruments

<i>No</i>	<i>Name of the Instrument</i>	<i>Date of ratification</i>
1	International Covenant on Economic, Social and Cultural Rights	12 February 1975
2	International Covenant on Civil and Political Rights	12 February 1975
3	International Convention on the Elimination of All Forms of Racial Discrimination	12 February 1975
4	Convention on the Elimination of All Forms of Discrimination against Women	10 November 1980
5	Convention on the Rights of the Child	19 September 1990,
6	Convention No.°182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	25 May 2000
7	Convention No.° 29 (1930) concerning Forced or Compulsory Labour	10 November 2000
8	Convention No.° 105 (1957) concerning the Abolition of Forced labour	
9	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	05 September 2008
10	Vienna Convention on Consular Relations of 1963	15 April 1964
13	Convention No.° 87 (1948) concerning Freedom of Association and Protection of the Right to Organise	03 December 1985
14	Convention No.°100 (1951) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value	10 October 1980
15	Convention No.° 111 (1958) concerning Discrimination in Respect of Employment and Occupation	10 November 1980
16	UNESCO Convention against Discrimination in Education	
17	Convention No.° 19 (1925) concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents	18 September 1962
18	Convention No.° 118 (1962) concerning Equality of Treatment of Nationals and Non-Nationals in Social Security	9 November 1987

## Regional instruments

<i>No</i>	<i>Name of Instrument</i>	<i>Date of Ratification</i>
1	African Charter on Human and Peoples' Rights	17 May 1983
2	Treaty establishing the East African Community and its Protocol related to the Creation of the Common Market, especially Part D related to free movement of workers	1 July 2007
3	General Convention on Social Security, between the Republic of Rwanda, the Republic of Burundi and the Republic of Zaire	9 October 1979
4	Convention on Free Movement of People, Goods, Services, Capital and on the right of establishment in Great Lakes countries (between Rwanda, Burundi and DRC).	14 November 1986
5	Judicial Convention between the Republic of Zaire, the Republic of Burundi and the Republic of Rwanda.	Signed at Gisenyi on 21 June 1957
6	Protocol to the judicial Convention related to daily cooperation in criminal matters between (Rwanda, Burundi and DRC)	Signed on 8 May 1982
7	Protocol instituting meeting of Governors of cross-borders provinces of Rwanda, Burundi and DRC.	Signed on 27 May 2009

21. Rwanda participated in the adoption of the Strategic Framework for the Migration in Africa, adopted during the Seventh Ordinary Session of the African Union Conference held in Banjul, in July 2006. The objective of this framework is to encourage Member States to implement and integrate issues related to migration in their national and regional programmes by reviewing national migration policies. Rwanda also participated in the adoption of the African Common Position on migration and development, during the Seventh Ordinary Session of the African Union Conference held in Banjul, in July 2006. This proposal provides for a set of measures to be implemented at the tripartite, national, continental and international level in the area of migration management.

## **B. Quantitative and qualitative information on the characteristics and nature of migratory flows**

### **Immigration, transit and emigration in which Rwanda is involved**

#### **Nature and characteristic of migratory flows**

22. Rwanda receives a large number of migrant workers. The improvement of the economic situation in the last 10 years and the implementation of support programmes for the growth of the economic sector facilitated the legal immigration in Rwanda. The statistics on the entry of workers during the years 2009 and 2010 demonstrate that Rwanda annually receives an ever increasing number of migrants in general and migrant workers especially.

**Migratory Flow, 2009**

<i>Movements</i>	<i>Visit</i>	<i>Business</i>	<i>Transit</i>	<i>Others</i>	<i>Total</i>	<i>Month</i>
Entry	64086	61614	58081	19269	203050	January
Exit	55754	65435	55835	22163	199187	
Entry	96923	121289	57678	16533	292423	February
Exit	100636	125974	48505	17911	293026	
Entry	47085	60538	61302	19009	187934	March
Exit	44534	71732	50987	65537	232790	
Entry	65664	75429	66088	28263	235444	April
Exit	71613	77925	60976	32663	243177	
Entry	66400	78844	44371	20929	210544	May
Exit	74194	84182	36276	22462	217144	
Entry	67608	65178	87164	9580	229530	June
Exit	72894	70958	77629	27857	249338	
Entry	38127	42902	85581	31628	198238	July
Exit	40702	52175	71447	85732	250056	
Entry	99650	103871	91307	31552	326380	August
Exit	102406	116932	78244	37235	334817	
Entry	94646	103700	82233	37823	318402	September

**Registered migrant workers (2009 - 2010)**

<i>Year</i>	<i>EAC* members</i>	<i>CEPGL** members</i>	<i>Other nationals</i>	<i>Family reunion</i>
2007				
2008				
2009	1,155	358	2,510	924
2010	1,387	733	4,975	1,442
TOTAL	2,542	1,091	7,485	2,366

*Source: Directorate General for 'Immigration and Emigration*

*Abbreviations:*

*\* EAC: East African Community*

*\*\* CEPGL: Economic Community of the Great Lakes States*

23. The education sector recruits migrant workers from neighbouring countries, especially from the Democratic Republic of Congo, Uganda, Kenya and Tanzania. More than 30 per cent of the secondary school teaching personnel are foreigners<sup>8</sup>. The academic personnel including lecturers in higher learning institutions and universities comprise 14 per cent of expatriates. These expatriates are equally treated as nationals except for certain

<sup>8</sup> MINEDUC, Department of Statistics, Kigali, 2000.

allowances linked to the fact of their being outside their countries<sup>9</sup>. A special English teaching programme known as "Rwanda English in Action Programme (REAP) employs part time Anglophone teachers during holidays, who offer English lessons to primary and secondary school teachers. They benefit from an allowance linked to being expatriates<sup>10</sup>. These legal migrant workers include migrant workers in the informal sector, especially in various professions and trades. Most of these workers are nationals of the Democratic Republic of Congo and Uganda. All these workers enjoy their rights and are treated with dignity.

### **C. The actual situation as regards practical implementation of the Convention and the circumstances affecting the fulfilment of the obligations of Rwanda under the Convention**

24. In the framework of the implementation of the Convention, Rwanda implements principles of the rule of law, and is committed to protect the rights of migrant workers. Since 2008, Rwanda has formulated the national migration policy, the national employment policy, signed the Common Market Protocol of East African Community and other conventions related to the protection of human rights, promulgated internal laws that facilitate the immigration of migrant workers from neighbouring countries and promoted the welfare of workers, including migrant workers.

#### **The National migration policy**

25. The national migration policy was formulated to serve the following objectives:

- To promote the attraction of qualified foreign workers, the acquisition of skills by nationals, the promotion of investments, and competitiveness of the private sector;
- To facilitate entry and residence of qualified foreign workers and entrepreneurs so as to fill the existing gap between the current manpower and needs on the labour market;
- To promote free movement of people, goods and services in the region;
- To facilitate the Rwandan Diaspora to contribute to the national development;
- To ensure efficient management of border posts and reducing challenges linked to migrations in this era of globalisation so as to consequently make Rwanda a secure and safe destination for investments, employment and tourism;
- To facilitate transparent and expeditious issuance of necessary travel documents to all deserving and bona fide applicants<sup>11</sup>.

#### **Types of resident permits and visas issued**

26. There are two major categories of residence permits: permanent resident permit and temporary resident permit (art. 10 of the Law on Immigration and Emigration):

- A temporary resident permit enables a foreigner to reside in Rwanda within a specified period. Whilst in Rwanda, a holder of a temporary resident permit may work, establish businesses, invest in new or existing businesses, unite with family members or any other activity authorized by his/her permit. A temporary resident

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<sup>9</sup> Website: [www.highreducationcouncil.org](http://www.highreducationcouncil.org).

<sup>10</sup> Teacher Service Commission, English In Action Programme, November 2010.

<sup>11</sup> National Migration Policy, 2008.

permit shall be issued for a period of two years renewable upon application. No permit shall exceed the validity of the employee's contract. A temporary resident permit shall have multiple entries<sup>12</sup>.

- A permanent resident permit enables a foreigner to reside in Rwanda permanently in order to work or engage in business in accordance with the law. Upon submitting the necessary requirements to the Directorate General, the applicant shall be issued with such a permit within 30 working days of application. A child living with his/her parents who is eligible to a permanent resident permit may be granted permanent residence as the parents. This permit shall be withdrawn when he/she attains 25 years of age. Thereafter, he/she shall be eligible for any other relevant permit upon application. A spouse of the holder of the permanent resident permit shall be entitled with the permit that has the same validity as of the principal applicant<sup>13</sup>.

