

# LEGAL FRAMEWORK ANALYSIS

## RWANDA NATIONAL REPORT



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## ABBREVIATIONS

DRC	Democratic Republic of the Congo
ICA	International Cooperative Alliance
LFA	Legal Framework Analysis
MINICOM	Ministry of Trade and Industry
NBR	National Bank of Rwanda
RCA	Rwanda cooperative agency
SACCOs	Savings and Credit Cooperatives
UNILAK	University of Lay Adventists of Kigali
VAT	Value added Tax

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# **1 INTRODUCTION**

## **1.1 Objectives of the Legal Framework Analysis**

The Legal Framework Analysis (LFA) is undertaken under the auspices of the Framework Partnership Agreement “Cooperatives in Development – People Centered Businesses in Action” between the International Cooperative Alliance (ICA) and the European Commission to which the Alliance Africa is a co-signatory.

Cooperatives benefit from regulations acknowledging their specificities and ensuring a level playing field with other types of business organizations. The absence of a specific legal framework for cooperatives or a weak legal framework may damage cooperatives, while in contrast a supportive regulation may allow their development. This is the reason why knowledge and evaluation of cooperative legislation is a necessary tool for ICA offices and members to support their advocacy and recommendations on the creation or improvement of legal frameworks, to document the implementation of cooperative legislation and policies, and to monitor their evolution. Against this background, the objectives of the LFA are: (i) to acquire general knowledge of the national legislation on cooperatives, including but not limited to the legislation in force in the 107 countries represented by ICA members, as well as of supranational cooperative legislation if existent; (ii) to evaluate the national jurisdictions covered by the LFA according to their enabling environment for cooperatives, in order to compare national cooperative laws with pre-determined indicators, based on a scale of “cooperative friendliness” of the national legislation; and (iii) to provide recommendations for eventual renewal of the legal frameworks in place.

## **1.2 About the Author**

The report has been prepared by Mr. Turyahebwa Robert who is a senior lawyer and advocate admitted to the Rwanda Bar Association. He holds a master’s degree in Public International Law from Erasmus University, Rotterdam the Netherlands and currently pursuing PhD studies in International Criminal Law at the Open University of Tanzania. He is the current Dean of the Faculty of Law at the University of Lay Adventists of Kigali (UNILAK). Mr. Turyahebwa has extensive knowledge and experience in consultancy work. He has been involved in developing regional projects and protocols for the Great Lakes Region in the areas of good governance and democracy and has also worked with the East African Community on different issues. Moreover,

Mr. Robert is experienced in staff recruitment for different organizations in Rwanda, Kenya and Uganda and also possesses skills on conflict resolution through international mediation and reconciliation procedures. He has been engaged in different research activities especially in the law field and has conducted several training activities on the functioning of cooperatives in Rwanda.

## **2 NATIONAL COOPERATIVE LAW**

### **2.1 General Context**

Rwanda is a landlocked East African country commonly known as a country of a thousand hills. It has a green, mountainous landscape and a population of about 12,501,156. Located a few degrees south of the Equator, Rwanda is in the African Great Lakes Region and is bordered by Uganda, Tanzania, Burundi, and the Democratic Republic of the Congo(DRC). Its geography is dominated by mountains in the west and savanna to the east and has numerous lakes. The climate is temperate to subtropical, with two rainy seasons and two dry seasons each year.<sup>1</sup>

The first attempt to institutionalize cooperatives in Rwanda began during the pre-colonial period with the enactment of the Co-operative Ordinance of 1949.<sup>2</sup> During the pre-colonial period, cooperatives that existed in Rwanda were used as a tool for fulfilling colonial interests, that is, getting resources from Rwanda for the development of their own countries. This implies that cooperatives were introduced by the colonial masters and currently approximately 3,816,591 cooperative members are registered.

