

LAW No. 2016/007 OF 12 JUL 2016

RELATING TO THE PENAL CODE



The Parliament deliberated and adopted, the President of the Republic hereby enacts the law set out below:

PART I

BOOK I

CRIMINAL LAW
APPLICATION OF CRIMINAL LAW

CHAPTER I
PRELIMINARY PROVISIONS

SECTION 1: Content

The penal code is composed of:

- a) book I comprising Sections 1 to 101;
- b) book II comprising Sections 102 to 361;
- c) the decree relating to regulatory provisions of the Penal Code which define offences, comprising Sections 362 to 370;
- d) sections 371 and 372, which lay down the transitional and final provisions.

SECTION 1-1: No exemption

All persons shall be subject to the criminal law.

SECTION 2: General and special application

(1) This Code and every provision of criminal law shall be subject to the rules of international law and to all treaties duly promulgated and published.

(2) Book I of this Code shall govern all other criminal law, unless special provision has been made, even before the entry into force of this book, concerning particularly the exclusion of suspension and the exclusion or limitation of mitigating circumstances by a law or by regulations possessing force of law. This Subsection shall apply actively from the 1st October 1966 inclusive.

(3) Any other general provision shall be subject to any special provision on the same matter, save as otherwise provided.



CHAPTER 2:
APPLICATION OF CRIMINAL LAW IN TIME

SECTION 3: No retrospection

No criminal law shall apply to acts or omissions committed before its coming into force or in respect of which judgment has not been delivered before its repeal or expiry.

SECTION 4: Less severe law

(1) A new provision of criminal law shall, if less severe, apply to any offence in respect of which judgment has not been delivered before its coming into force

(2) Where the new provision is more severe, the old law shall continue to apply to offences committed before its coming into force.

SECTION 5: New preventive measure

A new law authorizing a preventive measure shall apply to any case where judgment has not become final before its coming into force.

SECTION 6 : Abolition of offence, penalty or measure

Any penalty or preventive measure shall cease to be enforceable:

- a) from the moment when the act or omission in respect of which it was imposed is no longer an offence ;
- b) on the abolition of the penalty or measure generally.

CHAPTER III:
APPLICATION IN SPACE

SECTION 7: Offence within Territory

(1) The criminal law of the Republic shall apply to any act done or omitted within its territory.

(2) The territory of the Republic shall include its territorial waters and the airspace above the said territory and waters, and all vessels and aircrafts registered in the Republic.



Provided that no member of the crew of a foreign vessel or aircraft may be tried for an offence committed against another member of the same crew on board that vessel or aircraft, though within the territorial waters or airspace of the Republic, unless the assistance of the local authorities shall have been invoked or public order shall have been disturbed.

SECTION 8: Offence Partly or Wholly Abroad

The criminal law of the Republic shall apply:

- a) to any offence of which any ingredient has taken place within its territory ;
- b) to any offence against the security of the State or of counterfeiting the Great Seal or the current money of the State wherever committed.



Provided that no foreigner may be tried for an offence to which the law of the Republic applies solely by virtue of this Subsection unless he has been arrested within the territory of the Republic or has been extradited to it.

SECTION 9: Abetment, Conspiracy, Attempt

The criminal law of the Republic shall apply:

- a) to any act or omission within its territory constituting abetment, conspiracy or attempt with a view to an offence without that territory, provided that the said offence be also punishable by the law of the place of commission ;
- b) to any such act or omission without its territory with a view to an offence within that territory.

SECTION 10: Offence Abroad by Citizen or Resident

(1) The criminal law of the Republic shall apply to any actor omission abroad by a citizen or resident, which is punishable by the law of the place of commission and is defined as a felony or as a misdemeanour by the law of the Republic.

Provided that the sentence passed may not be more severe than that provided by the foreign law.

(2) No citizen or resident may be tried for a misdemeanor against a private party to which the law of the Republic applies solely by virtue of this Section except at the instance of the authority controlling prosecution after

private complaint or after official request to the Government of the Republic by the Government of the place of commission.