27. There are three major categories of Rwandan visas: entry visa, transit visa and tourist visa:

- **Entry visa** is issued to a foreigner who intends to visit Rwanda for any purpose other than work or business and is not a citizen of a country with which Rwanda has a visa waiver regime. It is issued to crew members and is also issued to citizens of Easter African Community partner States, obtained at the border post by the prescribed endorsement on the valid travel document.
- **Transit visa** is issued to a person transiting Rwanda for a period not exceeding 72 hours. Transit visa may be extended only once when necessary. A transit visa is a single entry visa and the holder shall not be permitted to work. An applicant of this visa shall be required to have appropriate documentation for entry to the country of destination. A foreigner who is transiting through a Rwandan airport, but who shall continue his/her journey on the same flight, and a foreigner who shall wait for not more than three days at a Rwandan airport to connect a flight to carry him/her to the next destination, are exempted from a transit visa.
- **Tourist visa** enables a foreigner to visit Rwanda for tourism, seek employment, visit friends, medical treatment or other short term.

28. Foreign nationals who wish to obtain a Rwandan visa have to submit their applications to the Rwandan Diplomatic Mission accredited to their respective countries of residence. In the case of nationals of countries where there is no Rwandan Diplomatic Mission, they may apply online on the following website: [www.migration.gov.rw](http://www.migration.gov.rw) and obtain a Rwandan visa at any official entry posts into Rwanda. Based on bilateral agreements, nationals from some countries receive a visa free of charge at any entry point into Rwanda for a specifically determined period<sup>14</sup>.

29. Populations from neighbouring countries living along the borders with Rwanda are facilitated to cross into Rwanda to carry out their activities or visit relatives and friends in the Rwandan border districts by presenting their national identity cards. They are given a token at the border post which they return to the immigration authorities on their way back to their countries.

<sup>12</sup> Article 3 of Ministerial order n° 02/01 of 31/05/2011 establishing regulations and procedures implementing immigration and emigration law.

<sup>13</sup> Article 5 of Ministerial order n° 02/01 of 31/05/2011 establishing regulations and procedures implementing immigration and emigration law.

<sup>14</sup> These countries are the following: Burundi, Democratic Republic of Congo, Germany, Great Britain, Hong Kong, Kenya, Mauritius, Singapore, South Africa, Sweden, Tanzania, Uganda, USA.

**Working migration programme**

30. The strategy consists in using the migration policy to facilitate the entry of qualified foreign workers with skills that are lacking on the Rwandan labour market, to encourage temporary or permanent repatriation of members of the Rwandan Diaspora living abroad so as to contribute to the building of the nation. Migrant workers with rare and the most scarce qualifications [ODL (Occupations on Demand List)] are not obliged to be recommended by an employer or to have a working contract with an employer in Rwanda to be eligible for a visa. He/she is subjected to conditions of possessing documents required to be eligible for a visa in Rwanda. If all conditions of admissibility are met, a prospective migrant worker receives a Job Search visa to enable him/her to explore possibilities of employment on the labour market. The costs of a visa for migrant workers are affordable.<sup>15</sup>

31. Other privileges are granted to specific categories of migrant workers (on demand list, diaspora, investors staff members...), especially the right to be exempted from payment of import duties for personal effects, including a family vehicle at their first arrival when they wish to stay for a long period, the right to change an employer during the period of validity of their permits; etc. However, they have to inform immigration authorities and the labour inspection authorities.<sup>16</sup>

32. Workers from CEPGL member States and foreigners residing in CEPGL member States who do not reside in Rwanda but enter Rwanda on daily basis to exercise their activities use the "Autorisation Special de Circulation CEPGL"<sup>17</sup>. Article 30 of Law N°1/2011 of 21 March 2011 on Immigration and Emigration provides for cross-border documents for the population along common borders: "border populations shall be issued with a cross-border travel documents that enable them to carry out their daily activities on the other part of the border in conformity with bilateral or multilateral agreements signed between Rwanda and neighbouring countries or regional organizations".

33. Foreign nationals who come to Rwanda for holidays and who eventually decide to engage in a non-remunerated employment during their holidays in the country, receive a two-year temporary permit. Expatriates working as technical assistants according to bilateral agreements between Rwanda and other countries, receive a two-year permit.

34. A temporary resident permit issued to a person other than a self-employed person may be classified into sub-classes corresponding to the nature of the activity he/she intends to engage in. A foreigner who has a contract of employment of a period of more than 90 days shall apply for a work permit within 15 working days from the day of entry in Rwanda. If such a foreigner concludes a contract of employment while in Rwanda, he/she shall apply for the work permit within 15 working days from the date of concluding such a contract. A foreigner who wants to reside in Rwanda as a self-employed person and has registered his/her lawful activity before entry shall apply for a temporary resident permit within 15 working days from the date of entry. If such person registers his/her lawful activity after entry and decides to remain in Rwanda, the application shall be done within 15 days from the date of registration of his /her activity. Without prejudice to other relevant laws and regulations, the applicant shall be issued with a temporary resident permit within 15 days of application, upon submitting the necessary requirements to the Directorate General of Immigration and Emigration<sup>18</sup>. Article 14 of the Law on Immigration and Emigration stipulates that immigration authorities may, when necessary, allow a foreigner

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<sup>15</sup> National Migration Policy, 2008, para.12.

<sup>16</sup> Idem, pars. 7.

<sup>17</sup> Article 27 of the Law N° 4/2001 on Immigration and Migration.

<sup>18</sup> Article 3 paragraphs 10-15, of the Ministerial order n° 02/01 of 31 May 2011 establishing regulations and procedures implementing immigration and emigration law.

or a group of foreigners the rights of residence for a specified or unspecified period. This shall only be done where such a foreigner or a group of foreigners can be deprived of such rights.

#### **Implementation of the migratory policy**

35. Efforts have been made to provide clear, accessible and user-friendly information on migration. The Information Center for Migrations was created in the Directorate General of Immigration and Emigration. The required forms for processing visa applications are available in all Rwandan Diplomatic Missions and at the headquarters of the Directorate General for Immigration and Emigration as well as online. Applications are expeditiously and efficiently processed. Clients have the possibility to assess the performance of the Immigration Authorities and other organs involved in the delivery of services to migrants by means of distributed forms and suggestion boxes. The waiver of costs on working permits for nationals of East African Community States (EAC) enabled free movement of workers. Other nationals from foreign countries benefited from the reduction of costs on working permits by 80 per cent and the procedure to obtain a resident permit has been simplified within the Directorate General for Immigration and Emigration<sup>19</sup>.

36. Applicants shall pay for visa and permits at the same place where they submit their applications. Candidates for a temporary resident permit receive three months to complete missing documents, if necessary, when they are in Rwanda. A session of information is organized for migrant workers, once they have acquired a temporary residence permit. The objective of this session is to familiarize migrant workers with employment practices, the respect of fiscal law, the respect of health and security standards, the protection of environment, the labour law, the laws governing immigration and other relevant laws. Any foreign worker who has a permit receives a foreigner's identity card. Foreigners from Member States of EAC receive a free temporary resident permit.

#### **Family reunion**

37. A family tourist visa has been introduced for relatives who wish to visit migrant workers. Members of migrant workers families receive identical resident permits as the principal migrant worker. Non-nationals can receive resident permits in Rwanda for the mere reason of joining their families. Family members of migrant workers can engage in any other economic, social or cultural activity on conditions that they respect laws governing immigration. The national family welfare policy recommends appropriate and transparent ways through which Rwandans living abroad maintains contacts and can be united with their families; it also provides for strategies of improving conditions of repatriating members of the Rwandan Diaspora.

#### **Documents required for obtaining a temporary resident Permit**

38. To obtain a temporary resident permit, a migrant worker must fulfil the following requirements: A passport or other documents that are valid for at least six months, a completed application form downloaded from the website: [www.migration.gov.rw](http://www.migration.gov.rw), a permit application letter addressed to the Director General for Immigration and Emigration, a duly filled curriculum vitae and signed by the applicant, a certified valid police criminal record issued by the police of the country in which the applicant had been residing for the last six months which should be in English or in French, a working contract signed by the employer and the employee, certified copies of academic certificates and diplomas, a copy of a

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<sup>19</sup> MINIJUST Combined Report (second and fifth periodic reports of Rwanda to the United Nations Committee on Economic, Social and Cultural Rights , July 2009.

registration certificate for employees of non-governmental organizations (NGO's), a copy of an accreditation card for journalists as well as the proof of payment of specified costs. Article 14 of the Law N°1/2011 of 21 March 2011 on Immigration and Emigration provides that in exceptional cases Migration Authorities may grant the right of residence in Rwanda to a foreigner or a group of foreigners for a determined or an indefinite period when circumstances justify such a decision.

#### **Migration within the East African Community**

39. Article 104 of the treaty establishing the East African Community provides that “The Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the Community”. The same article further specifies means by which partner States can attain this objective including easing of border crossing by citizens of partner States, harmonization and maintaining common standard of travel documents for their citizens, harmonizing their labour policies, programmes and legislation including those on occupational health and safety. This provision constitutes the basis of the Protocol on the creation of the Common Market that was negotiated and signed so as to ensure efficient implementation of this principle.

