

REPUBLIC OF SENEGAL

One People - One Goal - One faith

UNIFORM LAW 2009-16 ON

TERRORISM FINANCING

EXPOSE REASONS

Transnational financial crime remains today in the center of the concerns by international community, having regard to its negative impact, in particular on the reputation and the integrity of financial institutions, the law and order and peace in the world.

Conscious of the threat which this plague for economic and social development represents, Member States of the Western African Economic and Monetary Union (WAEMU) undertook, since 1999, to obtain a legislative and organizational plan of fight against these two principal forms of crime, Money laundering and terrorism financing in order to reinforce the protection measures and the integrity of their financial system. Initially were taken, concerning banking and financial transactions, the law carrying out banking regulation and the Ruling n°09/98/CM/WAEMU on foreign financial relations for Member States of WAEMU.

In order to increase the effectiveness of the fight against this type of crime in the Community territory, a regional approach was privileged, taking into account the specificities of the zone. Indeed, the Union is characterized by the existence of a common Central bank, a banking legislation and a uniform regulation of external financial relations, as well as supranational bodies of financial and banking supervision. The aforementioned approach makes it possible, moreover, to harmonize the sanctions between the Union States members and facilitate the information exchanges, essential to the glance of transnational size of financial criminality.

The actions undertaken led to the elaboration of the uniform law relating to the fight against Money Laundering, which was adopted by the Council of Ministers of the West African economic and Monetary Union on March 20th, 2003 in Ouagadougou. This law envisages the setting in place, in each Member State of the Union, of a Financial Intelligence and processing Unit (CENTIF).

The initiatives goal of the fight against terrorism financing, will allowed endowing the WAEMU Member States with a legal base to make executory the decisions to freeze the assets, taken by the Security Council of the United Nations. For this purpose, the Union Council of Ministers adopted on September 19th, 2002, the Ruling n°14/2002/CM/WAEMU on freezing the assets of people, organizations and terrorist entities.

For the implementation of this Ruling, the Council of Ministers of the Union makes decisions regularly relating to the list of people and entities aimed by this procedure.

In addition, it appeared essential to equip the WAEMU Member States with of one specific legislative bill allowing it to define and accuse terrorism financing. In this respect, the WAEMU Council of Ministers adopted, at its session of July 4th, 2007 in Dakar, the Directive n°04/2007/CM/WAEMU relating to the fight against terrorism financing in WAEMU Member States. This Directive, in its article 27, made obligation for the States to transpose its provisions in their internal legislation. The achievement of this obligation supposes the adoption, at community level, of a uniform law.

The present uniform law was elaborate on the base of article 22 of the Treaty of November 14th 1973 creating WAMU, relating to the harmonization of the monetary legislations and banking. The uniform law takes again the principal orientations of the Directive referred to above, which is added a harmonized list of sanctions and specific rules organizing the international cooperation (competence, legal mutual aid and extradition).

In addition to the legislation on the fight against Money laundering in force in the Union, which it aims at supplementing it, the uniform law on terrorism financing is inspired in particular by:

- the special recommendations on terrorism financing of the Financial Action Task Force on Money laundering (FAFT);
- and the draft law against terrorism financing in the Member States of the Economic Community of West African States (ECOWAS), initiated by the Intergovernmental Group of Action against Money laundering and terrorism financing in West Africa (GIABA).

I - AIMS IN VIEW

The definition of a specific legal framework of fight against terrorism financing in WAEMU Member States aims to supplement and reinforce the fight plan against transnational financial crime in force in the Union and, in particular, the texts relative to the fight against Money Laundering.

The adoption of the new legislation will make it possible for WAEMU Member States to put into work international recommendations on the fight against terrorism financing , like their engagements rising from the signature of the United Nations Convention of December 9th, 1999 on the repression of terrorism financing.

II - STRUCTURE AND CONTENTS OF THE LAW

The present uniform law is made up of seventy-five articles divided into five parts, in addition to the preliminary title devoted to the definition of the principal terms which are there used.

Part I talks about "**general dispositions**" (articles 2 to 7), it specifies the people liable by law, and defines and accuses terrorism financing.

Part II deals with "**the prevention and the detection of terrorism financing**" (articles 8 to 27), it extends the applicability of the provisions of the uniform law on Money Laundering, devoted to the prevention and the detection of Money Laundering on the fight against terrorism financing. These provisions are relative in particular to the methods of identification, by the financial institutions, of their customers (usual and occasional) and in the conditions of conservation of the documents justifying the transactions which they carry out. The procedure and the recipient of suspicious transactions reports still the same ones as those set by the uniform law relative to the fight against Money Laundering. Indeed, in conformity with the practice observed on international level, the missions of the CENTIF were extended to the collection and the processing of information on terrorism financing.

Part III focuses on "**the repression of terrorism financing**" (articles 28 to 41), it envisages the relative dispositions on precautionary measures, the freezing of funds and others financial resources, and the penalties applicable to the offence of terrorism financing. It also specifies the causes of exemption and the attenuation of penalties.

Part IV deals with "**International cooperation**" (articles 42 to 73), in order to guarantee the effectiveness of the fight against terrorism financing, it contains provisions aiming to promote, implement and reinforce a dynamics of international cooperation and legal mutual aid, on one hand,

between the Member States of the Union and, on the other hand, between those of Nonmember states.

Lastly, Part V (articles 74 and 75) relates to the **final provisions**.

Such is the goal of this terrorism financing bill

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UNIFORM LAW n°2009-16

ON TERRORISM FINANCING

The General Assembly adopted, in its meeting of Tuesday, January 27, 2009

The Senate adopted it, in its meeting of Wednesday, February 18, 2009

The President of the Republic promulgates the law whose content follows:

PRELIMINARY TITLE: DEFINITIONS

Article first: Terminology

For the purpose of this law, the following terms, hereafter, have the same meaning they are given by the first article of law n° 2004-09 of February 6th, 2004 *relative to the fight against Money laundering* hereafter, "uniform law relating to the fight against Money Laundering", namely:

Article One: Use of terms

For the purposes of this law, the following terms are hereby defined as follows:

1. Regional Financial Market Players: The Regional Securities Market (BRVM), Central Trustee/Bank for Settlements, Management and Intermediary Financing companies, Capital management companies, stock market investment consultants, Trust and company service providers.
2. Offender: Any person who commits a crime or offence of any sort.
3. Control authority: National or WAEMU community bodies with legal or regulatory authority to control natural persons and legal entities.
4. Public authorities: National administrations or local authorities of the Union, and their public establishments.
5. Competent authorities: Body with legal or regulatory authority to enact or enforce acts or measures as provided for by the law.
6. Judicial authority: Body with legal authority to take proceedings against, conduct preliminary inquiries on, or to pronounce a penalty against somebody.
7. The Prosecution: Entity with legal and regulatory authority to enforce action pursuant to a sentence, even on an occasional basis.
8. Economic beneficiary: The customer, meaning the person on whose behalf action is taken or a transaction is performed by proxy.
9. BCEAO or Central Bank: The Central Bank of West African States.
10. Property: All types of property, including corporeal or incorporeal, movable or immovable, tangible or intangible assets, fungibles, as well as deeds or documents that constitute proof of ownership of property or the rights thereto.
11. Money Laundering: offence defined in articles 2 and 3 of the Uniform Law on Money laundering
12. CENTIF: National Financial Intelligence Processing Unit.