After independence in 1962 the Government of Rwanda embraced and used cooperatives as instruments for implementing its policies and plans. As a result, cooperatives became a means for politicians to achieve their political goals. Moreover, cooperatives were viewed as institutions for meeting the subsistence needs of their members rather than economic ones.<sup>3</sup> This situation

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<sup>1</sup> <https://en.wikipedia.org/wiki/Rwanda> (accessed on 12th July 2019)

<sup>2</sup> Ministry of Trade and Industry National Policy on Cooperatives in Rwanda “Toward Private Cooperative Enterprises and Business Entities for Socio-Economic Transformation” August 2018, p. 13.

<sup>3</sup> Espérance Mukarugwiza, *The hope for rural transformation: A rejuvenating cooperative movement in Rwanda*, *Coop AFRICA Working Paper*, No.12, 2010, p. 6.

subjected cooperatives to state control a move which hampered the development of cooperatives as independent economic enterprises established to meet members' needs and interests. Cooperative development was further disrupted by the 1994 Genocide which impaired all socio-economic activities in the country.<sup>4</sup>

After the 1994 Genocide against the Tutsi, the Government of Unity emphasized on the importance of cooperatives in socio-economic development and as a result the government put in place a legal and policy framework to facilitate the smooth running of cooperatives. The laws and policies regulating cooperative organizations in Rwanda are explained below.

In 2007 the Law N° 50/2007 of 18/09/2007 (Law N° 50, 2007) determining the establishment, organization and functioning of cooperative organizations in Rwanda, was enacted to provide for the establishment, organization and functioning of cooperative organizations in Rwanda.<sup>5</sup> Besides, in 2013, the Law n° 48/2013 of 28/06/2013 (Law N° 48, 2013) was enacted to establish the Rwanda Cooperative Agency (RCA) and determine its mission, organization and functions.<sup>6</sup>

In addition, there are instructions of 2018 regulating interventions of stakeholders/partners in the development of the cooperative sector<sup>7</sup>, and those of 2013 prescribing the code of conduct for members of governing organs of cooperatives and their senior executives.<sup>8</sup>

## **2.2 Specific Elements of the Cooperative Law**

### **2.2.1 Definition and Objectives of Cooperatives**

By definition, a cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise, according to internationally recognized co-operative values and principles.<sup>9</sup>

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<sup>4</sup> *Ibid*, p. 6

<sup>5</sup> Law N° 50/2007 of 18/09/2007.

<sup>6</sup> Law n° 48/2013 of 28/06/2013, Official Gazette n° Special of 12/07/2013.

<sup>7</sup> Instructions No 852 of 01/10/2018 regulating interventions of stakeholders/partners in the development of cooperative sector

<sup>8</sup> Instructions No 0012013 of 5 December 2013 determining the code of conduct for members of governing organs of the cooperative organizations and their senior executives.

<sup>9</sup> <http://www.rca.gov.rw/about-cooperatives/definition-of-a-cooperative/#.XQDF0NIzaM8>

According to Law N° 50, 2007 determining the establishment, organization and functioning of cooperatives in Rwanda, a cooperative is a body corporate with: perpetual succession; power to enter into contracts; capacity to sue and being sued; capacity to acquire and dispose of movable and immovable property; and ability to do all things necessary for the purpose of and in accordance with its by-laws.<sup>10</sup>

For cooperatives to efficiently operate they must be established and function on the basis of their defining principles and values. Rwandan cooperatives operate according to the fundamental principles of voluntary and open membership; democratic member control; member economic participation; autonomy and independence; education, training and information; cooperation among cooperatives; and concern for community.<sup>11</sup> The cooperative values are self-responsibility, democracy, equality, equity, solidarity, honesty, openness, social responsibility and caring for others.<sup>12</sup>

Cooperative organizations in Rwanda are allowed to carry out activities in all sectors of economic and social life, and they are divided into five categories in the following domains; production cooperatives, commercial and consumer cooperatives, savings and credit cooperatives, services cooperatives and multipurpose cooperatives.<sup>13</sup> The organization of the cooperative movement constitutes unions, federations and confederation for the better management of their property and the defense of their common interests.<sup>14</sup>

### **2.2.2 Establishment, Cooperative Membership and Governance**

The Law N° 50, 2007 states clearly how cooperatives are established and managed. A cooperative is established by persons of legal age and sound mind and who meet the requirements specified in the Law N° 50, 2007 and other relevant Rwandan laws. For a cooperative to be established, at least seven members who meet the prescribed requirements are needed provided they do not belong to one and the same nuclear family. The rationale behind this is to prevent family members from conniving against other members during decision making and in situations of disagreement. In

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<sup>10</sup> Law N° 50/2007 Of 18/09/2007, *supra* note 5, Article 4.

