

PRESIDENTIAL ORDER N° 12/01 OF 26/6/2001 ESTABLISHING MODALITIES FOR ORGANIZING ELECTIONS OF MEMBERS OF “GACACA JURISDICTIONS” ORGANS.

*We, Paul KAGAME,
President of the Republic,*

Given the Fundamental Law of the Republic of Rwanda as modified and complemented to date, especially the Constitution of June 10, 1991 in its Article 97, and the Arusha Peace Protocol on Power Sharing, especially its Articles 9, 10 and 11,4°;

Given Organic Law n° 40/2000 of 26/01/2001 establishing “Gacaca Jurisdictions” and organizing prosecutions for offences of genocide crime or crimes against humanity committed between October 1, 1990 and December 31, 1994, especially its Article 9;

After consideration and adoption by Cabinet, in its session of May 2, 2001.;

HAVE ORDERED AND HEREBY DO ORDER

CHAPTER ONE: GENERAL PROVISIONS

Article One:

This order shall govern elections of members of “Gacaca Jurisdictions” at the Cell, Sector, District, Town and Province level.

CHAPTER II: VOTERS

Article 2:

Can elect members of the Seat for the Cell’s “Gacaca Jurisdiction” and delegates of that jurisdiction at the level of the Sector’s “Gacaca Jurisdiction” any person of Rwandese nationality, who is at least eighteen years old and lives in the concerned Cell.

However, foreigners now living in Rwanda for at least one year and are holding a residence permit may also elect.

Article 3:

Can elect members of the Seat for the Sector’s “Gacaca Jurisdiction” and delegates of that jurisdiction at the level of the District’s or the Town’s “Gacaca Jurisdiction”, members of the General Assembly for the Sector’s “Gacaca Jurisdiction”.

Can elect members of the Seat for the District’s or the Town’s “Gacaca Jurisdiction” and delegates of that jurisdiction at the level of “Gacaca Jurisdiction” for the Province or Kigali

City, members of the General Assembly for the District's or the Town's "Gacaca Jurisdiction".

Can elect members of the Seat for "Gacaca Jurisdiction" for the Province or Kigali City, members of the General Assembly for that jurisdiction.

Article 4:

Can elect members of the coordinating committee for the Cell's "Gacaca Jurisdiction", members of the Seat for that jurisdiction.

Can elect members of the coordinating committee for the Sector's "Gacaca Jurisdiction", members of the Seat for that jurisdiction.

Can elect members of the coordinating committee for the District's or the Town's "Gacaca Jurisdiction", members of the Seat for that jurisdiction.

Can elect members of the coordinating committee for "Gacaca Jurisdiction" for the Province or Kigali City, members of the Seat for that jurisdiction.

Article 5:

Are excluded from voters:

- 1° those who have been definitively convicted of rapt, or of rapt committed on a minor, of murder, assassination, genocide crime or crimes against humanity and who have not been rehabilitated.
- 2° those who are liable to the penalty of loss of civil rights;
- 3° persons whose names figure on the list of persons prosecuted for or accused of having committed acts placing them in the first category.

Article 6:

The exercise of the right to vote is suspended for:

- 1° detainees;
- 2° people who are interned or hospitalized because of mental alienation or by virtue of another social protection measure.

CHAPTER III: ELIGIBLE PERSONS AND NUMBER OF PERSONS TO BE ELECTED.

SECTION 1: ELIGIBLE PERSONS

Article 7:

Can be elected at the level of the Cell's "Gacaca Jurisdiction", any person recognized by people as fulfilling the following conditions:

- 1° to be of Rwandese nationality;
- 2° to be living in the Cell where he wants to stand for elections;
- 3° to be at least 21 years old;
- 4° to be recognized as having a good behaviour and morals;
- 5° to be characterized by honesty and a spirit of sharing speech,
- 6° not having been sentenced, during five years starting from the beginning of elections, by a trial emanating from the tried case to a penalty of 6 months or more;
- 7° not having participated in perpetrating offences of the genocide crime or crimes against humanity;
- 8° to be free from the spirit of sectarianism and discrimination;
- 9° not having been the subject of dismissal for lack of discipline.

However, persons mentioned in Articles 5 and 6 of this order are not eligible.

Article 8:

Can be elected at the level of the Sector's, District's, Town's or Province's "Gacaca Jurisdiction", persons who are members of the General Assembly for the concerned jurisdiction.

Article 9:

Can be elected as members of the coordinating committee, persons who:

- 1° are members of the seat for the concerned "Gacaca Jurisdiction";
- 2° know at least how to read and write Kinyarwanda.