40. The Protocol on the Common Market of the East African Community lays down principles such as: the non-discrimination of nationals from other Member States on basis of their nationality, suppression of restrictions to movement of workers, harmonization of policies, programmes, the labour legislation and social services, the delivery of social security services and the establishment of common standards and measures of association of workers and employers, the creation of employment promotion centres and, in short, the adoption of a common employment policy<sup>20</sup>.

41. In addition, the protocol provides for the establishment of mechanisms for the suppression of restrictions on the right of establishment and residence of nationals from Member States, the suppression of measures that restrict free movement of services and suppliers of services, the harmonization of standards with the aim of ensuring acceptability of delivered services, cooperation in harmonizing and mutually recognizing academic and professional qualifications as well as in coordinating and harmonizing social policies. These general principles constitute a firm foundation of legal provisions on free movement of people and workers, as well as on the right of establishment and residence. Emphasis has been put on the elimination of different restrictions that may exist in the current laws, legislations and policies of Member States that may affect free movement of people<sup>21</sup>. All these measures have been undertaken.

#### **D. Information on measures taken for the dissemination and promotion of the Convention**

42. The Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families has been translated in three national languages for its wider dissemination and access to all brackets of the population. Distribution of copies to public and private institutions has started. This method ensures that all actors are clearly aware and own the contents of the Convention. One of the major mission of the Rwanda Diaspora Directorate General is the role to inform the Rwandan Diaspora of their rights stipulated in the Convention, in addition to galvanise and mobilise them to actively participate in the

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<sup>20</sup> Articles 12 and 13 of the Protocol on Free Movement of Workers.

<sup>21</sup> Idem.

socio-economic and political development of their country, their freedom to leave and return to their motherland.

43. The Ministry of Public Service and Labour (MIFOTRA) recently organized a dissemination campaign of the Labour Law and Ministerial Orders implementing the Labour Law, especially provisions on rights of all workers, both nationals and migrants targeting all workers of the country including those in the private sector. Concerning the dissemination of information on the ILO Conventions, these international legal instruments were compiled into brochures and 5000 copies translated into Kinyarwanda, French and English were distributed. The National Commission for Human Rights provide regular training on human rights including the rights of migrant workers. The Ministry for East African Community (MINEAC) embarked on a sensitization process on regional and international integration, including on free movement of people, goods and services in the whole EAC member countries. Since 2008, the Directorate General of Immigration and Emigration has been organizing sensitization campaigns to encourage foreigners to regularize their situation of residence in Rwanda as well as an information campaign on their obligations and rights, including the rights of migrant workers.

### **III. Information on the application of each article of the Convention**

#### **A. General principles**

##### **Articles 1 (para. 1) and 7: non-discrimination**

44. It should be noted that even before the ratification of the Convention on the Protection of All Migrant Workers and Members of Their Families, there were legal provisions that protect human rights, including the rights of workers. For instance, the 2003 Constitution of the Republic of Rwanda reaffirms the equality of rights between people without any discrimination. Article 11 stipulates that all forms of discrimination are prohibited by the law. Article 16 of the Constitution of the Republic of Rwanda stipulates that all human beings are equal before the law; they have the right, without any distinction, to equal protection by the law. Article 25 emphasizes the right to asylum without any form of discrimination. Articles 37 and 38 recognize to every person the right to free choice of employment without any discrimination, equality of salary for equal work, the right to form trade unions for the defence and promotion of legitimate professional interests of workers. Every person has the right to work and to employment without any discrimination between men and women in the area of employment and salary.

45. Article 12 of the law N° 13/2009 of 27 May 2009 regulating labour in Rwanda, stipulates that “it shall be forbidden to directly or indirectly make any discrimination aiming at denying the worker the right to equal opportunity or to the salary especially when the discrimination is based upon race, colour, sex, marital status or family responsibilities; religion, beliefs or political opinions; social or economic conditions; country of origin; disability; previous, current or future pregnancy; any other type of discrimination”. Article 18 of the same law stipulates that, “apart from working permits for foreigners working in Rwanda that are determined by immigration and migration laws, the contract of foreigners working in Rwanda shall be governed by this law and shall be written”.

46. Article 2 of the decree-law of 12 August 1974 governing the Organization of Social Security as amended and completed to date, stipulates that: workers governed by the provisions of the Labour Law shall be subjected to the social security regime without any distinction. Rwandan workers employed by an enterprise operating in Rwanda and those who are detached to the territory of another country as well as foreign workers employed on

the territory of Rwanda shall be subjected to the social security regime in force in Rwanda. Migrant workers, like national workers may also subscribe to public and private medical insurance regimes provided by private financial institutions, such as RAMA, MEDIPLAN, and MEDISANA. These medical insurance companies provide a range of products including air evacuation and funeral services and migrant workers are free to join these schemes. The National Social Security policy considered objectives of the ILO on elimination of all forms of discrimination based on nationality, ethnicity and gender about equality of treatment in matter related to social security<sup>22</sup>.

47. Article 3 of the law N°47/2001 of 18 December 2001 on Prevention, Suppression and Punishment of the Crime of Discrimination and Sectarianism, provides that “the crime of discrimination occurs when the author makes use of any speech, written statement or action based on ethnicity, region or country of origin, colour of the skin, physical features, sex, language, religion or ideas with the aim of denying one or a group of persons their human rights provided by Rwandan laws. The crime of sectarianism occurs when the author makes use of any speech, written statement or action that causes an uprising that may degenerate into strife among people”. When the offender of the crime of discrimination or sectarianism is a government official, a former government official, a political party official, an official in the private sector, or an official in non-governmental organization, penalties are revised upwards (art. 5).

48. Any association, political party, or non-profit making organization found guilty of offences of discrimination is penalised with a suspension of between six months and one year and fined between 5.000.000 and 10.000.000 Rwandan Francs. The court may double the penalty, or decide to dissolve the concerned association, political party or non-profit making organization, according to the law governing the dissolution of associations, political parties and non-profit making organizations. The accomplices of discrimination or sectarianism are punished alongside the perpetrators. When discrimination has led to the death of the victim, the higher penalties provided by law shall apply (art. 10).

#### **Article 83: Right to an effective remedy**

49. In Rwanda, every person, whether a foreigner or not, whose rights and liberties have been violated has the right to judicial or administrative remedy before a competent judicial or administrative authority. Article 19 of the Constitution provides that “Nobody may be denied the right to appear before a judge whom the law assigns”. The authority has the obligation to examine and to make a ruling on the appeal that has been lodged before it. Its founded decision shall be communicated to the claimant in public session as for judicial remedies and by any other means as for an administrative remedy<sup>23</sup>. It is worth recalling here that, in accordance with article 190 of the Rwandan Constitution, the Convention on the Rights of Migrant Workers and similar treaties are automatically domesticated and can be applied by Rwandan Courts.

50. The right of appeal is not only against decisions rendered by courts, but also against decisions made by administrative authorities (especially against excess of power or abuse of authority) whose merit and ground is appreciated at the level of appeal by the High Court or the Supreme Court concerning administrative cases or by other competent courts as for other cases<sup>24</sup>. Judicial or administrative remedies are respected by all authorities and constitute evidence for founded appeal by migrant workers and members of their families and are susceptible to guarantee rights to the latter and do not give room to any form of

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<sup>22</sup> Social Security Policy, Rwanda Social Security Funds, 2009, p.9.

<sup>23</sup> Article 93, Point 1 of the Law governing Organization, Administration and Judicial Competences.

<sup>24</sup> Ibid.

arbitrary nature. Besides judicial appeals, migrant workers may also lodge their appeals to the Labour Inspector, the National Human Rights Commission, the Office of the Ombudsman, the Human Rights Commission of the Parliament, Workers Trade Unions, Arbitration Committee of the National Labour Council, and Arbitration and Mediation organizations operating in Rwanda.

#### **Article 84: Duty to implement the Convention**

51. According to the provisions of article 190 of the Constitution of the Republic of Rwanda, “upon publication in the Official Gazette, international treaties and agreements which have duly been adopted in accordance to the provision of the law shall be more binding than the Organic Laws and Ordinary Laws except in case of the non compliance of one of the Parties. Since Rwanda has ratified the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, this Convention is henceforth part of the domestic law and therefore administrative and judicial authorities have the obligation to apply it accordingly.