<sup>11</sup> <http://www.rca.gov.rw/about-cooperatives/co-operative-principles/#.XQDJW9IzaM8> (accessed on 12<sup>th</sup> July 2019).

<sup>12</sup> <http://www.rca.gov.rw/about-cooperatives/co-operative-values/> (accessed on 12<sup>th</sup> July 2019).

<sup>13</sup> Law N° 50/2007 of 18/09/2007, *supra* note 5, Article 5.

<sup>14</sup> *Ibid*, Article 12.

addition, no person shall be a member of more than one cooperative organization with similar activities operating in the same area.<sup>15</sup>

To fully operate a cooperative must possess legal personality which is obtained by applying through the Rwanda Cooperative Agency, the competent organ responsible for the development of cooperatives. The documents that must be in the application requesting for legal personality are: the application letter; four certified copies of the statutes governing the cooperative bearing the date, signatures or fingerprints of all founder members; four copies of the minutes of the Constituent General Assembly meeting of the cooperative bearing the signatures or fingerprints of all founder members; four copies of a list of the members of the Board of Directors and of the Supervisory Committee indicating their names, addresses, functions and the signature of each member; a specimen of the signature or fingerprints of persons authorized to legally represent their cooperative; and a certificate delivered by the local authorities of the District in which the cooperative organization will be located.<sup>16</sup>

The minimum age limit for a person to qualify as a member of a cooperative is sixteen years. A member must not be directly or indirectly participating in any activity competing with the cooperative for which he or she is a member and must have subscribed and paid up his or her shares in accordance with the by-laws in order to constitute the share capital of the cooperative. Moreover, a member should be committed to participate actively in his/her cooperative in all or part of the operations as provided for in its by-laws. An application for membership is considered and approved by the General Assembly of a cooperative society. It should be noted that, members of a given cooperative hold equal shares in the capital of their cooperative.<sup>17</sup>

The internal organs of a cooperative are responsible for all governance matters and are supposed to discharge all their functions in accordance with the law. These internal organs are the General Assembly, the Board of Directors, the Supervisory Committee, and other committees which may be established for specific purposes.<sup>18</sup>

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<sup>15</sup> *Ibid*, Article 10.

<sup>16</sup> Law N° 50/2007 Of 18/09/2007, *supra* note 5, Article 20.

<sup>17</sup> *Ibid*, Article 29.

<sup>18</sup> *Ibid*, Article 48.

The General Assembly is composed of all members and is the highest organ in charge of decision making. Every member has the right to attend or to be represented in all its meetings.<sup>19</sup> General Assembly meetings may be convened to discuss ordinary or special matters. Ordinary meetings are held in March and October after the receipt of the audit report and accounts of the cooperative organization by the Board.<sup>20</sup> All members have equal rights in decision making as each member of a primary cooperative organization has only one vote.<sup>21</sup>

The General Assembly is convened by the President of the Board and in his/her absence, by the Vice President. Where the Board fails to convene the statutory meetings for the general interest of a cooperative, the Minister in charge of cooperatives may convene a special general meeting.<sup>22</sup> Convening of a General Assembly meeting shall be in writing or by any other means agreed upon by members. The invitation for the general assembly meeting is communicated to members at least fifteen days before the date of the meeting. The invitation must indicate and specify the time, date, venue and agenda of the meeting.<sup>23</sup> The same procedural requirements apply to special General Assembly meetings which may be convened by the Board of Directors at any time provided that a fifteen clear day's written notice of the meeting has been issued to members.<sup>24</sup>

The General Assembly plays the following roles: (i) considering and approving the agenda of its meetings; (ii) considering and approving the minutes of the previous general meeting; (iii) electing members of the Supervisory Committee and members of other committees provided for in the by-laws; (iv) dismissing members of the Board of Directors and members of other committees provided in the by-laws; (v) determining the rate of allowances for the Board of Directors and other committee members; (vi) considering the report of the Board on the activities of the preceding year; (vii) considering the duly audited financial statement and audit report for the preceding year; duly audited together with the audit report, (viii) considering reports of the Board or other Committees; (ix) considering and resolving the manner in which any available surplus and interest shall be distributed or invested; (x) considering and deciding the maximum borrowing powers of the cooperative; (xi) deciding on the management structure to facilitate efficient and

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<sup>19</sup> *Ibid*, Article 49.