13. Confiscation: Definite dispossession of property pursuant to an order issued by a competent jurisdiction, a control authority or any competent authority.

14. Member State: A State party to the West African Economic and Monetary Union Treaty.

15. Third-party State: Any State other than a Member State.

16. Original offence: Any crime or breach of the law, including those committed on the territory of another Member State or a third-party State, by which proceeds in cash or commodities are secured for the offender.

17. OPCVM: Agency for Collective Investment in Stocks and Securities.

18. Financial institutions: these include:

- banks and financial establishments;
- the financial services of post offices, as well as Public and Investment organizations or equivalent entities in Member States;
- Insurance and reinsurance companies, insurance and reinsurance agents;
- mutual insurance companies or credit/loan cooperatives, and savings and/or loan agencies or organizations not established originally as mutual insurance companies or cooperatives;
- Regional Stocks and Securities Markets, Central Trustee/Bank for Treatment,

Management and Intermediary Financing companies, Capital management companies;

- OPCVMs;
- Fixed asset investment companies;
- Registered foreign exchange corporations.

19. WAEMU: West African Economic and Monetary Union

20. WAMU: West African Monetary Union.

21. Union: West African Economic and Monetary Union.

One also understands by:

22. occasional customers: natural or moral persons which obtain specific services from financial institutions, in the absence of durable businesses relations which will make them usual customers;

23. Convention: the Convention of the United Nations of December 9th, 1999 for the repression of terrorism financing;

24. funds and other financial resources: all financial resources and economic advantages of some nature that they are, including, but not exclusively, cash, checks, credits in cash, drafts, orders of payment and other instruments of payment, deposits near the banks and financial institutions, balances in accounts, credits and titles of credits, negotiated titles and instruments of the debt, in particular actions and other non-voting shares, certificates of titles, obligations, promissory notes, warrants, titles not guaranteed, contracts on derivative products, interests, the dividends or other incomes of credits or appreciations perceived on credits, the credit, right to compensation, guarantees, including the guarantees of good execution or other financial liabilities, letters of credit, bills of lading, the sale contracts, any document attesting the detention of shares of funds or of financial resources and any other instrument of financing to export;

25. freezing of funds and other financial resources: any action aiming at preventing all movement, transfer, modification, use or handling of funds which would have for consequence a change of their volume, amount, localization, property, possession, nature, destination or any other modification which could allow its use, in particular the management of portfolio;

26. governmental or public installation: any installation or any means of transport, of permanent or temporary nature, which is used or occupied by representatives of a State, members of the Government, Parliament or Magistracy, or of the agents or personnel of a State or any other authority or public entity, or by agents or personnel of an intergovernmental organization, within the framework of their official functions;

27. Instrument: any good used or in front of being used completely or partly to some manner that is to make an penal offence;

28. Manual exchange transaction: the immediate exchange of banknotes or currencies wording in different currencies, realized by transfer or delivery of cash, against the payment by another means of payment made out in another currency;

29. Organization or non-profit organization: a legal entity or an organization having for main object the collection or the distribution of funds at caritative ends, religious, cultural, educational, social or brotherly , or for others types of good works;

30. Criminal organization: any structured association with an aim to commit, in particular offence of terrorism financing;

31. Foreign financial institutions: financial institutions established apart from Community territory of the Member States;

32. Cash smugglers: people who carry out physical cross border of cash or negotiable instruments to a carrier or which bring knowingly their contest with the realization of these operations;

33. Politically Exposed Persons: the person who exerts or exerted important public office in another Member State or a Nonmember state, in particular a Head of State or Government, politician of high ranking, high person in charge within the public authorities, diplomat, magistrate or soldier top row, Manager of a state enterprise or person in charge of political party, including family members close to the PEP in question, as well as the people known for him to be closely associated;

34. products: all drawn funds, directly or indirectly, of the commission of one offence as set in articles 4 and 5 of this law or obtained, directly or indirectly, thanks to the commission of a such offence;

35. Seizure: the fact for an competent authority of ensuring the guard or the control of goods on decision of a court or another competent authority;

36. service of transmission of funds or values: a finance department which accepts cash, accounts checks or any other instrument of payment or deposit of value in a given place and pays an equivalent sum in cash or in any other form with a recipient located in another geographical area by means of communication, message, transfer or compensation system which the service of transmission of funds or values belongs. This service can to be provided by natural or morals persons by having recourse to the regulated financial system or in an informal manner.

37. electronic transfer: any transaction by electronic way carried out in the name of a client, natural or morals person, via a financial institution, to place at the disposal of a recipient a certain amount of money in another financial institution, the client and the recipient can be one only and even nobody.

PART ONE: GENERAL PROVISIONS

Chapter I: Goal and jurisdiction of the law

Article 2: Goal of the Law

The present law has the goal of defining the legal framework of the fight against terrorism financing in Senegal, by implementing the Convention of the United Nations of 9 December 1999 for the repression of terrorism financing and its nine (9) subsidiaries, as well as the principal international recommendations against terrorism financing.

It aims, in addition, to ensure the interdependence of the fight plans against transnational financial crime in force. And for this reason, it supplements and reinforces in whole the national plan of fight against transnational financial crime and, in particular, the relative texts on fight against Money Laundering.

Article 3: jurisdiction of the law

The people liable with the provisions of this law are those aimed in article 5 of the uniform law n° **2004-09 of February 6th, 2004** on fight against Money Laundering, namely:

1. the Public Treasury;
2. BCEAO;
3. financial institutions;
4. members of the independent legal professions, when they represent or assist client outside all legal procedure, especially in the following activities:
 - purchase and sale of property, commercial enterprises or businesses;
 - handling of money, deeds or other assets belonging to the client;
 - opening or management of bank accounts, saving accounts or deeds;
 - constitution, management or direction of companies, trustees or similar structures, and the execution of other financial transactions;
5. the other institutions and individuals specified by law, including:
 - trust and company service providers in financial institutions;
 - auditors;
 - real estate agents;
 - dealers in valuable objects, such as the works of arts (paintings, masks in particular), precious stones and metals;
 - armored-courier services;
 - managers, owners and directors of casinos and gambling establishments, including national lotteries;
 - travel agencies.

are also liable with the provisions of this law, the Nonprofit organizations on which weigh particular obligations of vigilance.

Chapter II: Definition and incrimination of terrorism financing

Article 4: Definition of terrorism financing

For the purposes of this law, terrorism financing is defined as an offence constituted by the fact, and in any means, directly or indirectly, deliberately, to provide, associate or manage or to try to provide, associate or manage funds, goods, finance services or others, in the intention to see them used, or by knowing that they will be used, in whole or part, in order to make:

1. a deed of partnership of an offence within the meaning of one of the international legal instruments enumerated in appendix with the present law, independently of supervening of such an act;
2. any other act intended to kill or wound seriously a civilian, or any other person who does not take part directly in the hostilities in situation of armed conflict, when, by its nature or its context, this act aims at intimidating a population or with to force a government or an international organization to achieved or to abstain from achieving an unspecified act.

The offence of terrorism financing thus defined is made up even if the funds were not actually used to make the acts.