Article 10:

Cannot be elected as members of "Gacaca Jurisdictions" organs:

- 1° political appointees;
- 2° persons in charge of centralized or decentralized government administrations;
- 3° soldiers who are still in active service;

- 4° members of the National Police who are still in active service;
- 5° career magistrates;
- 6° members of political parties' steering organs at national level.

This incompatibility disappears once the concerned person secures his resignation.

Article 11:

Persons in charge of Government administrations referred to in point 2° of the previous Article are the Prefect for the Province, members of the Executive Committee, of the Town or the District and members of the Sector's and the Cell's political and administrative Committee.

SECTION 2: NUMBER OF PERSONS TO BE ELECTED

Article 12:

Apart from the General Assembly for the Cell's "Gacaca Jurisdiction" which is made up of all the Cell's inhabitants who are at least 18 years old, the General Assembly for each "Gacaca Jurisdiction" for the Sector, the District, the Town, the Province or Kigali City is made up of at least 50 honest persons, elected by its jurisdiction's immediately lower "Gacaca Jurisdictions", excluding those who will be sent to the higher level "Gacaca Jurisdiction".

Article 13:

Every Cell, Sector, District and Town is represented within the General Assembly for the immediately higher "Gacaca Jurisdiction".

Article 14:

The number of honest persons to be elected by every General Assembly for "Gacaca Jurisdiction" is fixed by the Chairman of the Supreme Court within 60 days latest before holding the first elections.

CHAPTER IV: THE ELECTORAL CONSTITUENCIES, THE COMMISSION IN CHARGE OF PREPARING AND ORGANIZING ELECTIONS AND THE POLLING STATION.

SECTION 1: THE ELECTORAL CONSTITUENCIES

Article 15:

Subject to the provision of the following Article, every Cell, Sector, District, Town, Province and Kigali City is an electoral constituency.

Article 16:

Where it appears that within a given Cell the number of people of voting age is less than 200 people, that Cell may be combined with one of the neighbouring Cells in the same Sector. These combined Cells shall form one single electoral constituency.

Article 17:

Before holding elections, all Executive Committees for Cells shall forward to Mayors, by usual means of transmission, reports and figures, which are not dated from more than 2 months, on their respective Cells' inhabitants who are 18 years old and above.

SECTION II: **COMMISSION IN CHARGE OF PREPARING AND ORGANIZING ELECTIONS**

Article 18 :

Hereby established, at national level, is a Commission in charge of preparing and organizing elections hereinafter referred to as "the Commission".

The Commission shall appoint its representatives at the level of every Province, Kigali City, and every District and at the level of every town.

Article 19:

The Commission is made up of 6 persons to be appointed by a Presidential Order, including one Chairman and one Vice-Chairman.

Article 20:

In its activities, the Commission shall be assisted by the Permanent Secretariat for the Electoral Commission referred to in Law n° 39/2000 of November 28, 2000 on the establishment, organization and functioning of the National Electoral Commission and by the Department for «Gacaca Jurisdictions» within the Supreme Court.

An Advisor in the Department for «Gacaca Jurisdictions» within the Supreme Court to be nominated by the Chairman of the Department shall be the Secretary for the Commission.

The Chairman of «Gacaca Jurisdictions» within the Supreme Court may attend meetings of the Commission but shall not have the right to vote in decision making.

Article 21:

Representatives of the Commission at the level of Province, Kigali City, Districts and Towns are four in number including one Chairman, to be appointed by the Commission.

Article 22:

For their term of office, Commission members shall suspend their usual activities. They shall receive, during that period, a salary equal to the one given to the Electoral Commission Commissioners.

Commission representatives at the level of Provinces, Kigali City, Districts and Towns shall suspend their usual activities while remaining attached to their respective departments. They only get an allowance for services rendered.

Article 23:

Commission Members have a three-year mandate. A Presidential Order shall determine the commencement of their activities.

Article 24:

On the voting day, Commission representatives at the level of District or Town shall be assisted by members of the Political and Administrative Committee of the Sector in monitoring elections at Cell level.

Article 25:

The Commission shall submit a report at the beginning of elections and a final report whenever so required. Reports by the Commission are forwarded to the President of the Republic with a copy to the Chairman of the Supreme Court and to the Ministry holding Justice within his remit.

Article 26:

To hold a session validly, the Commission must at least have 2/3 of its total members.