<sup>20</sup> Law N° 50/2007 Of 18/09/2007, *supra* note 5, Article 51.

<sup>21</sup> *Ibid*, Article 38:

<sup>22</sup> *Ibid*, Article 57.

<sup>23</sup> *Ibid*, Article 58.

<sup>24</sup> *Ibid*, Article 52.

cost effective delivery of services to the members, (xii) transacting any other general business of the cooperative of which notice has been given to the members in the manner prescribed in the by-laws; (xiii) receiving and considering the activity report of the cooperative for the preceding year; and (xiv) deliberating on any other issue on the agenda of relevant meetings.<sup>25</sup> In addition, the General Assembly approves and adopts business plans for the following year, adopts the budget for the following year, admits new members, examines and approves the accounts of the cooperative, approves the estimates of income and expenditure for the next financial year, appoints the external auditor for the ensuing financial year and approves their remuneration where appropriate, fixes the investment, and deliberates on any other issue on the agenda of its meetings.<sup>26</sup>

The Extraordinary General Assembly plays the following functions: (i) considering and approving the agenda of the General Assembly meeting; (ii) considering and approving the minutes of the preceding general meeting; (iii) amending the by-laws governing the cooperative; (iv) deciding on joining other cooperative organizations to form Union, Federation, Confederation, or on merger, break up, transformation and liquidation of the cooperative; (v) appointing a liquidator and a liquidation committee from among the cooperative organization's members; and (vi) conducting any other business that may be transacted at a normal general meeting save for approval of the cooperative's accounts.<sup>27</sup>

The management authority of a cooperative is the Board of Directors which is responsible for implementing the decisions and directives adopted by the General Assembly in accordance with relevant by-laws. The Board of Directors is composed of not less than five and not more than nine directors who are elected in accordance with by-laws and taking into account gender balance where possible.<sup>28</sup> Their term of office is three years and is not renewable.<sup>29</sup>

The functions of the Board of Directors are to: direct the cooperative; prepare the General Assembly meeting; draft the internal regulations of the cooperative; examine and recommend the admission of new members; submit the activity report and the financial statement of the

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<sup>25</sup>Law N° 50/2007 of 18/09/2007, *supra* note 5, Article 54.

<sup>26</sup> *Ibid*, Article 54.

<sup>27</sup> *Ibid*, Article 56.

<sup>28</sup> Law N° 50/2007 of 18/09/2007, *supra* note 5, Article 63.

<sup>29</sup> *Ibid*, Article 65.

cooperative to the General Assembly; prepare the draft budget for the following year; initiate profitable projects for the cooperative; sign contracts in the name of a cooperative; manage the cooperative's property; track the financial situation and ensure the finances of the cooperative are well managed; represent the cooperative before the law; hold meetings when necessary; keep all books and records of the cooperative including relevant laws and governance instruments, the list of members, members of the Board of Directors and members of the Supervisory Committee; and carry out all other necessary activities for the fulfillment of the objectives of the cooperative.<sup>30</sup>

Meetings of the Board of Directors are convened once in three months and as often as the interest of the cooperative requires but not more than once a month. The quorum required for the Board to convene is two thirds of its members.<sup>31</sup> The meetings are convened by the Chairperson of the cooperative and in his or her absence, by the Vice Chairperson. In the absence of both, the meeting shall be convened and chaired by any Director elected to act as President. It may also be convened at the request of three Directors.<sup>32</sup> Where the Chairperson fails to convene a Board meeting, the absolute majority (51%) of the Board members may convene such meeting and take the necessary decisions as if the meeting had been convened by the President.<sup>33</sup>