There is terrorism financing, even if the facts which are at the origin of the acquisition, the detention and the transfer of the goods intended for terrorism financing, are done on the territory of another Member State or a Nonmember state.

Article 5: participation, association, or conspiracy to commit terrorism financing

Other acts that constitute terrorism financing offence include the association, participation in an act of terrorism financing, as in the meaning of article 4 of this law, conspiracy to commit such an act, attempt to aid and abet, perpetrators of this acts, or advice a natural person or legal entity, to carry out it or to facilitate the execution thereof.

Article 6: Incrimination of terrorism financing- Money Laundering made within the framework of terrorist activities

The acts aimed in articles 4 and 5 of this law constitute penal offence punishable of sentences set on Part III of this law.

They can also constitute offence subjacent of Money Laundering.

Article 7: Refusal of any justification

Null consideration of neither political nature, philosophical, ideological, racial, ethnic or religious, nor no similar reason can be called upon to justify the commission of one of the offence aimed to articles 4 and 5 of this law.

PART II: PREVENTION AND DETECTION OF TERRORISM FINANCING

Chapter I: Preventing terrorism financing

Article 8: Compliance of the provisions of Part II of the uniform law n° 2004 -09 of 6 February 2004 on the fight against Money Laundering

Obligations put upon the people specified by the provisions of Part II of the uniform law on the fight against Money Laundering, and devoted to the prevention of Money Laundering, automatically apply as regards to the fight against terrorism financing.

They are in particular:

- the observance of the regulation of the foreign financial relations;
- the identification measures of customer and beneficial owner, and the monitoring of certain operations;
- the installation of internal program of fight against terrorism financing;
- the conservation and the communication of documents;
- the applicable measures on manual exchange transactions, like with casinos and game establishments.

Article 9: specific obligations of financial institutions

The financial institutions are held with the specific obligations hereafter:

1. identification of their customers and, if necessary, the people for the account of whom the customer act, with the help of the production of a documentary evidence when they tie business relations, and, in particular, in case of some financial institutions, when they open an account whatever its nature or offer on-call services for their assets;
2. identification of the customers other than those cited in the preceding paragraph, for any transaction whose amount or exchange-value in francs reached or exceeds five million francs, whether it is carried out in only one or several operations between which a bond seems to exist; if the entire amount is not known at the time of the engagement of the transaction, the financial institution concerned carry out the identification as of the moment when it is informed of it and which it notes that the threshold is reached;
3. adoption, in case of doubt about the point to know if customers aimed to paragraphs 1 and 2 above, act for their own account or, in the event of certainty that they do not act for their own account, reasonable measures must be done to obtain information on the real identity of the people for the account for whom these customers act;
4. identification of the customers, even if the amount of the transaction is lower than the threshold indicated at paragraph 2 above, as soon as there is suspicion of terrorism financing;
5. adoption of necessary measures to deal with the increased risks existing in matter of terrorism financing , when they tie business relations or carry out a transaction with a customer who is not physically present for identification, in fact within the framework of a remote operation; these provisions must in particular, guarantee that the identity of the customer is established,

in particular by asking additional supporting documents, additional measures of checking or certifying the documents provided or of certificates of confirmation on behalf of a financial institution or by requiring that the first payment of the operations be carried out by an open account in the name of the customer near a financial institution subjected to an obligation of equivalent identification;

6. the meticulous examination of any transaction, by its nature, the circumstances who surround it or the quality of the implied people, to be related to terrorism financing;
7. the continuous follow-up of their customers during the business relations, of which the level is function of the degree of risk of the customers to be related to terrorism financing.

The financial institutions can entrust by written mandate, at the only financial foreigners organizations concerned with the same branch of industry and being subjected to an obligation of equivalent identification, execution of the obligations of identification which are to them imposed by the present provision. For this purpose, the contract of mandate must guarantee, with any moment, right of access to the documents of identification for the period referred to article 10 of this law and handing-over of at least a copy of the aforesaid documents with constituents, who remain held of the good achievement of the obligations of identification.

The financial institutions are not subjected to the obligations of identification set to the present article, if the customer is also a financial institution established in one Member State subjected to an obligation of equivalent identification.

Article 10: Conservation of the documents, and statistical data

For the purpose of being used as piece of evidence in any investigation referring to terrorism financing, the financial institutions preserve:

1. as regards to identification: the copy or references of the required documents, for a period of ten years as from the closing of their accounts or the suspension of their relations with their usual or occasional customers, without damage to the times of conservation prescribed by other legislatures texts or regulations;
2. for the transactions: supporting documents and recordings consisting of the original documents or the copies having conclusive force similar to the glance of legislative texts and regulation, for a period of ten years from the time during which the operations were carried out, without damage to the times of conservation prescribed by other legislatures texts or regulations;

The time of conservation of the documents, and statistical data aimed above, also applies to the other people specified by law.

Article 11: Services of transmission of funds or values

Natural or morals persons, others that the banks, which wish to provide a service of transmission of funds or values, as principal activity or accessory, in their proper name or as the representative, must

obtain beforehand the authorization to exert from the Minister in charge for Finances, under the conditions set by specific regulation in force.

Natural or morals persons having an authorization as indicated in the first paragraph of this article are specified by law to the fight plan against organized crime **in Senegal**, in particular general and specific obligations apply to the financial institutions in the prevention and detection of operations related to Money laundering and terrorism financing.

Natural or morals persons who provide illegally the services aimed at the first paragraph of this article are liable to administrative, civil or penal sanctions, set by the law.

Article 12: Information accompanying electronic transfers

Any cross border electronic transfer must be accompanied by the exact information of the client. This information includes in particular the account number or, a single reference number accompanying the transfer.

Any national electronic transfer includes the same data as in the case of the transborder transfers, unless all relative information with the order giver can be available to the financial institutions of the beneficiary and competent authorities by other means.

Article 13: Obligations of particular vigilance on Exposed Politically Persons (EPP)

The financial institutions must in particular apply, according the appreciation of their risk, reinforced measure of vigilance at the time of the transactions or relations businesses with the EPP residing in another Member State or a Nonmember state, in particular, for the purposes to prevent or detect operations related to terrorism financing. They take, for this purpose, the appropriate measures to establish the origin of his patrimony or the funds.

Article 14: Obligations of particular vigilance with regard to non-profit organization

Any non-profit organization which wishes to collect funds, to receive or order transfers of funds must:

1. be registered on a register set up, for this purpose, by the competent authority.

The initial request for inscription on this register requires the name, first names, addresses and phone numbers of any person charged to assume the responsibility for operation of the organization concerned, and in particular of the president, vice president, general secretary, members of the board of directors and treasurer, according to the case;

2. to communicate to the authority in charge the behavior of the register, any change in composition of the beforehand designated responsible people, aimed to preceding paragraph.

Any donation made to non-profit organization for an amount equal or higher than five hundred and thousand francs must be consigned in the register aimed to the first paragraph, of this article, including the complete coordinates of the giver, date, the nature and the amount of the donation.

The register aimed to the first paragraph, of this article is preserved by the competent authority during ten year, without damage to the times of conservation prescribed by other legislature's texts or regulations. It can be consulted by CENTIF, any authority in charge of the control of non-profit

making companies like, on requisition, or by judicial police officers in charge of a criminal investigation.

