



Commercial High Court

# Enhancing efficiency, building investors' confidence



BY KAYONGA RUTI DANIEL

In the aftermath of the 1994 genocide, there was need to rebuild public institutions, including the judiciary. The physical infrastructure had been destroyed and the human resources greatly reduced as many judicial officers had either been killed or had fled the country. There was need to restructure and modernize the judiciary to make it functional, efficient and more easily accessible to all.

In 2003 a new Constitution came into force and laid the framework for reform of the judiciary. The court system was restructured. The Supreme Court was unified and the rest of the judicial system streamlined for better coordination and efficiency. Commercial Courts were thus created as a result of the reforms.

Before the inception of the specialized Commercial Court in 2007, commercial disputes were handled by ordinary primary courts, intermediate courts, high court and the Supreme Court.

The Government of Rwanda in partnership with the Investment Climate Facility for Africa (ICF) thought of means to have a lasting solution to this remedy by establishing the Rwanda Investment Climate project (RICP) aimed at further reducing costs and risks of doing business in Rwanda.

The Judiciary received more funding from the Investment Climate Facility for Africa (ICF) to implement the second generation of Rwanda Commercial Justice Project (RCJP) which aims at enhancing investors' confidence in the commercial justice system in Rwanda by:

1. Fully clearing the commercial litigation backlog;
2. Reducing the procedures and time for a more efficient and transparent court process;
3. Reducing the cost of commercial



The President of Commercial High Court, Justice Emmanuel KAMERE.

litigation;

4. Improving the quality of judgments delivered; and

5. Improving the quality of commercial justice information available to court management for decision making as well as to various stakeholders.

Due to the heavy case-load the ordinary courts were facing, commercial cases were delayed and the business community could not get speedy justice that is needed in business.

There has been improvement in terms of quality of justice thereby addressing the challenge of lack of specialized judges who could efficiently and professionally handle commercial disputes. This was an answer to members of the business fraternity that often complained about the lack of specialized judges who could efficiently and professionally dispose of the cases.

"Today, we do have specialized commercial courts with trained judges who has reduced the cost and risk of doing business in Rwanda as we have set improved

commercial courts," says Justice Kamere Emmanuel, the Commercial High Court President.

The commercial courts are currently organized into a Commercial High Court, situated in Kigali, which also houses the Nyarugenge commercial court.

The Nyarugenge Commercial Court has jurisdiction over 12 districts; Nyarugenge, Kicukiro, Gasabo, Kirehe, Kayonza, Bugesera, Ngoma, Rwamagana, Gicumbi, Rulindo, Nyagatare and Gatsibo.

The Huye Commercial Court serves ten districts; Huye, Gisagara, Nyamagabe, Nyaruguru, Rusizi, Nyanza, Kamonyi, Ruhango, Muhanga and Nyamasheke while Musanze Commercial Court has judicial powers in;

Musanze, Gakenke, Burera, Ngororero, Rubavu, Nyabihu, Rutsiro and Karongi.

The Commercial Courts hear in the first instance all commercial, financial and fiscal cases and other related matters.

Currently there is no need of opening more commercial courts since all the cases can adequately be handled by the available courts.

"We have no plan to extend or spread all over the country and further decentralization because whenever needed, judges go down to the field to handle cases that might have arisen." said Justice Kamere Emmanuel, the Commercial High Court President.

According to section-1 article 13 of the organic law 06/2012/OL of 14/09/2012 determining the organization, functioning and Jurisdiction of commercial courts, the Commercial High Court ' shall hear in the first instance, complaints against decisions and judgments rendered by Foreign Courts on commercial, financial and fiscal cases which require the exequatur on the Rwandan territory.'

The Commercial High Court is comprised of seven (7) judges including a President and a Vice President. It has registrars and other support staff.

When hearing cases, the bench is comprised of one judge assisted by a registrar and the president may designate three judges depending on the complexity of the case.

## Backlog reduced substantially

On their establishment, Commercial Courts received an estimated 3,300 from ordinary courts and have since received 17,000 new ones that have been handled as and when they are filed.

Justice Kamere says many of the cases have been successfully concluded.



ICF's CEO Mr William Asiko on a guided tour to CHC premises.