In order for the decisions of the Board meetings to be valid, the quorum required by the law must be attained and all the decisions must be made by consensus or by the majority of votes in case of failure to reach a consensus. In the event of equality of votes, the Chairperson shall have a casting vote.<sup>34</sup> The Chairperson and the Secretary of the meeting sign the Board minutes of every meeting in accordance with the by-laws of a cooperative and are approved at the next meeting.<sup>35</sup>

Another management organ is the Supervisory Committee which is composed of not less than two members of the cooperative and not more than five members. They are elected by the General Assembly for a term of two years and their term can be renewed.<sup>36</sup> Like the Board of Directors,

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<sup>30</sup> *Ibid*, Article 64.

<sup>31</sup> *Ibid*, Article 68(1.)

<sup>32</sup> *Ibid*, Article 68(2).

<sup>33</sup> Law N° 50/2007 of 18/09/2007, *supra* note 5, Article 68(3).

<sup>34</sup> *Ibid*, Article 68(4).

<sup>35</sup> *Ibid*, Article 68.

<sup>36</sup> *Ibid*, Article 70.

the Supervisory Committee meets at least once in three months or when a request is made to the Committee by at least one fifth of the members of a given cooperative.

At its first meeting, the Supervisory Committee elects the Chairperson and the Secretary from among the members elected in conformity with the provisions of article 71 of Law N° 50, 2007.<sup>37</sup> The functions of Supervisory Committee are to: supervise the management of the cooperative once in every three months and at any time it is considered necessary; submit its report to the members and members of the Board of Directors; supervise the functioning of the permanent internal auditor; ensure the implementation of guidelines set up by the General Assembly; support other organs of the cooperative in disseminating and implementing the laws governing the cooperative, by-laws, resolutions of the General Assembly or those of the Board of Directors and of other Committees and guidelines that govern cooperatives with a view to creating understanding and harmony in the cooperative; and verify whether the Board of Directors and other Organs of a cooperative implement all the decisions made in order to protect the general interests of the members of the cooperative.<sup>38</sup>

### **2.2.3 Co-operative Financial Structure and Taxation**

The financial structure of cooperatives in Rwanda depends on the share capital and shares of its shareholders. The share capital of a cooperative is constituted of shares subscribed and paid up by each member. The share capital is determined by the General Assembly in accordance with the objectives of a cooperative. This is also done according to the internal statutes of a given cooperative.<sup>39</sup> The share capital may be increased by issuing new shares through the decision of the General Assembly. It may also be reduced due to bankruptcy, reimbursement of loans contracted by the cooperative or due to setting off of any debt owed by a member. Where a cooperative has fallen bankrupt, a member shall reimburse only up to the value of his shares in the cooperative.<sup>40</sup> The share capital in a cooperative has a unique characteristic because all members have equal shares in the capital. The nature and number of shares are determined by the General Assembly.<sup>41</sup>

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<sup>37</sup> *Ibid*, Article 73.

<sup>38</sup> Law N° 50/2007 of 18/09/2007, *supra* note 5, Article 72.

<sup>39</sup> *Ibid*, Article 34.

<sup>40</sup> *Ibid*, Article 35.

<sup>41</sup> *Ibid*, Article 36.

A member's share is indivisible, non-negotiable and cannot be pledged. However, it may be transferred or sold with the approval of the General Assembly. The by-laws of every cooperative shall state the nominal value of each share and the terms of its subscription and payment which shall be approved by the General Assembly. The value of a share shall be certified by a receipt issued for the sum paid, the documents attesting to the value of the share contribution and the inscription in the member's share register. The share shall be nominal and registered in an *ad hoc* register kept at the registered office of a cooperative. Payment of a share may be made in cash or in kind. Every member shall have the right to inspect the register of shares at the registered office of his/her cooperative society. The member's share is certified by a receipt issued for that purpose.<sup>42</sup>