Any cash donation with the profit of a non-profit organization, of an amount equal or higher than a million francs is subject of a declaration at CENTIF, by the authority in charge of the register cited in paragraph 2 of the first paragraph above.

Any donation with the profit of a non-profit organization, whatever the amount, is subject also of a declaration at CENTIF, by competent authority on the matter, when the funds are likely to refer to a terrorist entity or terrorism financing.

The non-profit organizations must, on one hand, conform to the obligation relative to the keeping of an account and conforms also to the standards in force, in addition, to transmit to controlling authority, their annual financial statements of the previous year, in the six months which follow the closing date of their accounting period. They deposit on a bank account open in the books of an approved banking institution, the whole of the sums of money which are given to them as donation or within the framework of the transactions that they are brought to carry out.

Without damage of been prosecuted, the competent authority can also order the temporary suspension or the dissolution of the non-profit organization who, with full knowledge of the facts, encourage, foment, organize or commit an offence aimed in articles 4 and 5 of this law.

Article 15: Funds smugglers

Cross border physical transport of cash and instruments to the barrier, of an amount equal or higher than five million franc must, at the entry and the exit of the national territory, be the subject of a declaration written at the borders post by the carrier.

The competent authorities **of Senegal** carry out the identification of the cash and instruments carrier to the barrier reaching out the amount aimed in the first paragraph of the present article and require of him, if necessary, additional details on the origin of the cash or instruments to the barrier.

The competent authorities can, if necessary, block or retain, for one period not exceeding seventy two hours, cash or instruments to the barrier , and likely related to terrorism financing or Money Laundering, or being the object of false declaration.

The people who proceeded to false declaration or communications are liable to the sanctions set by the present law.

The competent authorities proceed to the confiscation of the cash or instruments to the barrier related to terrorism financing in accordance with the provisions of article 41 of the present law.

Chapter II: Detection of terrorism financing

Article 16: Application of the provisions of Part III of the uniform law n° 2004 -09 of February 6th, 2004 on Money Laundering

Obligations of the people specified by the provisions of Title III of the uniform law **n° 2004 - 09 of February 6th, 2004** on Money Laundering, and devoted to the detection of Money Laundering, automatically applies as regards to the fight against terrorism financing.

They are in particular the relative dispositions:

- with attributions of CENTIF;
- with the declarations relating to suspect operations;
- in the search of evidence.

Article 17: Extension of attributions of the CENTIF

In addition to the mission which was assigned within the framework of article 17 of the uniform Law **n°09 of February 6th, 2004** on Money Laundering, CENTIF is also charged to collect and process the information on terrorism financing.

For this reason, it:

- is charged, in particular to receive, analyze and process the information as to establish the origin of the transactions or the nature of the transaction reported by the institutions and the people specified by law;
- also receives all other information useful, necessary to the achievement of its mission, in particular those communicated by the Controlling authorities, and the judicial police;
- can request the institutions and people specified by law, as well other individuals or legal entities, to communicate information held by them and likely to substantiate reports of the suspicious transactions;
- carries out or makes periodic studies on terrorism financing trends and techniques on the national territory.

It advises the State on its terrorism financing policy roll out process. On this account, it proposes all necessary reforms for more efficiency terrorism financing measure.

The CENTIF draws up periodic reports, quarterly and annually, on progress in national and international efforts to combat terrorism financing, and process the reports received for submission to the Minister in charge of Finances.

Article 18: Obligations of reporting of suspicious transactions

The institutions and persons specified in article 3 file reports to CENTIF, under the conditions set by the present law and according to a model of declaration fixed by decree by the Minister in charge of Finances:

- sums of money and all property in their custody originating apparently from terrorism financing;

- transactions on property, acquired apparently with the proceeds from terrorism financing
- sums of money and all other property in their custody, where these, suspected and as being intended for terrorism financing, originated apparently from the proceed of Money Laundering.

The officials of the institutions and people referred to above inform their superiors about such transactions, as soon as they know about them.

The officials of the institutions and people referred to above report these transactions to CENTIF in all cases, even when they could not obtain deferment of the said transaction, or if they realized only afterwards that money and property from illicit origin had been transacted.

These reports are filled confidentially without hinting the money owner or transacting parties.

Any information likely to alter the reporting parties' judgment and confirm or invalidate their suspicions is to be known to CENTIF.

According to the provisions of the present article, no report filed to an authority, pursuant to a law different from the present law, shall waive obligations to report incumbent upon the institutions and persons specified in article 3.

Article 19: Transmission of reports to CENTIF

The institutions and individuals specified in article 5 report suspicious transactions to CENTIF in writing. Reports filed by wire, telephone or electronic mediums are confirmed in writing within 48 hours. The reports give:

- the reasons why the transaction has already been processed;
- the time period when the suspicious transaction has to be processed;

Article 20: Processing reports transmitted to CENTIF and freezing transactions

CENTIF acknowledges receipt of all reports of suspicious transactions filed to CENTIF in writing. CENTIF immediately processes and analyses the information received and proceed, as appropriate, to request more information from the reporter or any other public and/or supervising authorities concerned.

Under exceptional conditions, and upon custody of strong, corroborating and reliable evidence, CENTIF freezes execution of the said transaction before the reported execution period expires. This freeze order is notified to the reporting party in writing and block execution of the transaction for no more than forty-eight (48) hours.

Where no objection is issued or if, after forty-eight (48) hours, the reporter receives no ruling from the examining magistrate, he or she can pursue the transaction.

Article 21: Proceedings pursuant to reports of suspicious transactions

Where transactions conceal facts apparently constituting a terrorism financing offence, CENTIF reports these facts to the State Prosecutor to refer the matter immediately to the examining magistrate.

All useful evidences are annexed to this report except the report filed on the suspicious transaction. The identity of the reporting official is not disclosed in the report, considered authentic unless otherwise proven.

CENTIF in due course notifies the reporting institutions and individuals of the findings of its investigations.

Article 22: Obligation of co-operation with the competent authorities

People specified with the present law and, if necessary, their managers and employees must cooperate fully with the competent authorities responsible for the fight against terrorism financing. Without damage of their obligations with regard to their respective monitoring and supervising authorities, the people specified by law, their managers and employees are held:

1. to inform, of their own initiative, CENTIF of act which could be a hint for terrorism financing, in particular because of the person concerned, of the evolution and the origin of its assets, as well as, the finality or methods used for the transaction in question;
2. to provide to CENTIF, on its request, all the necessary information, in accordance with the procedures set by the applicable regulation.

The transmission by the people specified by law of the information aimed in the first paragraph of this article is carried out in accordance with the procedures lay down in articles 18 to 21 of this law. Given informations with the authorities other than the legal authorities, pursuant to the first paragraph of this article cannot be used that at ends of fight against terrorism financing.

The people specified by law and their managers or employees should not reveal to the person concerned or with a third party that information was transmitted to the authorities pursuant to the first and the second paragraphs above or that one inquire into terrorism financing is ongoing.

Article 23: Waiving liability for reports of suspicious transactions made in good faith

The persons or superiors and officials of persons specified in article 3 who, in good faith, transmit information or file reports as provided by the present law, are exempt from all sanctions for breach of confidentiality.