### **B. Rights of migrant workers and members of their families**

#### **Article 8: Right to leave any country including their own and to return**

52. The exercise of the right to the liberty to leave and to return to a country may only be limited by the law for reasons of public security, to avert a public danger or to protect people in danger (art. 23 of the Constitution of Rwanda). Migrant workers and members of their families may benefit from the right of entry and exit from a national territory and to return at any time in their countries of origin, provided that they are subjected to the legislation and the regulation of the host country, especially the legislation related to conditions of entry and exit of foreigners to and from Rwanda. The Rwandan laws do not have any particular restrictions as for the rights of migrant workers and members of their families to freely leave and return to any country including theirs. Movement of foreigners is free on condition that they possess travel documents required for entry and exit in the host country.

53. As for the rights of Rwandan nationals to leave and to return in their own country, the Government reaffirmed its commitment by establishing the Rwanda Diaspora General Directorate (DGD). The objective is to create a favourable environment to promote the cohesion and strength of the Rwandan Diaspora and to enable them to participate in national development. This strategy is to mobilise members of the Rwandan Diaspora returning in their own country, facilitate knowledge and skills transfer by promoting the movement of Rwandan nationals. The DGD offers the following services to the Rwandan Diaspora: information on possibilities of investment, information on the available vacancies in the country, in particular in the public institutions, aid in procedures of obtaining passport or other ID documents, information on procedures of tax exemption, other facilitations judged necessary for a member of the Rwandan Diaspora<sup>25</sup>. In addition, members of the Rwandan Diaspora with nationalities of countries that do not accept double citizenship are facilitated in obtaining long term resident visa with multiple entries which enable them work in their motherland and regularly visit their relatives and families.

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<sup>25</sup> MINAFFET, Rwanda Diaspora Directorate General on the website: [www.minaffet.gov.rw](http://www.minaffet.gov.rw).

**Articles 9 and 10: Right to Life: prohibition of torture, prohibition of inhuman or degrading treatment**

54. The Constitution of the Republic of Rwanda stipulates that “the human person is sacred and inviolable. The State and all public administrative organs have the absolute obligation to respect, protect and to defend him or her” (art. 10). “Every person has right to life. No person shall arbitrarily be deprived of life” (art. 12). “Every person has right to his or her physical and mental integrity. No one can be subjected to torture, cruel, inhuman or degrading treatments” (art. 15). The Penal Code punishes acts that attack the right to life and physical or mental integrity of people, especially murder, assassination, abduction of people, torture, poisoning, corporal harm and other inhuman acts of similar nature (arts. 310 - 338). Attempted crimes against the life of the person are also liable of punishments similarly to committed crimes (art. 21 - 24). Rwanda abolished capital punishment by the Organic Law N° 31/2007 of 25 July 2007 on the Abolition of Capital Punishment and Rwanda ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

55. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984, was ratified by Rwanda in 2008. The Rwandan new Penal code (which will soon be promulgated) integrated article 1 of the Convention against Torture in defining acts of torture and inhuman treatment (art. 204). Article 205, provides for punishments up to life imprisonment for cases of torture resulting in death and for cases of torture committed by a Criminal Investigation Officer, a Public Prosecution Officer or a Public Security Officer. Law n° 15/2004 of 12 June 2004 relating to evidence and its production provides that, it is prohibited to resort to torture or brain washing to extort an admission from the parties or the testimony of witnesses. The evidence prohibited in articles 5 and 6 is prohibited not only in formal courts, but also in specialized courts, family and conciliation councils. Law N°59/2008 of 10 September 2008 on prevention and punishment of gender- based violence and Law N°27/2001 relating to rights and protection of children against violence were put in place and are applied in many cases.

**Article 11: Prohibition of slavery and forced labour**

56. Article 8 of the Labour Law defines the prohibition of forced labour in the following terms: “it shall be an offence to cause, to provoke, to allow or to impose directly or indirectly, forced works whatsoever”. This Law defines forced labour as any work or service required of an individual under threat of any punishment whatsoever and for which individual concerned did not offer his/her consent. Rwanda ratified ILO Conventions Nos. 29 (1930); 105 (1957); and 182 (1999) and took necessary measures for their application. Rwanda is also a party to the Convention of 1926 related to the Abolition of Slavery amended by the Protocol of 7 December 1953, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others as well as to the Palermo Convention and its Protocols.

**Articles 12, 13 and 26: Freedom of opinion and expression; freedom of thought conscience and religion; right to join a trade union**

57. Every person whatever his or her nationality has the freedom of thought, opinion, conscience, religion and public manifestation as guaranteed by the State (arts. 33 and 34 of the Constitution of the Republic of Rwanda and article 13 of the Labour Law). These laws recognize the freedom of every person to join a trade union or to form associations (arts. 35 and 38 of the Constitution of the Republic of Rwanda and articles 101 to 118 of the Labour Law). Articles 293 to 296 punish acts that infringe on the liberty to faith. All these rights and liberties are guaranteed to all workers whether foreigners or not. Other measures were

taken, especially the creation of the Media High Council. Freedom of speech is reflected in the increase of newspapers and radio stations in the country. The number of newspapers increased from 15 in 2003 to 57 in 2010. There are currently 27 radio stations operating in the country from one public radio station that operated in Rwanda in 2003. The reforms under way in relation to media freedom include the following:

- The Access to Information bill will soon enter into force to facilitate the access to information, especially among government institutions;
- The Government of Rwanda decided to step aside from media regulation and requested media practitioners to self-regulate;
- The Media High Council will retain only the responsibility of promoting media development and freedom;
- The media law is being revised to suit international standards in decriminalizing defamation, determining prerequisites to become a journalist; etc.

58. At present, 312 religious associations have so far been registered in Rwanda. They exercise their right to faith without let or hindrance insofar as this right does not breach public security. Among the 27 radio stations operating in the country, 6 radio stations belong to faith based organizations, and their main role is to spread predication and worship.

59. Regarding the right to join a trade union, different trade unions organizations operate in the country, among which the umbrella associations that participated to the drafting of the present report: CESTRAR, COSYLI and COTRAF.

**Articles 14 and 15: Prohibition of arbitrary or unlawful interference with privacy, home, correspondence and other communications; prohibition of arbitrary deprivation of property**

60. The Constitution of the Republic of Rwanda in its article 22 stipulates that " the private life , family, home, or correspondence of a person shall not be subjected to arbitrary interference; his/her honour and good reputation shall be respected. A person's home is inviolable. No search of or entry into a home may be carried out without the consent of the owner, except in circumstances and in accordance with procedures defined by the law. Confidentiality of correspondence and communication shall not be subjected to waiver except in circumstances and in accordance with procedures defined by the law. Article 29 of the Constitution of the Republic of Rwanda emphasizes the right to private, individual or collective property. This property is inviolable. Law n° 18/2007 of 19 April 2007 relating to expropriation in the public interest provides for largest rights to expropriated person, including the right to a fair and previous appropriate compensation and the right of appeal against a decision authorizing unfair expropriation. Article 4, paragraph 2 of the Land Law provides that any discrimination either based on sex or origin in matters relating to ownership or possession of rights over the land is prohibited. The wife and the husband have equal rights over the land. Any person whether a Rwandan or a foreigner who invested in Rwanda, or an association with legal personality shall enjoy full rights of ownership of land reserved for residential, industrial, commercial, social or cultural and scientific services (art. 6 of the Land Law).

61. Articles 213 to 216 of the Penal Code punish breach to professional confidentiality and confidentiality of letters, whereas articles 304 to 309 punish breach of the rights of individuals, especially the entry in homes of individuals against their will, confiscation or arbitrary deprivation of a document stating the right or certifying that the person has met a legal or regulatory obligation.

**Articles 16 (paras. 1 to 4), 17 and 24: Right to liberty and security of persons; safeguards against arbitrary arrest and detention; recognition as a person before the law**