The National Bank of Rwanda (NBR) plays a significant role on the financial part. It supervises and regulates financial institutions including Savings and Credit Cooperatives (SACCOs), to ensure they comply with laws and regulations aiming at safeguarding their soundness and sustainability. The supervision by the NBR covers all aspects of the life of the financial institutions including governance, operations and finance, liquidity, loan portfolio management and compliance aspects.<sup>43</sup>

The regime governing cooperative taxation in Rwanda is determined by the Law N° 016/2018 of 13/04/2018, establishing Taxes on Income.<sup>44</sup> Unlike in other countries where co-operatives are exempted from paying taxes in order to encourage them to mobilize savings, in Rwanda cooperatives pay taxes like any other business enterprise. However, the application of income tax law to cooperatives is open to negotiations whereby subsidies may be given to cooperatives in order to avoid stifling their contribution to the economy. The argument is that, the private sector should contribute to the development of the economy by paying taxes as the country moves to become self-reliant.

Companies and cooperatives that carry out micro finance activities approved by competent authorities are exempted from corporate tax for the first five years from the time of their approval. However, by virtue of Law N° 016/2018 of 13/04/2018, establishing Taxes on Income,

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<sup>42</sup> Law N° 50/2007 Of 18/09/2007, *supra* note 5, Article 36.

<sup>43</sup> Ministry of Trade and Industry National Policy on Cooperatives in Rwanda, *Supra* note 2, p. 51.

<sup>44</sup> Law N° 016/2018 OF 13/04/2018, Establishing Taxes on Income, Official Gazette n°16 of 16/04/2018.

cooperatives and the other entities referred to in Article 47 are required to submit to the Tax Administration their financial statements not later than 31 March following the tax period.<sup>45</sup>

With regard to value added tax, the Ministry of Finance and Economic Planning approves the list of agricultural inputs and other agricultural and livestock materials and equipment exempted from VAT.<sup>46</sup>

#### **2.2.4 Other Specific Features**

##### ***Co-operative External Control***

Cooperatives represent public interests and therefore they cannot be left in isolation without government control. Right from the initial registration stage, Local Authorities play a significant role in ensuring they are operating in line with the law. Members who are willing to form a cooperative submit an application to the Executive Secretary of the local authority (Sector) who shall register it in the appropriate book.<sup>47</sup>

This implies that, before submitting the application for legal personality, the Executive Secretary shall verify: whether the members really exist, how many they are, if the initiative is theirs and the location of their operations. After the verification by the executive secretary of local authority (Sector), to avoid unnecessary delays, then the application must be submitted to the Mayor of the local District in a period not exceeding seven working days.<sup>48</sup>

The Mayor of the District is the one to verify if the cooperative applying for legal personality meets the legal requirements before submitting the application to Rwanda Cooperative Agency (RCA) which is the competent organ responsible for the development of cooperative. The application for legal personality is submitted together with a recommendation and a provisional certificate issued by the Mayor.<sup>49</sup>

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<sup>45</sup> LAW N° 016/2018 OF 13/04/2018, *Supra* note 55, article 47.

<sup>46</sup>[https://www.rra.gov.rw/fileadmin/user\\_upload/list\\_of\\_agricultural\\_inputs\\_and\\_other\\_agricultural\\_and\\_livestock\\_materials\\_and\\_equipment\\_exempted\\_from\\_vat.pdf](https://www.rra.gov.rw/fileadmin/user_upload/list_of_agricultural_inputs_and_other_agricultural_and_livestock_materials_and_equipment_exempted_from_vat.pdf) (accessed on 6th August 2019)

<sup>47</sup> Law N° 50/2007 Of 18/09/2007, *supra* note 5, Article 21.

<sup>48</sup> Law N° 50/2007 of 18/09/2007, *supra* note 5, Article 21.

<sup>49</sup> *Ibid*, Article 22.

