

INSTRUCTIONS Nº 06//2005 OF 20/7/2005 OF THE EXECUTIVE SECRETARY OF THE NATIONAL SERVICE OF GACACA COURTS ON DISMISSAL OF THE JUDGE INYANGAMUGAYO FROM THE GACACA COURT BENCH, DISSOLUTION OF A GACACA COURT BENCH AND REPLACEMENT OF THE JUDGES INYANGAMUGAYO.

THE EXECUTIVE SECRETARY ;

Given the articles 14, 16 and 50 of the Organic Law nº 16/2004 of June 19, 2004 establishing the organization, competence and functioning of Gacaca Courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994.

Considering the article 2 of the Law nº 08/2004 of April 28, 2004 on the establishment, organization, duties and functioning of the National Service in charge of follow-up, supervision and coordination of the activities of Gacaca Courts.

PROVIDES THE FOLLOWING INSTRUCTIONS :

CHAPTER ONE : GENERAL PROVISIONS

Article one

These instructions govern the dismissal, dissolution and replacement of Gacaca Court judges Inyangamugayo.

Article 2 :

These instructions concern all Gacaca Courts.

Article 3 :

A judge Inyangamugayo can be replaced because of one of the following reasons :

1. Being accused of genocide ;
2. Incompetence ;
3. Absence in the Gacaca courts' sessions of organs for three consecutive times without valid reasons ;
4. Being convicted of a crime punishable by an imprisonment penalty of at least 6 months ;
5. Prompt divisionism ;
6. Being in charge of a political activity, occupying a leadership position in central government, a soldier, a policeman, a career magistrate or any other activity incompatible with the smooth running of the Gacaca Court ;
7. Suffering from a disease that would prevent him from carrying out the activities of the Gacaca Court ;
8. Being suspected of any vice incompatible with the quality of a person of integrity ;
9. Resignation ;
10. Dismissal ;
11. Shifting from one location to another;
12. Death.

CHAPTER II : ON DISMISSAL OF JUDGES INYANGAMUGAYO

Article 4 :

A judge Inyangamugayo who wishes to resign from the Gacaca Court Bench writes to the President of the Gacaca Court concerned explaining the reasons of his resignation.

The President of the Gacaca Court informs the bench members and their deputies for consultations before submitting the case to the General Assembly which is entitled to decide.
Icyemezo cyafashwe cyandikwa mu ikaye y'ibikorwa y'Urukiko Gacaca bireba kandi kikamenyeshwa mu magambo nyir'ubwite.

The judge Inyangamugayo, member of the Coordination Committee who wishes to resign, writes to the Gacaca Court Bench which takes a decision about it.

The judge Inyangamugayo who resigns from the Coordination Committee can still serve as an ordinary Inyangamugayo in the Gacaca Court.

Article 6 :

The judge Inyangamugayo applying for resignation shall not cease his activities before he is notified of the decision taken.

Article 7 :

The competent Gacaca Court organ takes the decision on the judge Inyangamugayo's request for resignation, within a fortnight starting from the day of the receipt of the request.

Beyond this period, the judge Inyangamugayo's request for resignation is taken for granted.

Ingingo ya 8 :

Inyangamugayo ishinjwe Jenocide ihita ihagarikwa mu mirimo y'Urukiko Gacaca.

The judge Inyangamugayo accused of genocide is immediately suspended from the Gacaca Court activities.

If the suspended judge Inyangamugayo is not put on the list of genocide suspects, he can be reinstated as a judge Inyangamugayo within Gacaca Court organs, on request.

CHAPTER III : ON DISSOLUTION OF THE GACACA COURT BENCH

Article 9 :

Dissolution of the Gacaca Court Bench means losing confidence in all of the members, together with their deputies.

Article 10 :

The Gacaca Court Bench can be dissolved whenever one of the following reasons is observed:

1. Taking sentimental decisions ;
2. Lack of consensus spirit ;
3. Incompetence ;
4. Behaviours incompatible with Gacaca Courts' activities.

Ingingo ya 11 :

The decision to dissolve the Gacaca Court Bench is taken by the General Assembly of the Sector, on its own initiative or on request from the National Service of Gacaca Courts.

When the Gacaca Court Bench of the Cell is dissolved, the decision is notified to the Cell authorities concerned in order to organize elections of other judges Inyangamugayo, conducted by the Coordinator of the Cell, in collaboration with the Committee of political and administrative affairs in the Cell (CPA).

When the Bench for the Gacaca Court of the Sector or the Bench for the Gacaca Court of Appeal is dissolved, the rest of the members of the General Assembly of the Sector choose new judges among themselves. The General Assemblies of the Gacaca Courts of their origin hold elections to fill the vacant posts.

CHAPTER IV : ON REPLACEMENT OF JUDGES INYANGAMUGAYO

Article 12 :

The Gacaca Court Bench is always composed of nine (9) judges Inyangamugayo and five (5) deputies. The Bench can only meet legitimately if at least seven (7) of its members are present.

Article 13 :

When a judge Inyangamugayo quits the Gacaca Court Bench for whatever the reason , he is immediately replaced by the deputy who recorded the highest number of votes in the elections.

After the replacement of the judge Inyangamugayo, elections are held to complete the number of deputies.

Article 14 :

Elections for completing the number of judges Inyangamugayo or the Bench members of the Gacaca Court of the Cell, are conducted by the General Assembly of the Gacaca Court of the Cell, presided over by the President of the Gacaca court or his deputies.

CHAPTER V : FINAL PROVISIONS.

Article 15 :

These instructions come into force on the day of their signature by the Executive Secretary of the National Service of Gacaca Courts.

Done at Kigali, on 20 / 07 / 2005

Domitilla MUKANTAGANZWA

Executive Secretary of the National
Service of Gacaca Courts