62. Following measures have been taken notably:

- The right to liberty and security of a person is provided for by the Constitution. All human beings are born and remain free and equal in rights and in duties (art. 11). They enjoy the right, without any distinction, to equal protection by the law art. 16). Article 10 of the Constitution provides that the human person is sacred and inviolable. The State and all public administration have the absolute obligation to respect, protect and defend him or her. A National Internal Security Policy was adopted by the Cabinet in its meeting of 9 July 2008. This includes strategies for securing persons and their property without discrimination, the strategy of cooperation and exchange of information in regard to security in order to fight against various forms of crime including terrorism. Rwanda has ratified several conventions on the rights to life and to security of people. Rwanda is playing a big role in the implementation of the Pact on Security, Stability and development in the Great Lakes Region, particularly its Protocol on the Prevention and Punishment of the Crime of Genocide, crimes against humanity, war crimes and all forms of discrimination. The death penalty has been abolished. The penal code punishes crimes that violate the right to life and to physical and mental integrity of persons: murder, extermination, forced disappearance of persons, torture, poisoning, assault and beating and other crimes of a similar character. Death threats against persons are also punishable. Apart from the penal code, laws were adopted to prevent and fight against terrorism, money laundering and trafficking of human beings, especially women and children.
- Various measures have been implemented to enhance safety of goods and people, including the Community Policing (National Community Policing), Emergency Toll Free Numbers used by the population to request police intervention and night patrols where appropriate. Rwanda is an active member of regional mechanisms for the maintenance of peace and security, including the East African Standby Brigade; the East African Police Cooperation Organization (EAPCO) and the Regional Centre on Small Arms (RECSA). Because of all existing mechanisms for the maintenance of security, murders were decreased from 234 in 2005 to 144 in 2008.
- The protection against arbitrary arrest and detention is provided for by articles 18 and 19 of the Constitution of the Republic of Rwanda in its terms: The person's liberty is guaranteed by the Government of Rwanda. No one shall be subjected to prosecution, arrest or punishment on account of any act which did not constitute a crime under the law in force at the time of its commitment. The right to be informed of the nature and cause of charges and the right to defence is absolute at all levels and degrees of proceedings before administrative, judicial and other decision making organs (art. 18). Every person accused of a crime shall be presumed innocent until his/her guilt has conclusively been established in accordance with the law in a public and fair hearing in which all necessary guarantees for his/her defence have been made available (art. 19). No person shall be denied the right to appear before a judge to have his/ her case heard.
- The legal personality of every human being is sacred. Article 15 of Law N° 42/1988 of 27 October 1988 governing Preliminary Title and Book One of the Civil Code stipulates that every human being shall be subjected to the law from his/her birth until his or her death. Legally constituted associations also enjoy the right to legal personality.

### Articles 16 (paras. 5 to 9), 18 and 19: Right to procedural guarantees

63. Every person accused of a crime shall be presumed innocent until his/her guilt has been proven in accordance with the law in a public and fair hearing before a court of law (art. 19 of the Constitution of the Republic of Rwanda and article 44 of the Criminal Procedure Code). Conditions in which a person is placed under police custody or in prison are provided for by the Penal Procedure Code in its articles 37 to 40 for the police custody and in its articles 93 to 100 for the prison. A detained foreigner shall receive explanations, in a language he/she understands, on laws governing the conditions of detention and the rights of detained people as well as modalities by which detained persons can be helped by interpreters. He or she shall appear before the judge in a period not exceeding seven days. In any case, liberty shall be a principle and detention is an exception. Every person under prosecution may be released on bail on conditions that he/she respects certain obligations such as to regularly report to the prosecution officer or he/she provides material or personal guaranty. The migrant worker has the right to legal proceedings and to legal defence as provided for by the law (art. 45 of the criminal procedure code).

64. The person under police custody enjoys the right to inform any person of his/her choice of the measure to which he/she is subjected. This right is communicated to him/her by the Judicial Police Officer and the Prosecution Officer from the time of his/her arrest. Migrant workers enjoy the right to inform the consular mission of countries of their origin. They enjoy the right to meet or exchange information with the resident diplomatic representation of their country in Rwanda. Foreigners under detention whose country of origin does not have any diplomatic representation in Rwanda, refugees or stateless people may, upon approval of the Minister in charge of prisons, solicit the assistance of representatives of another country or an international organization of their choice, which have accepted to follow up their case (art. 34 of Law N°34/2006 of 25 September 2006 governing the creation and the organization of the National Prisons Services). They enjoy the right to be examined by a physician and to be assisted by a lawyer of their choice.

65. Illegal detention is prohibited by the law; the victim enjoys the right to lodge an appeal before the judge to obtain compensation through the habeas corpus procedure. Article 89 of the Criminal Procedure Code stipulates that when a person has been illegally detained, any judge of the nearest court of the place of detention and which is competent to hear the case related to crimes that the person is accused of, may, upon the request of any interested person, order the person responsible for illegal detention, to appear before him/her to explain grounds and circumstances of the detention. When the judge deems that the detention was illegal, he/she may immediately convict without any delay the person responsible for the illegal detention, whatever his/her position in conformity to punishments provided for by the Penal Code.

66. The law governing Rwanda Correctional Service (RCS) provides for more extensive rights of the person under detention, especially the right to be treated with dignity and the respect of human rights. The person under detention is especially protected against any forms of torture, cruel and any other inhuman or degrading treatment. No discrimination whatsoever based on ethnic origin, colour, sex, language, religion, political opinion, nationality, social origin, economic status, birth or any other status shall be permitted<sup>26</sup>.

67. The Ministerial Instructions of the Minister of Internal Security N°09/08 of 16 June 2008 related to the conditions of detention, the provision of food and visits to the detainees, stipulates that a detainee enjoys the right to medical treatment when his/her state of health so requires. In article 8, these instructions stipulate that no person can be detained contrary

<sup>26</sup> Article 23 of the law No 34/2006 of 28 September 2006 governing Creation and Organization of Rwanda Correctional Service.

to what is provided for by the law and detentions in the secret places are prohibited. Article 88 of the Criminal Procedure Code stipulates that under the terms of the present provision, detention in a place other than police or military station or appropriate prison shall especially constitute an illegal detention.

**Article 20: Prohibition of imprisonment, deprivation of authorization of residence and/or work permit and expulsion merely on the ground of failure to fulfil a contractual obligation**

68. Inability to fulfil a contractual obligation by the migrant worker does not expose him/her to a prison sanction pursuant to article 17 of the Constitution of the Republic of Rwanda that stipulates that “no one shall be imprisoned on the grounds of the inability to fulfil an obligation arising from civil or commercial laws”. Conditions in which the authorisation of residence permit or temporary permit may be withdrawn from the migrant worker are provided for by article 10 of the Ministerial Order N°13/19 of 14 March 2003 determining the procedure of employment of foreign workers as amended and completed to date, in the following cases: when the employer has been engaged in fraudulent practices or made false declarations to recruit them; when the employer or the worker does not fulfil conditions governing the recruitment of foreign workers; when it is established that remunerations paid to the foreign worker is a disguise of transfer of profits from the enterprise to a foreign country; when the behaviour of the foreign worker breaches public security or is in contrary to laws and regulations in force. Articles 12 and 13 of the Law N°1/2011 of 21 March 2011 on Immigration and Emigration define categories of foreigners who are undesirables or prohibited on the Rwandan territory that may be subjected to extrusion. The inability to fulfil a contractual obligation by a migrant worker is not among the conditions for undesirability.

**Articles 21, 22 and 23: Protection from confiscation and/or destruction of ID and other documents; protection against collective expulsion; right to recourse to consular or diplomatic protection**

69. A foreigner who legally enters Rwanda shall enjoy necessary protection except if he/she contravenes legal or regulatory provisions related to the conditions of entry, residence and the establishment of foreigners or when he/she contravenes the Criminal Law. In this case, authorities may apply articles 52 and 183 of the Penal Code that provide for special confiscation of objects that will have been used to commit a crime. When the foreigner’s identity card or resident permit has been obtained on the basis of false declaration, it may either be confiscated or cancelled by authorities that issued them. Identity particulars and other documents may be seized during investigation in accordance with the provisions of articles 67 to 73 of the Criminal Procedure Code. Any seizure operation shall be recorded in a statement and a copy shall be given to the person concerned.

70. When a foreigner is either arrested or detained, appropriate Rwandan authorities shall inform the accused of his/her right to seek consular or diplomatic protection. Rwanda is a party to the Vienna Convention on Consular Relations and therefore the country is bound by provisions of the Convention, especially article 36 that stipulates that the personnel of a Consular Mission shall enjoy the liberty to communicate with nationals of their country of origin and to visit them. Nationals of the country of origin shall enjoy the same liberty to communicate with the personnel of Consular Missions and to visit them. If the person concerned so demands, authorities of the host country shall without delay notify the Diplomatic Mission of the country of origin when a national of this State is arrested, imprisoned either put in state of preventive detention or any other form of detention.

**Articles 25, 27 and 28: Principle of equality of treatment in respect of: remuneration and other conditions of work and terms of employment; social security; and right to receive urgent medical care**

71. Article 37 of the Constitution of the Republic of Rwanda stipulates that "Persons with the same competence and ability have the right to equal pay for equal work without discrimination". The Labour Law prohibits and represses any discrimination between employees, whether nationals or foreigners, in areas of payment, working conditions, social security and health (arts. 12 and 18 of the Labour Law). This law also stipulates some provisions related to health and security at the work place; protection of premises and equipment, the obligation of the employer to declare professional risks to the organ in charge of social security, the creation of health and security committees at work places (arts. 90 to 95). The employer must provide a compulsory first aid fund for workers replenished by funds of the enterprise. In case of occurrence of an accident at the work place, the employer shall evacuate the injured and patients to the nearest medical facility (art. 96). Rwanda ratified ILO Conventions Nos. °100 (1951) and °118 (1962) .