The Mayor has the capacity to return to the leaders of the cooperative the application file through the Executive Secretary of the local authority (Sector) notifying them the justification for the refusal of submission of application and the required formalities to complete it in order to be granted the legal personality.<sup>50</sup>

After the approval by the Local Authorities, the application for legal personality is approved by RCA. RCA plays the following roles; immediately after receiving the application for legal personality it should issue a signed certificate of acknowledgment indicating the date of receipt. Within a period of fifteen working days, it analyzes and examines the registration documents to make sure the cooperative meets the legal requirements for registration. Where RCA is satisfied that the applicant qualifies for legal registration, it shall immediately issue a legal certificate of registration to the applying cooperative as proof of registration. The legal certificate of registration shall be submitted to the applicant cooperative through the Mayor of the District in which the cooperative has its registered office.<sup>51</sup>

Cooperatives are also controlled by the line ministry (Ministry of Trade and Industry). This is evidenced by registration fees applicable to cooperatives which are determined by the Decree of the Minister in charge of cooperatives.<sup>52</sup> Moreover, the Ministry of Trade and Industry (MINICOM) oversees the development and implementation of cooperative policy; provides technical assistance in designing regulations and instructions by the Rwanda Cooperative Agency (RCA) for the cooperative movement; provides capacity development of cooperatives through the National Cooperative Federations and Unions, and other professional bodies accredited by the RCA; plays advocacy role to different stakeholders regarding the development of the cooperative movement; carries out mid-term reviews of cooperative policy to align it with new dynamics or development needs in the sector; sets up guidelines for proper collaboration with different stakeholders whose interventions involve cooperatives.<sup>53</sup>

Due to the vital role that cooperatives play in poverty reduction, the government decided to enhance coherence in cooperative promotion by setting up the Task force on Cooperative

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<sup>50</sup> *Ibid*, Article 22.

<sup>51</sup> Law N° 50/2007 of 18/09/2007, *supra* note 5, Article 23.

<sup>52</sup> *Ibid*, Article 26.

<sup>53</sup> Ministry of Trade and Industry National Policy on Cooperatives in Rwanda, *Supra* note 2, p. 51.

Promotion which falls under the Ministry of Commerce and Industry (MINICOM).<sup>54</sup> The Task force is mandated to:

- (i) analyze the actual functioning of cooperatives and pre-cooperative associations in Rwanda in order to align them with the policy on Cooperative Promotion and relevant laws;
- (ii) propose measures to address the existing problems that hinder the building of a strong cooperative movement;
- (iii) establish a viable structure for the cooperative movement that would enable members to own and control their own cooperatives and also enable them to build regional and international linkages;
- (iv) create a favorable environment for establishment of cooperatives that can serve as pillars for poverty alleviation both in urban and rural areas;
- (v) develop a legal and institutional framework that is responsive to the development of a strong and viable cooperative movement in Rwanda;
- (vi) sensitize and mobilize the politico-administrative authorities to support the solving of existing problems in cooperatives in order to accelerate economic growth;
- (vii) facilitate the establishment and functioning of a cooperative structure consisting of unions, federation and confederations;
- (viii) keep a register in which cooperatives that are granted legal personality are recorded.<sup>55</sup>

### ***Cooperation among Cooperatives***

The structure and organization of cooperatives in Rwanda is meant to facilitate cooperation among cooperatives. Cooperatives are organized into unions, federations and confederation for the better management of their property and the defense of their common interests<sup>56</sup> as elaborated below.

- (i) **Primary cooperatives:** This is a basic type of a cooperative where individual members voluntarily decide to gather their thoughts, strengths and assets with the common purpose of maximizing profit through undertaking an economic activity of their choice.

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<sup>54</sup> Espérance Mukarugwiza, *Supra* note 3, p. 6.

<sup>55</sup> Law N° 50/2007 Of 18/09/2007, *supra* note 5, Article 27.

<sup>56</sup> <http://www.rca.gov.rw/about-cooperatives/cooperative-structure/#.XQShOrwzayI> (accessed on 6<sup>th</sup> August 2019)

- (ii) Unions: Three or more primary cooperatives may join together to form a cooperative Union. Such a cooperative organization is referred to as a secondary cooperative organization. Only primary cooperatives may be members of a cooperative union. No primary cooperative can be a member of two cooperative unions at the same time. By-laws of a cooperative union must provide for a delegate representation and the mode of voting in the General Assembly meeting. A cooperative union may carry out complementary economic and service activities to those of its affiliates.
- (iii) Federation: Three or more cooperative unions may join together to form a cooperative federation at national level. Such a cooperative federation shall be referred to as a tertiary cooperative organization.
- (iv) Confederation: Three or more cooperative federations may join together to form a cooperative confederation at the national level. Such a cooperative confederation shall be referred to as the APEX cooperative organizations at the national level.<sup>57</sup>