“As of 31st January, we had a total of 853 cases only, 476 of which are under Nyarugenge Commercial Court.

“Remember there are more cases where business concentration is high. Huye for example commercial court has 62 cases while Musanze commercial court remains with 205 cases,” says the President of the Commercial High Court.

All business related disputes are handled by the commercial courts unlike before where disputes involving over Rwf20 million were filed with the Commercial Court for first hearing.

### Impact on Doing Business

The government of Rwanda is promoting investments and creating a competitive environment. Solving business related disputes with a clear observation of timeliness and delivering quality justice in commercial courts have contributed to building a competitive business environment in the country, attracting more investors in the process.

“We have qualified judges who are specialized in commercial law, so the quality of justice is assured and whenever a party is not satisfied, the law guarantees the complainant the right to appeal,” says Justice Kamere.

On a recent visit to Rwanda the new ICF chief said “I’m happy to see the progress you are making in the project. An efficient commercial justice system is key in increasing investor confidence and ensuring businesses that their conflicts can be resolved quickly and transparently. ICF is pleased to partner with Rwanda to improve its investment climate.” – William Asiko, ICF CEO.

### What are commercial matters?

According to the existing law (N°06/2012/OL OF 14/09/2012), “commercial matters” shall mean commercial, financial, fiscal and other related matters in connection with:

- 1° disputes arising from commercial contracts or commercial activities between individuals or business entities;
- 2° disputes arising from the use of negotiable instruments;
- 3° disputes arising from contracts between individuals and financial institutions;
- 4° disputes related to liquidation, dissolution and recovery of business firms facing bankruptcy;



CEO ICF and his delegation together with officials from the judiciary.

- 5° disputes related to insurance with the exception of those related to accident compensation claimed from insurance companies by those who have no contract with such companies;
- 6° disputes related to taxes and duties;
- 7° disputes related to the transportation of persons and goods;
- 8° any dispute that may arise between persons who own or manage registered entities and other business companies and these are:
  - a) members of the Board of Directors;
  - b) Directors;
  - c) shareholders;
  - d) auditors;
  - e) liquidators of a dissolved firm;
  - f) administrators of the property of an insolvent firm;
- 9° cases related to insolvency;
- 10° disputes related to intellectual property, including trade marks and names;
- 11° disputes related to registration and deregistration of business people from the commercial registers;
- 12° disputes related to the appointment or dismissal of auditors of firms;
- 13° disputes related to business competition and consumer protection;
- 14° business-related issues arising in cooperative organizations and
- 15° any dispute arising in the preparation and execution of administrative contracts between public organs and the private sector on business and financial affairs

### Filing

Cases can be filed either in English, French and Kinyarwanda with a provision for filing online under the Electronic Filing System (EFS). According to the Court Registrar, Mukakimanuka Marie Grace, if someone goes to efs.judiciary.gov, he/she receives a welcoming message to EFS, log-in to receive unique electronic code to be used as a file reference throughout the process.

A form is then generated, filled by the complainant in either PDF or TF with full address of both parties.

“One can file a case from Rusizi district and we immediately record your full identification in our documentation, then we give feedback on when the hearing will ensue,” explains the Registrar.

Among the documents that can be attached as evidence are; contracts or agreements you made with the defendant, bills, canceled cheques, warranties, receipts or written documents having to do with your claim as well as other documents supporting your case.

Both parties sign on the sent documents. This is done not only all over the country but also outside the country where one can file a case on 24/7. “Though we leave office at 5.00 pm all sent files are received the following working day.”

### Vision

An independent judicial system delivering timely and quality justice

### Mission

To dispense justice with equality, integrity, contributing to the reinforcement of the rule of law and respect for fundamental liberties and human rights

### Values

Impartiality: To be neutral in all adjudications while respecting human liberties.

### Integrity:

To be honest and truthful

### Independence:

Free from any influence whatsoever

### Timeliness:

To dispense justice with speed and high quality

### Excellence:

Of high quality and free from defects.

### Professionalism:

World standard ruling



The Hon. Chief Justice, Prof. Sam RUGEGE (right) with CEO ICF, Mr. William ASIKO.