Decisions made by the Commission shall be on consensus; where no consensus is reached, decisions are taken on the 2/3 majority of members of the Commission in attendance.

SECTION III: POLLING STATION

Article 27:

Voting operations at the level of Province, Kigali City, District and Town shall take place under the responsibility of representatives of the Commission at their respective levels.

Voting operations at Cell and Sector levels shall take place under the responsibility of members of the Political and Administrative Committee of those entities.

Article 28:

The Commission shall be assisted by administrative authorities.

CHAPTER V : HOLDING ELECTIONS

SECTION ONE: COMMON PROVISIONS

Article 29:

It is forbidden to campaign for the election of members of the «Gacaca Jurisdictions» organs, subject to the provisions of Article 40 of this Order.

Article 30:

At least 60 days before holding the first elections at Cell level, the Chairman of the Commission shall specify, by means of instruction, the starting date for these elections.

Article 31:

The Executive Committee of the administrative entity in which elections are to be held shall choose the place where these elections will take place.

Article 32:

Voting shall begin at 7 hours to close at 18 hours.

Where necessary, the polling station shall decide on either carrying on with elections after that latter time or on the following day at the same hours and shall notify its decision to voters. This decision must be justified and recorded in the minutes to be signed by the voting station members.

Article 33:

Voting at the level of the General Assembly for the Cell's Gacaca Jurisdictions shall be made on consensus or by lining up behind the candidate of one's choice for those candidates not accepted on consensus.

Article 34:

Voting for delegates of the Gacaca Jurisdictions at a higher level, members of the seat and members of the Coordinating Committee shall be done in writing and shall be done by secret ballot.

Any person who does not know how to write shall be assisted by a person of his/her choice.

Article 35:

The model of the voting ballot shall be specified by the Chairman of the Commission.

Article 36:

In case of equal votes, there shall be a drawing of lots.

This drawing shall be made in such manner as specified by the Chairman of the Commission.

Article 37:

Members of the voting station shall take minutes of the voting process.

The model in which as well as the time when minutes shall be taken shall be specified by the Chairman of the Commission.

**SECTION II ELECTING MEMBERS OF THE SEAT FOR THE CELL
JURISDICTION AND DELEGATES OF THAT JURISDICTION
AT A HIGHER LEVEL**

SUB-SECTION ONE: ELECTION OF HONEST PEOPLE

Article 38:

On the day of electing honest people at the Cell level, voting shall begin only when at least half the people having the right to vote are already present. Voters shall be grouped by «Nyumbakumi's» -ten households-that make up the Cell.

Every «Nyumbakumi» shall designate a number of honest people at least equal to the number required to be submitted by every «Nyumbakumi». This figure shall be obtained by dividing the number of honest people to be elected in every Cell by the number of «Nyumbakumi» that make it up.

Article 39:

After election in «Nyumbakumi», the General Assembly shall assemble, candidates chosen are introduced to the Assembly which takes this opportunity to introduce other honest people of the Cell.

Candidates introduced to the General Assembly must be at the place where voting takes place and accept to be proposed. Candidates who refuse to be chosen as candidates will indicate their reasons. When the Cell does not reach the adequate number of candidates, it shall be combined with another Cell in conformity with the provisions of Article 40 of this Order.

Article 40:

Before voting begins, every candidate shall give his full identity.

Article 41:

A member of the polling station shall call names of the candidates one by one, asking the General Assembly whether they recognize each one as an honest person or whether they have any criticism against him and the candidate against whom the General Assembly has not made any criticism shall thereby be declared elected.

Article 42:

When people elected in conformity with the above article exceed the required number of honest people, there shall be a drawing of lots on those persons elected to determine those to be members of the «Gacaca Jurisdictions» organs and those to be put on the waiting list.

Article 43:

Where the number of persons elected on consensus is equal to the required number of honest persons, the vote shall stop.

Article 44:

Where the number of persons elected on consensus is lower than the required number, elections shall be carried over to complete that number.

Candidates who have not been elected on consensus by the General Assembly will line up and every voter lines up behind the candidate of his choice.

Article 45:

A candidate to be declared elected shall come in good position in the number of honest persons to be elected and with votes equal at least to 1/5 of the voting persons.

The vote shall stop where the number is reached or where no candidate gets votes equal at least to 1/5 of the voting persons.

Persons who have got equal votes or votes higher than 1/5 of the voting persons but who have not been retained will be put on a reserve list according to the obtained votes.

Where the required number is not reached, the election shall be repeated only on those candidates who got votes equal at least to 1/5 of the voting persons.