No civil or criminal suit shall be filed, and no disciplinary action brought against the persons or superiors and officials of institutions or individuals specified in article 3 that acted under the same conditions as those provided in the previous paragraph, even if no court sentence was passed in relation to the reports covered in this same paragraph.

Furthermore, no civil or penal action shall be brought against persons specified in the previous paragraph for any material or indirect damage caused by the freezing of a transaction, pursuant to the provisions of article 20.

Article 24: State responsibility for reports of suspicious transactions made in good faith

The State assumes responsibility for any damage caused by a report of suspicious transactions done in good faith, where the facts related in the report are proved to be inaccurate.

Article 25: Exemption from liability for the execution of certain transactions

Upon processing of a suspicious transaction, where collusion to fraud with the offender(s) is not established, no suit for terrorism financing may be filed against the persons specified in article 3, their superiors or officials, if the report on the suspicious transaction was filed according to the provisions of the present law.

The same provisions apply where a person specified in article 3 has processed a transaction upon the request of judicial authorities, public anti-terrorism financing officials processing a judicial enquiry, or CENTIF

Article 26: Investigative measures

To gather evidence of terrorism offences and crimes, the examining magistrate may, in accordance with the law, order several actions for a given period. These actions, which are not to be opposed on the grounds of professional secrecy, shall include:

- placing bank and other similar accounts under watch, where there is conclusive evidence to suspect that these money instruments are used, or may be used for terrorism financing or related crimes covered by the present law;
- accessing systems, networks and servers used, or likely to be used by persons on whom there is conclusive evidence of involvement in the original offence or in the crimes covered by the present law;
- Communicating official or private agreements as well as banking, financial and commercial documents.

The examining magistrate may also order the seizure of the agreements and documents mentioned above.

Article 27: Waiving of professional secrecy

Notwithstanding contrary legislation or regulations, the persons specified in article 3 are not be allowed, on grounds of professional secrecy, to refuse to provide information to control authorities and CENTIF or to file the reports covered by the present law. The same provision applies in respect to information required for an investigation on terrorism financing, ordered by the examining magistrate or conducted under his authority by public anti-terrorism financing officials.

PART III: PUNITIVE MEASURES

Chapter first: Administrative and disciplinary measures

Article 28: Administrative and disciplinary sanctions

Where, by grave default in vigilance or failure in organization of internal control procedures, the persons specified in article 3 ignore the obligations incumbent upon them under articles 8, 18, and 19 of the present law, the control authority with disciplinary power acts without consultation as specified by the specific legislative and regulatory provisions in force.

The control authority informs CENTIF and the State Prosecutor on all matters related thereto.

Chapter II: Protective measures

The examining judge may, upon prescription, issue protective measures in conformity with the law by ordering, at the expense of the State, the seizure or confiscation of property in relation to the offence subject to investigation and all identification items useful thereto, as well as by issuing a freeze order on sums of money and financial transactions on the said property.

In the case she is opposed to the execution the measures not in with the law by ordering, the legal authority seized of a request to execute the protective measures pronounced abroad, can substitute those to the one in conformity with the internal law by ordering, of which the effects correspond at best to the measures of which execution is solicited.

The withdrawal of these measures may be ordered by the examining judge under the conditions provided by the law.

Article 30: Freezing of funds and other financial resources

The competent authority orders, by administrative decision, the freezing of funds and others financial resources of the terrorists, as of all those who finance terrorism and terrorist organizations. This freezing intervenes without delay and preliminary notification to people, entities or organizations concerned. A list of these people, entities or organizations can, if necessary, being drawn up.

Moreover, the competent authority makes sure of the application of the legislations on the freezing of funds, in particular Ruling N°14/2002/CM/WAEMU of September 19th, 2002, on the freezing of the funds and other financial resources within the framework of the fight against terrorism financing in the Member States of the WAEMU, as well as decisions of the Council of Ministers of the Union on the list of people, entities or organizations aimed by the freezing of the funds and other financial resources, in particular, the one established by the Security Council of the United Nations and updates.

He is strictly forbidden for the people specified in article 3 of this law, to put directly or indirectly, the funds, object of the procedure of freezing to the disposition of the natural or morals persons, entities or organizations indicated by decisions aimed to paragraphs 1 and 2 above, or to use them on their own benefit.

It is also strictly forbidden to the people specified in article 3 of this Law, to provide or continue to provide services to the natural or morals persons, entities or organizations indicated by decisions aimed to the paragraphs 1 and 2 above, or to use them on their own benefit.

Any decision of freezing or withdrawal must be made available to the public in particular by publishing it in the official journal and in a newspaper for legal advertisements. It is the same for procedures to be followed by any natural person or morals registered on the list of people, entities or organizations concerned, to obtain the withdrawal of this inscription and, if necessary, the withdrawal of the funds belonging to him.

Article 31: Dispute procedure on administrative measures of freezing funds

Any natural or morals person whose funds and other financial resources have been frozen according to the provisions of article 30 of the first paragraph above, which estimate that the decision of freezing results from an error, can lodge appeal against this decision within **one month** as from the date of its publication in the official newspaper. Action is brought near the competent authority which ordered freezing, in indicating all the elements which can show the error.

Any dispute of decision of freezing of funds and other financial resources taken in application of the Resolution of the United Nations Security Council must be conformed with the adequate procedure within the framework of the Resolutions of the Security Council

Chapter III: Applicable sentences

Article 32: Penal sanctions applicable to natural persons

The natural persons guilty of a terrorism financing offence are punished by ten years (10) to in prison and a fine equal to five times the value of the property or funds object of the terrorism financing transactions.

Attempts to commit terrorism financing are punished of the same sentence.

Article 33: Penal sanctions applicable for participation in, association, conspiracy to commit terrorism financing

Association or participation in an act of terrorism financing, conspiracy to commit such an act, attempts to aid and abet perpetrators of this act, or advice to a natural person or legal entity to perpetrate this act or facilitate perpetration thereof, is punished under the same sentences provided in article 32.

Article 34: Aggravating circumstances

1. The sentences provided for in article 32 are doubled:

- when the terrorism financing offence is committed regularly or by using the facilities provided for the discharge of duty;
- when the offender is charged with a second offence; in this case, the sentences passed abroad are used to establish the second offence;

- when the terrorism financing offence is committed in organized gangs.

2. Where the original crime or offence of money or commodity is subject to a prison sentence longer than the penalty under article 32, terrorism financing is punished by sentences related to the original offence the offender knew about and, if this offence was committed under aggravating circumstances, the offender is sentenced to penalties related only to the circumstances he or she knew about.

Article 35: Penal sanctions for certain terrorism financing schemes

A prison sentence of between six (12) months and four (4) years and a fine between two hundred thousand (200.000) and three million (3.000.000) CFA francs, or either of these two (2) penalties, are levied on the persons and the superiors or officials of the natural persons or legal entities specified in article 3, where these latter have intentionally:

1. divulged information, to the money owner or transacting party specified in article 4 and 5, on the report they are expected to file or the consequences related thereto;
2. destroyed or concealed papers or documents for the transaction obligations specified in articles 9 and 15.
3. performed or attempted to undertake, under a false identity, one of the transactions specified under articles 9 to 11, 12,14 and 15 of the present law;
4. informed, by any means, the person(s) placed under investigation for acts of terrorism financing they may know about, on account of their profession or their functions;
5. transmitted false reports during the transactions specified under articles 9 and 15 of the present law;
6. disclosed intelligence or documents to persons other than the judicial authorities or competent public servants in charge of the fight against terrorism financing, by judicial order, control authorities or CENTIF.
7. Omitted to report suspicious transactions, as provided for in article 18 of the present law, whereas circumstances warranted they deduce those might have been proceeds from terrorism financing, as stipulated under articles 4 and 5.