**Articles 29, 30 and 31: Right of a child of a migrant worker to a name, registration of birth and nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant workers and members of their families**

72. Every person has right to a surname and eventually to one or several first names. In administrative documents, he/she shall be designated by his/her surname followed of his/her subsequent first names. The surname and eventually first names shall be assigned to the child within fifteen days following its birth. Every foreigner residing or domiciled in Rwanda may be registered under the civil registry by a Rwandan Civil Registration Officer on registration documents provided for by the law. However, births and deaths shall be declared before the Rwandan Civil Registration Officer (arts. 58, 59 and 141 of the Civil Code Book One). Children born outside or on the territory of the Republic of Rwanda shall be subjected to registration formalities when the father and mother or one of the two is or both were themselves subjected to this obligation. The foreigner who declares a birth before a competent Civil Registration Officer shall be obliged to complete a registration form provided to him/her for that purpose by the service in charge of immigration and emigration of his/her jurisdiction.

73. Every person has the right to the nationality, dual nationality is permitted; no person may be deprived of his/her nationality or the right to change nationality (art. 7 of the Constitution of the Republic of Rwanda). Every child is entitled to necessary special measures of protection by his family, the society and the State, depending on the status of the child under the national and international law (art. 28 of the Constitution of the Republic of Rwanda).

74. The right to education for all without discrimination is stipulated by article 40 of the Constitution of the Republic of Rwanda, providing that any person has the right to education. The UNESCO Convention against Discrimination in Education was ratified. The right to be educated and nurtured shall be guaranteed in accordance with conditions determined by the law. The respect of religious convictions of every person shall be respected and guaranteed by the State in accordance with the law and the respect of the rights of others. The State shall guarantee the respect of conventions signed with its partners in education (art. 20 of the Law Organic N° 20/2003 of 3 March 2003 governing Organisation of Education).

75. Migrant workers and members of their families shall be free to create and organize structures for preservation of their cultural identity and religious structures in conformity to the provisions of the legislation in force in Rwanda. Rwanda acceded to the principle of

respect of cultural diversity by allowing different foreigners living in Rwanda to create their social and cultural organizations.

**Articles 32 and 33: Right to transfer in the state of origin their earnings, savings and personal belongings; right to be informed on the rights arising from the Convention and dissemination of information**

76. The Rwandan legislation does not have any restriction to the right enjoyed by migrant workers to transfer their earnings, their savings and their personal effects to the State of origin subject to payment of duties and taxes related to that effect. They have right to the salary and its use under the same conditions related to the enjoyment of the right to the use of private property (art. 75 of the Labour Law). Rwanda ratified ILO Convention No.°48 (1935) on the conservation of rights to pension of the migrant. To facilitate the best practices in the area of enjoyment of one's entitlements, Rwanda Social Security Fund is member of the International Social Security Association, which enables this Fund to obtain information on major issues related to social security as well as continuous analysis of major developments in the area.

77. The services of employers provide information to migrant workers on their rights before access to employment, upon simple request by the worker or the employer. The public and private administration at the central and local level is in a position to provide necessary information and to respond to questions and preoccupations of all foreign nationals on their situation and their rights and obligations in accordance with the national policy on good governance and service delivery. Rwanda Development Board (RDB) and the Directorate General for Immigration and Emigration have a One Stop information Centre: Information Centre for Migrants. The above mentioned information is updated every month and as often as necessary. These institutions disseminate posters, brochures and pamphlets that highlight the rights and facilitation measures granted to migrant workers. Each public institution recruits the personnel in charge of information and public relations to provide high quality customer care service.

**C. Other rights of migrant workers and their families who are documented or in a regular situation**

**Article 37: Right to be informed before departure of the conditions of admission to the State of employment and of their remunerated activity**

78. The migrant worker may before his or her departure be informed by Rwandan Diplomatic Missions accredited to his or her country, of administrative and employment formalities. In addition, the information on migration is updated on a monthly basis by the Information Center of Migrants, which is operational online<sup>27</sup>. Vacant posts are posted on websites of institutions, advertised in newspapers, radio, public notice or any other means of public access. Upon his/her entry on the Rwandan territory, he/she may also obtain necessary information from competent services, especially from the Directorate General for Immigration and Emigration or other relevant services, migrant workers enjoy the right to be informed, before their departure, of conditions of admission and remuneration through their employer, the nearest Rwandan Diplomatic Missions, on websites or any other accessible means of communication.

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<sup>27</sup> [www.migration.gov.rw](http://www.migration.gov.rw).

**Articles 38 and 39: Right to temporary absence without effect upon authorisation to stay or work; right to liberty of movement and to choose the residence in the territory of the State of employment**

79. Migrant workers shall enjoy the right to free choice of residence on condition of possessing valid temporary resident permit. Under this condition they may travel, freely move within Rwanda and reside in any part of the country of their choice. A temporary resident permit gives the right to multiple entries and therefore the worker may temporarily leave and return to the workplace without affecting his/her authorisation for a temporary resident permit. However, when the migrant worker is a refugee and he/she returns to his/her country of origin, he/she loses the refugee status in accordance with article 25 of the law N° 34/2001 of 5 July 2001 on refugees.

**Articles 40, 41 and 42: Right to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and be elected at election of that State; procedure and institutions taking care of the needs of migrant workers and possible enjoyment of political rights in the State of employment**

80. Migrant workers are free to form associations in accordance with article 35 of the Constitution of the Republic of Rwanda that stipulates that, “freedom of association is guaranteed and shall not require prior authorization. Such freedom shall be exercised under the conditions determined by the law”. Workers or employers may freely and without prior authorisation, form trade unions or organizations of employers. They also enjoy the freedom to join a trade union or an organization of employers (art. 101 of the Labour Law). The exercise of the right of workers to form or join a trade union in all enterprises in the respect of rights and liberties shall be guaranteed by laws (art. 106 of the Labour Law).

81. No measure shall restrict the rights of foreign nationals to enjoy the right to participate in public affairs of their country of origin, to vote and to be elected during elections organized by their States. Migrant workers legally established on the national territory may, in the framework defined by their country of origin, participate in elections organized by the latter through their Diplomatic and Consular Missions accredited to the country of employment. Article 45 of the Constitution of the Republic of Rwanda stipulates that “all citizens have the duty to participate in the public affairs of their country, whether directly or indirectly through their chosen representatives in accordance with the law. All citizens have the right to equal access to public services in accordance with their skills and abilities”.

82. The possibility for migrant workers to enjoy their political rights in Rwanda is not recognized regarding the right to be elected. The exercise of this right is closely linked to nationality. However, foreigners residing in Rwanda have the right to vote for local leaders at the cell level and representatives of specialized organs (representatives of women, people living with disabilities and the youth) in the administrative Sector Council, especially representatives of teachers and representatives of community leaders in charge of health affairs<sup>28</sup>. Foreign students have the right to vote for members of the National Student Council in Secondary schools and in Universities and other higher learning institutions<sup>29</sup>.

<sup>28</sup> Articles 20 and 35, Point 8 of the Instructions of the National Electoral Commission N° 001/2001 of 3 January 2001 governing organization of Elections of local administrative leaders.

<sup>29</sup> Article 83 of the Instructions of the National Electoral Commission No 003/2001 of 2 February 2001 governing Organization of elections of local administrative leaders.

**Articles 43, 54 and 55: Principle of equality of treatment with nationals of the State of employment in relation to the issues indicated; equality of treatment as to protection against dismissal, unemployment benefits and access to public work schemes and alternative employment; equality of treatment in the exercise of a remunerated activity**

83. Under the Labour Law, all workers exercising their professional activity in Rwanda shall enjoy equal treatment in issues related to the remuneration, protection and access to open employment (art. 37 of the Constitution of the Republic of Rwanda, and art.12 of the Labour Law). Article 18 of the Labour Law stipulates that “apart from issues related to working permits for foreigners working in Rwanda that are determined by immigration and migration laws, the contract of foreigners working in Rwanda shall be governed by this law (Labour Law) and shall be written”. Therefore the contract of employment of foreigners working in Rwanda is governed by the same laws that govern the contract of employment of nationals in all issues, including termination of service, unemployment allowances, programmes of public interest for fighting unemployment and access to alternative employment. The ratification of ILO Convention No. 118 (1962) sufficiently proves the political will of the Government of Rwanda to promote the principle of the equality of treatment of national and migrant workers.