Article 46:

Where, at the end of the elections, the number of honest persons referred to in Article 14 of this Order is not reached, the Cell shall be combined with one of the neighbouring Cells in the same Sector and the combined Cells shall vote together.

Article 47:

The decision for combining Cells shall be taken by the Chairman of the Supreme Court or by the person to whom he has delegated that competence.

This decision shall specify the number of persons to be elected and that of persons to be delegated to the higher level.

Sub-section 2: Procedure for electing delegates from the Cell’s “Gacaca Jurisdiction” to the sector’s “Gacaca Jurisdiction”.

Article 48:

At the end of the elections referred to in the previous sub-section, the elected honest persons shall elect delegates to the higher level and among themselves, and the remaining 19 persons will form the Seat for the jurisdiction.

These elections are to be carried out immediately after the first ones or where impossible, on the following day.

Article 49:

Every voter shall establish, on the voting ballot issued by the polling station, a list of persons equal to the number of persons to be delegated to the higher level.

All honest persons elected at the Cell level are candidates.

Article 50:

Candidates who have got a bigger number of votes and which corresponds to the number referred to in Article 14 of this Order shall be declared delegates of the Cell “Gacaca Jurisdiction” to “the Sector Gacaca Jurisdiction”.

SECTION 3: ELECTIONS OF MEMBERS OF THE SEAT FOR “GACACA JURISDICTION” OF THE SECTOR, DISTRICT, TOWN, PROVINCE AND KIGALI CITY AND DELEGATES OF THESE JURISDICTIONS TO THE HIGHER LEVEL

Article 51:

Elections of members of the Seat for «Gacaca Jurisdiction» of the Sector, District, Town, Province and Kigali City and of these jurisdictions’ delegates to the higher level shall take place on the day following the one on which elections at the lower level ended.

Article 52:

Before voting begins, the polling station shall check that the quorum is reached.

This quorum is 2/3 of the number of persons to be delegated by the lower level to one for which elections are organized.

Article 53:

Every voter shall establish on the voting ballot issued by the polling station, a list of persons equal to the number of persons to be elected, including persons to be delegated to the higher level and persons who are to make up the jurisdiction's seat.

Members of the General Assembly, which is to carry out elections, are all candidates.

Article 54:

For «Gacaca Jurisdictions» of Sectors, Districts or Towns, candidates who have got the largest number of votes shall be declared, up to the limit of the required number, delegates to the higher level; the 19 consecutive candidates shall be declared members of the Seat for «Gacaca Jurisdiction» for which elections were organized.

**SECTION 4: **ELECTIONS OF COORDINATING COMMITTEES OF
GACACA JURISDICTIONS****

Article 55:

Soon after their election or latest on the following day, the concerned members of the Seat for «Gacaca Jurisdiction» shall meet to elect 5 members of the coordinating committee of this jurisdiction.

Article 56:

The polling station shall receive applications for the post of Chairman and for the posts of Secretary.

Article 57:

For the post of Chairman, the first 3 candidates with most votes shall be declared respectively Chairman, 1st Vice-Chairman and 2nd Vice-Chairman.

For the post of Secretary, the first 2 candidates with most votes for the post of secretary shall be declared Secretaries of the coordinating committee.

CHAPTER VI: PETITIONING ELECTION RESULTS

Article 58:

Any query relating to the results of elections of members of «Gacaca Jurisdictions» shall, under pain of being declared null and void, be raised immediately after the publication of the results disputed by the person who considers himself prejudiced.
This petition shall be notified to the polling station which shall decide immediately.

CHAPTER VII: FINAL PROVISIONS

Article 59:

Elections to replace an honest person who can no longer continue his activities for whatever reason shall be organized by the jurisdiction's coordinating committee which is to carry out the replacement.

However, where honest persons are still on the reserve list, those whose names come first shall be de facto be qualified for this replacement.

Article 60:

Without prejudice to legal and regulatory provisions relating to these elections, the Chairman of the Commission shall take all necessary measures for elections to take place normally and in transparency.

Article 61:

This Presidential Order shall come into force on the day of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 26/6/2001

The President of the Republic
Paul KAGAME
(sé)

The Prime Minister
Bernard MAKUZA
(sé)

The Minister of Local Government and Social Affairs
Désiré NYANDWI
(sé)

The Minister of Justice and Institutional Relations
Jean de Dieu MUCYO
(sé)

Seen and Sealed with the Seal of the Republic

The Minister of Justice and Institutional Relations
Jean de Dieu MUCYO
(sé)