A fine of between hundred thousand (100.000) to One million (1.000.000) CFA francs are levied on the person or natural persons or legal entities specified in article 3, where they intentionally:

1. omitted to report suspicious transactions, as stipulated under article 18 of the present law;
2. Infringed the provisions of articles vigilance and reporting imposed by the present law.

Article 36: Complementary optional penal sanctions applicable to natural persons

The natural persons found guilty of the offences covered in articles 4, 5 and 35 may also incur the following complementary penalties:

1. banishment from the country for a period of three (3) to seven (7) years for non nationals;
2. local banishment from one or more administrative districts for a period of one (3) to seven (7) years;

3. prohibition to leave the country and seizure of passport for a period between two (2) to five (5) years;
4. deprivation of civic, civil and family rights for a period between two (2) to five (5) years;
5. prohibition to drive, pull and pilot motored vehicles, vessels and aircraft by land, sea and air, and seizure of permits or licenses for a period of five (5) to ten (10) years;
6. definitive prohibition, or suspension for five (5) to ten (10) years, from exercising the profession or activity during which the offence was committed and prohibition to hold public office;
7. prohibition to issue cheques other than certified cheques or cheques used by the drawer to withdraw money from the drawee or to use credit cards for a period of five (5) to ten (10) years;
8. prohibition to hold or carry authorized arms for a period of five (5) to ten (10) years;
9. confiscation of all or part of the offender's property acquired through unlawful means;
10. confiscation of the property or instrument used or intended for use in committing the offence or the proceeds from the offence, with the exception of objects that may be restored

Article 37: Exclusion from benefit of the first offender act

No penal sanction pronounced for terrorism financing offence cannot benefit of the first offender act.

Chapter IV: Penal sanctions applicable to legal entities

Article 38: Penal sanctions applicable to legal entities

Legal entities other than the State, on whose behalf or for whose benefit an organ or representative commits a terrorism financing offence or one of the offences covered by the present law, are sentenced to a fine five times the size of those levied on natural persons, without prejudice to the sentence of these latter as perpetrators of, or accomplices to these same acts.

Legal entities, other than the State, may, in addition, be sentenced to one or more of the following penalties:

1. exclusion from public contracts, either definitely or for a period of ten (10) years or longer;
2. confiscation of the instrument used, or intended for use in committing the offence or the proceeds there from;
3. imposition of legal restrictions for a period no longer than five (5) years pending trial;
4. prohibition or suspension for a period of ten (10) years from exercising, directly or indirectly, one or more professional or social activities whereby the offence was committed;
5. closure, or suspension for a period of ten (10) years, of subsidiaries or one of the subsidiaries of the business, used in committing the penalized acts;
6. dissolution, where they have been set up for use in committing unlawful acts;
7. Posting of the court sentence or circulation thereof by print media or any other means of broadcast at the expense of the legal entity that incurs the penalty.

The penalties covered in points 3, 4, 5, 6, and 7 of the **second paragraph** of the present article do not apply to financial institutions operating under a control authority with disciplinary powers.

The competent control authority may, upon the submission of any suit filed against a financial institution by the State Prosecutor, take sanctions as appropriate, in conformity with the specific legislative and regulatory provisions in force.

Chapter V: Reasons for waiving and attenuating penal sanctions

Article 39: Reasons for waiving penal sanctions

Any person found guilty, on one hand, of connivance in association, participation or conspiracy to commit one of the offences covered in articles 4, 5, 35 and 36, and on the other hand, of attempts to aid and abet, or to give advice to a natural person or moral entity to perpetrate this act or facilitate perpetration thereof, shall be exonerated from penal sanctions if, they reveal this association, participation, aid or advice to the judicial authority for identification of the other suspects and interruption of the offence.

Article 40: Reasons for attenuating penal sanctions

Penalties are halved for any person, offender or accomplice to one of the crimes stipulated under articles 4, 5, 35 and 36, who, before the filing of any suit, identifies or facilitates the identification of other suspects, or permits or eases the arrest of these latter. In addition, the said person is exonerated from the payment of fines, and, if need be, from other incidental measures and optional complementary penalties.

Chapter VI: Additional obligatory penalties

Article 41: Obligatory confiscation of proceeds from terrorism financing

In all sentences for terrorism financing or attempts thereto, the courts issues a confiscation order in favor of the Public Treasury; the funds and financial resources related to the offence, along with the movable and immovable property that having been used for the commission of the offence.

The State can affect the funds and other financial resources as well as all properties specified in the first paragraph, to a fund to fight organized crime or for compensation victims of the offence as specified in articles 4 and 5 of this law.

The decision ordering a confiscation identifies and locates the funds, properties and others financial resources concerned.

When the funds, proceed and other financial resources confiscate cannot be represented, their confiscation can be ordered in value.

Any person who claims to have a right on a property or funds having been the object of one confiscation can, to be restored in its rights, seize the jurisdiction which returned the decision of confiscation within six month as from the notification of the decision.

PART IV: INTERNATIONAL COOPERATION

Chapter 1: International jurisdiction

Article 42: Crimes committed outside the national territory national

Courts are competent to judge offences under the present law, committed by any natural person or legal entity, whatever be their nationality or the location of their headquarters, even where this is outside the national territory, once the place where the offence was committed is situated in one of the WAEMU Member States.

The courts may also judge the same offences committed in a third-party State once an international convention gives them competence to.

Chapter II: Transfer of judicial proceedings

Article 43: Requesting transfer of judicial proceedings

Where the prosecution in another WAEMU Member State reckons, for whatever reason, that the pursuit or continuation of ongoing proceedings is impeded by major obstacles and that appropriate penal procedure can be taken on the national territory, it may request the competent judicial authority to take proceedings as necessary against the presumed offender.

The provisions of the previous paragraph do also apply where the request is submitted by an authority in a third-party State and the laws in force in this State authorize the national prosecutor to submit a request for the same purpose.

The request for transfer of judicial proceedings is substantiated with documents, identity papers, dossiers, instruments and information in the custody of the prosecutor of the requesting State.

Article 44: Transmission of request

Requests addressed by the foreign competent authorities for purposes to establish acts of terrorism financing, or to carry out conservative measures, confiscation, for the purposes of extradition are transmitted by diplomatic way. In the event of urgency, they can submit the information by the intermediary of the International organization of Criminal Police force (OIPC/Interpol) or by direct communication in writing from foreign authorities to the local judicial authorities, as means of a rapid communication medium

The requests and their appendices must be accompanied by a translation in French.

Article 45: Refusal to take judicial proceedings

The competent judicial authority may not process the request for transfer of judicial proceedings coming from the competent authority in the requesting State if, on the date the request was issued, the public prescription to take legal action had been issued in conformity with the law of this State, or if a final ruling had been passed on the lawsuit filed against the person concerned.