**Articles 44 and 50: Protection of the unity of the families of migrant workers and reunification of migrant workers; consequences of death or dissolution of marriage**

84. The family, which is the natural formation of the Rwandan society, is protected by the State (art. 27 of the Constitution of the Republic of Rwanda). The Law on Immigration and Emigration guarantees family reunion by stipulating that foreigners who permanently reside in Rwanda shall be facilitated to be joined by members of their families. The Civil Code (Book One) recognizes the application by national courts of the law of the spouses’ country, if such legislation does not contravene rules and principles of public order, social interest or Rwandan public morals. The status and the capacity of foreigners as well as their family relations shall be governed by the law of the country of origin and, in case of unknown nationality, by the Rwandan law (art. 8 and 11 of the Civil Code). Any foreigner residing or domiciled in Rwanda may carry out his/her civil registration before the Rwandan Civil Registration under the conditions provided for by law (article 141 and subsequent articles of the Civil Code). However, births and deaths shall be declared before the Rwandan Civil Registration Officer. In case of death, a death certificate shall be established upon its declaration by one of the parents of the deceased or by any other person possessing necessary information on the declaration of the civil status of the deceased (art. 129 of the Civil Code). Entitled dependants of the deceased worker shall have the right to funeral allowances (art. 37, Labour Law) and other terminal benefits or rights provided for by the contract of employment, including the repatriation of the body and the opening of the inheritance.

85. In case of marriage between foreigners, the admissibility of divorce due to justifiable reasons shall be governed by the Rwandan law, unless the national law of the spouse applying for divorce stipulates otherwise. In case of marriage between spouses of different nationalities, of whom one is Rwandan, the admissibility of divorce shall be governed by the Rwandan law (arts. 293 to 295). The law stipulates that in case of divorce, children shall be placed under the care of the spouse who shall have obtained the divorce, unless the court of law, automatically or on request of one of the spouses or the Public Prosecution, in the best interest of the children, orders that one or some of the children be placed under the guardianship of either of the spouses or a third party. These measures shall essentially be temporary due to the fact that, whomsoever is given the guardianship of the children, fathers and mothers reserve the right of guardianship, care and education of their children,

and are obliged to contribute to proportion of their faculties, which measures may always be revocable by the court of law that ordered them (arts. 278 to 286).

**Articles 45 and 53: Enjoyment of equality of treatment for members of the families of migrant workers in the indicated aspects and measures taken to guarantee integration of children of migrant workers in the local school system; right to freely choose a remunerated activity for members of a migrant worker's families**

86. As specified above, members of the families of a migrant worker cannot in anyway be subjected to discrimination. Members of the family of migrant workers also have the freedom to choose their remunerated activity.

87. Children shall never be subjected to discrimination in accordance with the provisions of article 28 of the Constitution of the Republic of Rwanda that stipulates that every child has right to special protection measures guaranteed by the family, the society, and the State, in accordance with his condition under the national and international laws and article 40 stipulates that every person has the right to education. The Organic Law N° 20/2003 of 3 August 2003 governing education in Rwanda defines and guides the general educational policy and parents shall ensure education for their children. They shall have right to choose, when they fulfil necessary conditions, a school that corresponds to their aspirations and participate to the development of the education system and the administrative and financial management of schools which are attended by their children. The country has formulated a set of policies and programmes to initiate universal education, especially the Nine Year Basic Education (9YBE) programme, in which all children are exempted from payment of school fees in public schools<sup>30</sup>.

88. Every person residing in Rwanda enjoys the right of access to health care. The Government has established a community-based health insurance (*Mutuelle de Santé*) and every person has freedom of access to this insurance upon payment of the contribution of an amount of two thousand Rwandan Francs ( $\pm$  3 USD) per year and per member of the family. The health insurance of public servants is administered by the Rwandan Public Service Medical Insurance (RAMA). Through the implementation of policy on social security, Rwanda intends to take various measures among which the introduction of a universal pension scheme so that all Rwandans over the age of 65 years can receive a pension.

89. This national health insurance service is being reviewed to provide better health care services to all residents. As seen previously, both foreigners and nationals may subscribe to public or private medical insurance without any discrimination. Members of the family of migrant workers have the freedom to participate in the cultural life. They have the right of access to public sports and leisure infrastructure; they may form their associations for the promotion of their national cultures on condition that they respect laws and regulations in force in Rwanda.

**Articles 46, 47 and 48: Exemption from import and export duties and taxes in respect of particular belongings; right to transfer earnings and savings from the State of employment to the State of origin or any other State; imposition of taxes and avoidance of double taxation principle**

90. Personal and household effects which have been in personal or household use of migrant worker are exempted from import and export duties in accordance with paragraph 84. (1) Of EAC Customs Management Act (Revised Edition, 2009). Members of the

<sup>30</sup> Education for All Plan of Action, MINEDUC, 2003, P. 68.

expatriate personnel of a registered commercial enterprise starting its activities in Rwanda are each individually exempted from taxes on one single service vehicle as well as on their personal and household effects in accordance with the customs legislation (art. 114 of the Law N°1/2005 governing Administration of Customs and art. 86 of the Law N°26/2004 of 3 December 2004 governing Establishment of Value-Added Tax as amended up-to-date). A member of the Rwandan Diaspora who returns home is exempted from import and export duties and taxes in relation to certain personal effects including personal motor vehicle which have been in his personal or household use.

91. Migrant workers and members of their families have the right and freedom to transfer their earnings and savings from Rwanda to the country of origin or to any other country in accordance with legal provisions related to the right of enjoyment of private property. For international Money Remittances, the maximum amount to be transferred from Rwanda is fixed to 3,000,000 RWFs per day or its equivalent in foreign currency and not more than 10,000,000 RWFs per Month and 30,000,000 RWFs per year for each sender/remitter providers. With valid reasons, a licensed institution may authorize any transfer beyond the ceilings above mentioned but in such case it shall report such transactions to the Central Bank on a weekly basis, such as provided by Regulation n° 002/2010 of the National Bank of Rwanda governing payment services. Registered banks can accept transfers related to salaries and income of expatriates working in Rwanda up to the net salary, after deducting taxes, duties and contributions to social security fund as provided for by article 43 of the foreign exchange regulation of 15 January 2007 of the National Bank of Rwanda.

92. To facilitate the transfer of social security benefits of migrant workers, Rwanda signed agreements on social security pension or benefits transfers notably, with CEPGL countries, to ensure the delivery of a range of social security services to nationals of CEPGL member states. Negotiations to extend transfer agreements to other countries within the region, especially Common Market for Eastern and Southern Africa (COMESA) and EAC member countries are under way.

93. The law N° 16/2005 of 18 August 2005 on the code governing direct taxes on various profits and professional incomes, as amended and complemented up to date, sets conditions of taxation and the category of taxes, especially income tax on physical persons, tax on professional incomes, tax on rental incomes, tax on transferable incomes and other taxes and duties. Societies and other legal persons, who pay or earn professional incomes in Rwanda whatever the form, are liable to pay professional tax, even if the beneficiaries reside abroad (art. 13). Diplomat and diplomatic personnel, consuls and the consular personnel accredited to Rwanda, employees of international organizations operating in Rwanda shall be exempted from professional tax under the conditions provided for by legal provisions determining diplomatic immunities related to fiscal and customs issues and assimilated regimes as well as all physical or moral persons exempted according to specific agreements ratified in accordance with the Rwandan legislation (art. 14).

94. To avoid double taxation Rwanda has signed agreements with a number of countries (Belgium, Mauritius, South Africa...). EAC agreement on prevention of double taxation is under ratification process. Rwanda is planning to sign agreements for the prevention of double taxation with an increasing number of countries.

**Articles 51 and 52: Right to seek alternative employment in case of termination of the remunerated activity for migrant workers not authorised to freely choose their remunerated activity; conditions and restrictions for migrant workers who can freely choose their remunerated activity.**

95. Migrant workers have the right to free choice of remunerated activity that they exercise on condition of possessing a temporary resident permit. This right is guaranteed by

the Constitution of the Republic of Rwanda, laws and regulations governing labour and employment, immigration and emigration, conditions of entry and residence of foreigners on the national territory. There are no restrictions for migrant workers who are not authorised to freely choose a remunerated activity.

**Articles 49 and 56: Authorization of residence and authorization to engage in a remunerated activity; general prohibition and conditions of expulsion**

96. To enter into Rwanda, every foreigner must possess documents and visas required by international conventions and laws in force in Rwanda. The resident visa with a duration ranging from 6 to 24 months corresponding to a resident permit and the establishment visa corresponding to a residence authorization for an indefinite period are provided for by the law governing immigration and emigration. Migrant workers benefit from a one-year renewable resident visa that gives right to a resident permit. The loss of his/her employment does not immediately make the foreigner an illegally resident; He/she should however remember to renew the permit, providing proof of means of subsistence.

97. Conditions of expulsion of foreigners from the Rwandan territory are: a case of a foreigner who has been subject to an arrest warrant for serious crimes committed in Rwanda or abroad if these crimes are recognized by Rwanda; negation or ideology of genocide; being an effective member or support an association or organization characterized by acts of racial discrimination or provocation of public unrests and insecurity of the country; not being in possession of travel document, a visa or valid permits, inability or bankruptcy declared by a judicial decision (arts. 12 and 13 of the law governing immigration and emigration).