### **3 DEGREE OF “COOPERATIVE FRIENDLINESS” OF THE NATIONAL LEGISLATION**

The Government of Rwanda has put in place a conducive environment for the development of the cooperative movement in recognition of its contribution to the attainment of national development goals for economic and social transformation. The institutional framework for the cooperative movement in Rwanda is designed to enable cooperatives to operate efficiently, effectively and sustainably. This encompasses laws pertaining to cooperative activities, regulations guiding various governance bodies and entities of the cooperative movement based on hierarchical dependence.<sup>58</sup>

Both the National Policy on Cooperatives of 2018 and the Law N° 50, 2007 on cooperatives recognize cooperatives in line with the cooperative values and principles as proclaimed by the International Cooperative Alliance (ICA).<sup>59</sup>

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<sup>57</sup> Ministry of Trade and Industry National Policy on Cooperatives in Rwanda, *Supra* note 2 p. 26.

<sup>58</sup> *Ibid*, p. 24.

<sup>59</sup> *Ibid*, p. 8.

The Policy defines the movement, highlights the importance of cooperatives, reviews their past and present status, and scans through the constraints and opportunities that they face in national development. In addition the Policy contains strategies and a plan of action aimed at orienting and ensuring that cooperatives become a viable tool for socio-economic development in Rwanda.<sup>60</sup>

Law N° 50, 2007, provides for the operation of cooperatives as vehicles for economic development, details on the roles and functions of cooperative organs, the procedures for legal registration of cooperatives, and proper financial management of cooperatives in order to prevent the collapse of cooperatives. However, the law does not allow pre-cooperative associations to exist as was the case in the past.<sup>61</sup> The reason is to avoid situations where people run away with the money of their fellow members.

With this legal framework, the main service provided by the Government to the cooperative movement is the facilitation of an enabling environment through registration and regulation of cooperatives.<sup>62</sup>

#### **4 RECOMMENDATIONS FOR THE IMPROVEMENT OF THE NATIONAL LEGAL FRAMEWORK**

The national legal framework in force is well established although there are challenges still in place. For the improvement of the national legal frame work, we recommend the following:

- (i) The Ministry of Trade and Industry (MINICOM) should embark on addressing management and corruption challenges which undermine the development of cooperatives in Rwanda. The Ministry and the Rwanda Cooperative Agency should perform their oversight roles more regularly and rigorously.
- (ii) There is a need to strengthen the current coordination system to avoid duplication of cooperatives within the sector and ensure adequate representation and advocacy roles.
- (iii) Encouraging and ensuring co-operation among cooperatives will strengthen the capacity of cooperatives to grow.

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<sup>60</sup> Espérance Mukarugwiza, *Supra* note 3, p.16.

<sup>61</sup> *Ibid*, p.16.

<sup>62</sup> *Ibid*, p.16.

- (iv) There is a need to improve mechanisms of accountability. Our study has shown that cooperatives operate independently without adequate oversight by the responsible organs. The government only intervenes when a problem arises. There is a need for regular supervision by the government in collaboration with the RCA.

## **5 CONCLUSION**

In conclusion, cooperatives in Rwanda operate according to the law guided by the cooperative values and principles. Cooperatives are organized into Unions, Federations and Confederations which allow them to achieve their common goals.

Cooperatives were severely affected by the 1994 Genocide against the Tutsi. Nevertheless, since 2005 the Government of Rwanda has been taking measures to revamp the state of cooperatives. Such measures include putting in place revival mechanisms such as establishment of the Task force in charge of promoting the cooperative movement to facilitate the development of cooperatives.

The government recognizes the contribution of cooperatives in socio-economic development through employment creation and payment of taxes. Moreover, members of cooperatives can easily access loans from savings and credit cooperatives (SACCOs) at subsidized interest rates.

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