Article 46: Acts performed in requesting State prior to transfer of judicial proceedings

All acts performed to take judicial proceedings or for procedural purposes on the territory of the requesting State have the same value as if they had been performed on the national territory, in as much as they are compatible with the legislation in force.

Article 47: Preliminary inquiry of requesting country

The competent judicial authority notifies the Prosecution of the requesting State of the decision taken or the ruling passed at the end of the proceedings. To that end, it transmits to them, copies of all absolutely final decisions.

Article 48: Notice to persons facing prosecution

The competent judicial authority notifies the persons concerned that a summons order has been issued against them and prepares the arguments considered appropriate to make the case before a final judgment is passed.

Article 49: Protective measures

The competent judicial authority may, upon the demand of the requesting State, take all protective measures, including detention on remand and confiscation compatible with the national legislation.

Chapter III International judicial cooperation

Article 50: Modalities for international judicial cooperation

Upon the request of a WAEMU Member State, the requests for international cooperation in relation to the offences covered under articles 4,5,35 to 36 are executed in conformity with the principles stipulated in articles 51 to 67.

The provisions of the previous paragraph are applicable to requests originating from a third-party State, where the legislation of this State obliges it to take action pursuant to similar requests emanating from the competent authority.

International cooperation may include, inter alia:

- gathering testimonies or evidence;
- supporting efforts to place detainees or other persons at the disposal of the judicial authorities of a requesting State with the goal of providing evidence or assisting with inquiries;
- handing over judicial instruments;
- searches and confiscation;
- inspecting objects and premises;
- providing intelligence and exhibits;
- providing originals or certified true copies of relevant files and documents, including bank statements, accounting vouchers, registers with records of a company's business transactions or its business activities.

Article 51: Contents of request for international judicial cooperation

All requests for international judicial cooperation are addressed to the competent authority in writing, including:

- a) the name of the requesting authority
- b) the name of the competent authority and the authority in charge of the investigation or the procedure pertaining to the request;
- c) identification of the requested measure;
- d) a presentation of the facts that constitute the offence as well as applicable legal provisions, unless the sole objective of the request is to submit pleadings or court sentences;
- e) all known elements for identifying the person concerned and, inter alia, civil status, nationality, address and occupation;
- f) all necessary intelligence for locating the instruments, resources or property targeted;
- g) a detailed presentation of all procedure or particular request that the requesting State wishes to see pursued or executed;
- h) mention of the time period the requesting State wishes its request to be served;
- i) Any other information useful for the smooth execution of the request.

Article 52: Denial to execute request for international judicial cooperation

The request for international judicial cooperation may be refused only where:

- it is not issued by the competent authority according to the legislation of the requesting country or if it was not transmitted accordingly;
- execution of the request may cause a breach of the peace, sovereignty, security or the fundamental principles of law, order and rights;
- legal proceedings are being taken on the facts addressed, or judgment has already been passed and a final sentence pronounced thereto on the national territory;
- the measures pursued or all other measures having similar effects are not authorized or applicable to the offence covered in the request, in pursuance of the legislation in force;
- the measures requested may not be pronounced or executed because of statutes of limitation on the terrorism financing offence, in pursuance of the legislation in force or the law of the requesting country;
- the decision requested is not enforceable according to the legislation in force;
- the court sentence was pronounced under conditions not offering adequate guarantees for the rights of the defendant;
- Serious reasons exist to think the measures requested or the decision sought are targeting the person concerned only because of their race, religion, nationality, ethnic origin, political views, sex or status.

Confidentiality may not be invoked to refuse execution of the request.

The Public Prosecutors may lodge an appeal on the decision to refuse execution, passed by a court in Senegal.

The Government of Senegal shall communicate speedily to the requesting country the reasons for refusing to execute its request.

Article 53: Secrecy on request for international judicial cooperation

The competent authority maintains secrecy on the request for international judicial cooperation, on its contents and the evidence produced, as well as on the issue of judicial cooperation per se.

Where it is impossible to execute the said request without breach of confidentiality, the competent authority informs the requesting State, which decides, in this case, to maintain or cancel the request.

Article 54: Requesting enquiry and preliminary investigation measures

Enquiry and preliminary investigation measures are executed in conformity with the legislation in force, unless the competent authority of the requesting State orders that they be processed in a manner particularly compatible with this legislation.

A magistrate or civil servant, delegated by the competent authority of the requesting State, may witness execution of these measures, depending on whether they are executed by a magistrate or a civil servant.

Where required, Senegal's judicial or police authorities may pursue enquiries and preliminary investigations in collaboration with the authorities of other Member States of the Union.

Article 55: Delivery of pleadings and court rulings

Where the request for judicial cooperation is intended for submission of pleadings and/or court rulings, it includes a detailed description of the acts or rulings pursued, in addition to the indications covered in article 51.

The competent authority proceeds to submit the pleadings and court sentence transmitted to that end by the requesting country.

This submission may be sent simply by transmitting the act or ruling to the addressee.

Where an express request is put forward by the competent authority of the requesting country, the submission may take one of the forms provided in the legislation in force for giving formal notice in similar circumstances or a special form compatible with this legislation.

A dated and signed receipt acknowledging delivery of the submission is issued by the addressee, or the competent authority called in to acknowledge the fact, form and date of the submission issues an acknowledgement order. The document established to constitute evidence of the delivery is transmitted immediately to the requesting State.

Where the submission is not delivered, the competent authority reports the reasons for this failure immediately to the requesting country.

The request for delivery of a summons order to appear in court is made at most sixty (60) day before the date of appearance.

Article 56: Appearance of witnesses not in custody

Where, in a lawsuit filed for offences covered in the present law, the personal appearance of a witness residing on the national territory is deemed necessary by the judicial authorities of a foreign country, the competent authority, upon receipt of a request transmitted by diplomatic channel, enjoins the witness to respond thereto.

The summons order for a witness to appear in court includes the identification details of the witness and the items stipulated under article 51.

However, the summons is received and transmitted only on the condition that the witness shall not be sued or detained for acts committed or sentences pronounced prior to his/her appearance and shall not be obliged, without consent, to testify in proceedings or provide assistance in an investigation unrelated with the request for judicial cooperation.

No sanction or warrant of arrest may be used against a witness for refusing to accede to a request for appearance in court.

Article 57: Appearance of detainees

Where, in a lawsuit filed for an offence covered by the present law, the personal appearance of a witness detained on the national territory is deemed necessary, the competent authority, upon receipt of a request addressed directly to the competent prosecutor's office, shall transfer the interested party.

However, the request shall be addressed only if the competent authority of the requesting country pledges to keep the transferred party in prison until the sentence pronounced by the competent national authorities has been served, and to send them back at the end of the proceedings or if their presence no longer seems necessary.

Article 58: Criminal record

Where legal proceedings are taken by a court in a WAEMU Member State on an offence covered by the present law, the prosecutor of the said court may obtain the criminal record and all related intelligence of the person being sued directly from the competent national authorities.

The provisions of the previous paragraph shall apply where the legal proceedings are taken by a court in a third-party State and where this State applies the same regime to requests of the same type coming from competent national courts.