98. The expulsion is carried out in accordance with the law and international conventions that Rwanda has ratified. The ratification of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment is a proof that confirms the political will of the Government of Rwanda to conform to the provisions governing the protection of people against expulsion to countries where they are likely to be tortured. Article 15 of Law N°4/2011 of 21 March 2011 on Immigration and Emigration stipulates that a foreigner who commits a crime provided for by Rwandan laws or a crime punished by an international law shall be punished in accordance with relevant laws. He/she may also be subject to expulsion when he/she commits crimes that threaten the national security, public order, the culture and good Rwandan morals. A foreigner subject to a decision of expulsion may appeal to the Head of National Intelligence and Security Service (art. 16 of the Law on Immigration and Emigration).

**D. Provisions applicable to particular categories of migrant workers and members of their families**

**Articles 57 to 63**

99. All categories of migrant workers defined in article 2 of the Convention shall benefit from a temporary resident permit in conformity with the provisions of the law governing immigration and emigration. These workers shall benefit from the right and guarantees specified in the third and fourth parts of the Convention without any discrimination or specific restrictions.

**E. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families**

**Articles 65 - 71**

**Article 65**

100. The Promotion of equitable, human and lawful conditions in connection with international migration of workers and members of their families is especially the responsibility of the Directorate General for Immigration and Emigration with the involvement of all State institutions. The Directorate General for Immigration and Emigration has a department specifically in charge of issues related to international migration of workers and members of their families. For that reason, institutions have the duty to provide high quality services to improve the security, provide necessary information related to humane, dignified and equitable living conditions for all migrant workers and members of their families<sup>31</sup>.

**Article 66**

101. The immigration laws and regulations give to migrants the right to employment when they are in possession of valid resident permits. After signing a working contract, (in the public or private sectors) foreign workers shall then apply for resident permits. Prospective employers (public or private) or people acting on their behalf may also be eligible to carry out recruitment on condition that they comply with provisions of the legislation in force.

**Article 67**

102. Rwanda took certain measures related to efficient and appropriate organization of the return of migrant workers and members of their families to the country of origin. When a migrant worker wishes to leave the Rwandan territory to his/her country of origin, and in case of loss of his travel documents, the Directorate General for Immigration and Emigration shall provide him/her with a one-way emergency travel document to enable him travel to his country without any hindrance. For those with diplomatic and consular representations in Rwanda, they may approach their Embassies or Consulates to have their lost travel documents replaced. The return to the country of origin constitutes an absolute right even in case of illegal migrants.

**Article 68**

103. Measures for the prevention and elimination of illegal or clandestine movements and employment of illegal migrant workers have been taken by strengthening control systems of movements along borders, the obligation of the registration by the foreigner provided for by the Law on Immigration and Emigration and the powers of labour inspectors provided for by articles 157 to 160 of the Labour Law. Article 10 of the Ministerial Order N°01/19.19 of 25 February 2009 determining procedures for employment of foreign workers provides for sanctions against people who do not comply with the conditions related to the recruitment of migrant workers. Sanctions provided for by the law are a prison sentence of two months and a fine ranging from 50,000 Rwandan Francs to 300,000 Rwandan Francs, or one of these punishments, subject to provisions of the Penal Code for anyone who does not respect procedures of recruitment of foreigners.

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<sup>31</sup> Rwanda National Migration Policy.

**Article 69**

104. Measures were taken to ensure that the situation of illegal migrant workers on the Rwandan territory does not persist and circumstances which they should take into account in case of regularization procedures were defined. Article 14 of the Law on Immigration and Emigration stipulates that authorities in charge of immigration and emigration or their representatives may issue resident permit or visas on the Rwandan territory to certain people without documents required for the eligibility to a visa or resident permit in Rwanda as well as to certain undesirable people and other people illegally living in the country to enable them regularize their situation or to prepare for leaving the territory if it becomes necessary. Every year the Directorate General for Immigration and Emigration publishes communiqués in Medias and through sensitization meetings of local authorities to remind and encourage all people without an entry or resident permit and/or other relevant documents to approach the nearest local authorities to regularize their situation.

**Article 70**

105. Measures aimed at ensuring the compliance by migrant workers and members of their families in regular situation with health, security and hygiene conditions and to inherent principles of human dignity were taken. Provisions of the Labour Law jointly oblige both the employer and the worker to ensure that work is carried out in the best security and healthy conditions, and dignity of workers. On one hand, the employer has the obligation to guide the worker and ensure that the work is carried out in the best security and healthy conditions and the dignity of the worker, to regularly and promptly pay to the worker the remuneration agreed, to avoid anything that may jeopardise the life of the enterprise and degrade the environment and to enable workers with family responsibility to exercise rights that are recognized them by the law (art. 47). On the other hand, the worker has the obligation to personally accomplish his/her work or service within the specified deadline, at the place and under agreed conditions, to abstain from anything that could jeopardise his/her own security or the security of other workmates or a third party or from attacking his/her dignity and the dignity of other workers (art. 48).

106. Concerning health and security, the Labour Law stipulates that the workplace must always be kept in a state of cleanliness and offer favourable conditions to ensure health and guarantee the security of the personnel. The employer must organize health education programmes for workers in areas related to working security and health conditions and must display working and health and security orders to be observed at the place of work (art. 90). The employer shall be obliged to provide workers with necessary and appropriate protective equipment and materials and to ensure their correct use. He/she must be conversant with mechanisms for the prevention of professional accidents at workplaces and sensitise workers on these mechanisms and practices (art. 91). Working premises must comply with working health and security standards. Before beginning any construction, extension, modification or renovation works, the contractor shall address to the Minister in charge of Labour a declaration, accompanied by plans, drawings to enable the Ministry to verify and approve the conformity with working health and security standards. He/she is prohibited from importing, exposing, selling, renting or ceding in any conditions, or from using equipment or machines that are not manufactured or ordered under conditions that ensure the security and health of worker's (art. 93).

**Article 71**

107. Conditions and modes of repatriation of bodies of deceased migrant workers or deceased members of their families shall be the responsibility of employers in accordance with terms of contract, if such repatriation is not the responsibility of the family. Before entry and departure of a human body, the person accompanying the body shall present a

death certificate of the deceased to the immigration officer if it is required. The immigration officer at the point of entry may inspect the human dead body before its entry or its exit (art. 23 of the Draft Order on immigration and emigration in the process of being adopted). In most cases, enterprises shall apply the provisions related to the insurance on the repatriation of a deceased foreign worker.

108. The Ministerial Order N°01 of 2 July 2010 determining the amount of funeral allowances in its article 2 stipulates that “without prejudice to more appropriate provisions of the collective conventions or the individual contract of employment, the employer shall pay, in case of death of a worker, allowances that are at least equal to the last monthly gross salary of the deceased worker. In any case, the monetary amount of funeral allowances shall be increased up to Fifty Thousand Rwandan Francs (50,000 RWFS) for a worker who has not been earning such a sum at the time of his/her death in addition to social security allowances. Funeral allowances shall be paid before burial ceremonies. When it has not been possible, these allowances may be claimed following death within a deadline not exceeding six months after the burial ceremony. Funeral allowances shall be paid to entitled spouse of the deceased worker or his/her entitled dependants.

109. Article 33 of Law N° 06/2003 of the 22 March 2003, as amended to date, stipulates that in case of death of the subscriber, old pension age or invalidity pension, or early retirement pension, and in case of death of an insured worker, who at the date of his or her death, fulfilled the required conditions, survivors shall have the right to the pension of the deceased. Shall be considered as survivors of the deceased, the widow or widower who shall not have been divorced, dependent children of the deceased, direct ascendants or adoptive parents under the care of the deceased when the latter dies without being survived by a widow or a widower, or dependent children. Independent of the rights pertaining to the Decree-Law of 22 August 1974 governing organization of the social security, as emended and completed to date, legal action may be lodged for compensation, in accordance with the law, by the victim or his/her entitled dependents.

#### **IV. Conclusions**

110. Rwanda is strongly committed to the implementation of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families and all other key international human rights treaties that Rwanda has ratified.

111. Rights of migrant workers are protected at the same level as the rights of the Rwandan nationals as stipulated in the Constitution of the Republic of Rwanda as well as in other legal instruments. In the area of the promotion and the respect of human rights, the priorities of the Government include among others the sensitization of legal practitioners on the application of international legal instruments ratified by Rwanda including the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.

112. The Government of Rwanda has already distributed to all legal practitioners operating in the country, the compiled texts of core international human rights treaties ratified by Rwanda (translated in the three official languages of Rwanda). The Government also intends to organize a workshop to sensitize the same legal practitioners on the automatic domestication of key human rights treaties ratified by Rwanda, as stipulated in article 190 of the Rwandan Constitution.