Article 59: Writ of enquiry and seizure

Where the request for judicial cooperation is for enquiry on and seizure of exhibits, the competent authority grants authorization thereto in ways compatible with the legislation in force on the condition that the measures sought do not infringe the rights of third parties acting in good faith.

Article 60: Writ of confiscation

When the request for international judicial cooperation is intended to obtain a writ of confiscation, the competent court issues a ruling referring the case to the competent authority of the requesting country.

The confiscation order targets the proceeds from or instruments of one the offences covered by the present law and located on the national territory, or include the obligation to pay a sum of money equal in value to such property.

Requests to obtain a writ of confiscation are not processed where the writ seeks to infringe legal rights for third parties to benefit from property in accordance with the law.

Article 61: Request for protective measures to prepare confiscation

Where the request for judicial cooperation seeks to inquire on proceeds from the offences covered in the present law on the national territory, the competent authority may conduct investigations and transmit the findings to the competent authorities in the requesting country.

On this account, the competent authority shall take all measures as necessary to trace the source of the property, inquire on appropriate financial transactions and gather all intelligence or testimonies apparently facilitating the distraint of proceeds from the offence.

Where the investigations stipulated in paragraph one of this article end in positive findings, the competent authority shall, upon a request from a competent authority in the requesting State, take all measures to prevent the negotiation, transfer or disposal of the proceeds at issue, pending a final ruling from the competent court of the requesting State.

Any request aimed at obtaining the measures covered in this article shall, in addition to the indications stipulated under article 51, state the reasons why the competent authority in the requesting State believes the proceeds or financial instruments from the offences are on the its territory, as well as the intelligence by which to locate them.

Article 62: Power of confiscation order pronounced abroad

The competent authority shall, to any measure compatible with current legislation, enforce final rulings issued by a WAEMU Member State court for seizure or confiscation of proceeds from the offences covered under the present law.

Provisions of the previous paragraph shall apply to rulings passed by third-party State courts, where the State handles rulings passed by competent national courts in the same manner.

Notwithstanding the provisions in the previous two paragraphs, the enforcement of rulings passed abroad may not take effect if, by law, they infringe the rights of third parties to property. This rule shall not obstruct application of rulings passed abroad in relation to the rights of third parties, unless these latter are unable, under conditions similar to those in the current law, to enforce their rights before the competent jurisdiction in the foreign State.

Article 63: Confiscated property

The State has the power to dispose of the property confiscated on its territory upon the request of foreign authorities, unless otherwise decided in an agreement sealed with the requesting Government.

Article 64: Request to execute rulings passed abroad

Prison sentences as well as pronouncements on fines, seizures and forfeiture of rights, issued for the offences covered under the present law in pursuance of a final ruling from a court in a WAEMU Member State, may be enforced on the national territory upon the request of the competent authorities of this State.

The provisions of the previous paragraph shall apply to sentences pronounced by courts in a third-party State, where this State handles the sentences pronounced by national courts in the same manner.

Article 65: Enforcement modalities

Sentences pronounced abroad are enforced in conformity with the legislation in force.

Article 66: Cessation of enforcement

Enforcement of sentences ceases where, on grounds of a ruling or legal proceedings emanating from the country of pronouncement, the enforceability of a sentence is no longer valid.

Article 67: Denial to enforce

The request to execute a sentence pronounced abroad is denied where the penalty is prescribed in relation to the law of the requesting State.

CHAPTER IV: Extradition

Article 68: Conditions for extradition

Extradition measures apply to:

- individuals sued for offences covered by the present law, whatever the duration of the penalty incurred on the national territory;
- Individuals sentenced definitely, for the offences covered by the present law, in the courts of the requesting country, no matter the penalty pronounced.

There is no impairment of the rules of common law for extradition, inter alia, those on double indictments.

Article 69: Simplified procedure

Where the petition for extradition concerns a person who has committed one of the offences covered by the present law, it is addressed directly to the competent public prosecutor of the requested State, with copies sent, for information, to the Minister of Justice.

To this petition is annexed:

- the original or certified true copy of either an enforceable court sentence, or a warrant of arrest or any other document with the same force, delivered in the forms stipulated by law in the requesting State and indicating precisely the time, place and circumstances of the offence and its legal definition;
- a certified true copy of the applicable legal provisions with an indication of the penalty pronounced;
- a document describing, as precisely as possible, the wanted individual and giving intelligence on his identity, nationality and location.

Article 70: Complementary information

Where the information provided by the competent authority is not enough for deciding on a ruling, the State can request more information as necessary and may demand that this information be delivered within fifteen (15) days, unless such a timeline is incommensurate with the nature of the case.

If it esteems necessary to keep the penal procedure to go on, the competent authority can temporarily retain the seized objects.

It can, while transmitting, ask the return of it for the same reason, while obliging to return them as soon as it may be.

Article 71: Provisional custody

In an emergency, the requesting country's competent authority may ask that the wanted person be detained provisionally, pending submission of an extradition request. The decision issued thereto shall be in accordance with the legislation in force.

The request of provisional custody shall show the existence of one of the items covered in article 72 and state the intent to petition for extradition. It shall mention the offence prompting the extradition request, the time and place it was committed, the penalty passed, likely to be passed or already pronounced thereto, the wanted person's location, if known, and a description, which is as close as possible, of the person.

The request of provisional custody shall be transmitted to the competent authorities either by diplomatic channel, or directly by postal or telegraphic transfer, or by the international organization of criminal police (OIPC/Interpol), or by any other means in writing or accepted by the current legislation of the State.

The competent authority shall be informed speedily of the decision pertaining to their request.

Provisional custody shall be aborted if, within twenty (20) days, the competent authority has not been petitioned for extradition and the items stipulated in article 69.

However, bail shall be possible at all times, unless for the competent authority to take all the measures they consider necessary to forestall the escape of the wanted person.

Bail shall not impede arrest and extradition, if the request for extradition is received subsequently.

Article 72: Recovery of objects

During extradition proceedings, all objects that may serve as exhibits or are by-products of the crime and are found in the possession of the wanted person at the time of arrest or discovered subsequently, shall be seized and handed over, upon request, to the competent authority of the requesting country.

Such objects may be handed over even if the extradition is aborted upon the escape or death of the wanted person.

However, third party acquired rights to the said objects shall be reserved and, where existent, warrant speedy return of said objects, at no cost to the requested State, as proceedings taken in the requesting country wrap up.

The competent authority may keep seized objects temporarily, where it considers them useful for legal proceedings.

It may, in handing over said objects, reserve the right to retrieve them for the same reason, on the condition that the objects shall be returned as soon as possible

Article 73: Obligation to extradite or to prosecute

In event where the extradition was refused, the case is submitted to the qualified national jurisdictions in order to continue the prosecution against the persons concerned with the offence that has justified the request.

PART V: FINAL PROVISIONS

Article 74: Notification to Control Authorities of legal proceedings taken against their workers

The State Prosecutor shall notify any competent control authority of legal proceedings taken against entities under its supervision, pursuant to the provisions of the present law.

Article 77: All contrary provisions prior to the present law are repealed.

Done in Dakar, 02 Mars 2009

By the President of the Republic

Abdoulaye WADE

By Proxy

The Minister of State for Homeland Security

Interim Prime Minister

Cheikh Tidiane SY