SECTION 11: International Offences

The criminal law of the Republic shall apply to mercenary, racial discrimination, piracy, trafficking in persons, slave trade, slavery, trafficking in narcotics, trafficking in toxic wastes, money laundering, cyber criminality, corruption and offences of misappropriation of public property committed even outside the territory of the Republic.

Provided that, no foreigner may be tried in the Republic for such an offence committed abroad unless he has been arrested in the Republic and has not been extradited, and except at the instance of the authority controlling prosecution.

SECTION 12: General Jurisdiction

Subject to the exceptions contained in this chapter, the Courts of the Republic shall have jurisdiction to try any offence to which its criminal law is applicable.

CHAPTER IV **FOREIGN CRIMINAL LAW AND JUDGMENTS**

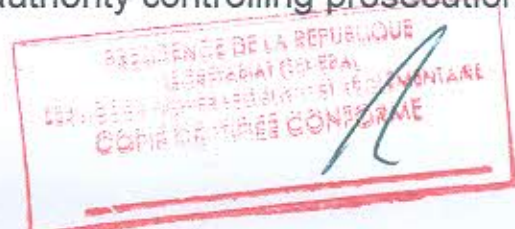
SECTION 13: Exclusion of Foreign Law

Subject to Sections 9 and 10 of this Code and to this chapter, no foreign criminal law shall have any effect in the courts of the Republic.

SECTION 14: Foreign Judgments

No foreign criminal judgment against any person shall have effect within the territory of the Republic unless:

- the act or omission in question is defined by the law of the Republic as a felony or misdemeanour under the ordinary law ;
- the regularity of the judgment, its finality, and its conformity with the public policy of the Republic shall have been ascertained either by the Court trying the person in question or by the Court of Appeal of his residence at the instance of the authority controlling prosecution.



SECTION 15: Effect of Foreign Criminal Judgment

Such judgment shall:

- be taken into consideration as a previous conviction for the purposes of aggravation of sentence, of preventive confinement, of suspension of sentence or revocation of such suspension, of revocation of release on licence, of rehabilitation, and of amnesty ;
- found a good plea in the courts of the Republic convict or acquit, provided that in the case of conviction the accused shall have served his sentence or satisfied it by prescription or pardon.

SECTION 16: Execution of Foreign Judgment

(1) Any such judgment as is contemplated by Section 14 and has been ascertained to conform to that Section, if passed against a citizen or against a resident, and not enforced elsewhere, shall be capable of enforcement within the territory of the Republic, unless enforcement shall have been barred by release on licence, pardon, amnesty or prescription.

(2) Enforcement shall require the order of the court contemplated by Section 14, which may also, in a fit case, impose the preventive measures attracted according to the law of the Republic by the offence in question.

PART II **PUNISHMENT AND PREVENTION**

CHAPTER I **PRELIMINARY PROVISIONS**

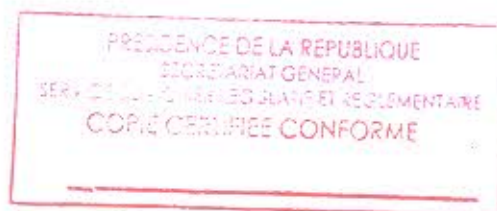
SECTION 17: Penalties and Offences to be prescribed

No penalty or measure may be imposed unless provided by law, and except in respect of an offence lawfully defined.

SECTION 18: Principal penalties

The following are principal penalties:

- a) for natural persons:
- death penalty ;
 - imprisonment ;
 - fine.



- b) for corporate bodies:
 - dissolution ;
 - temporary or final closure ;
 - fine.

SECTION 18-1: Alternative Penalties

The following are alternative penalties:

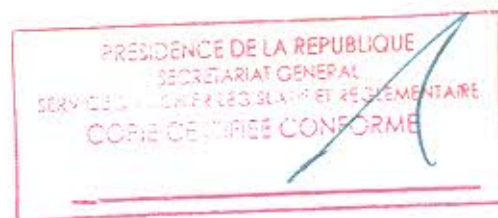
- community service ;
- reparatory sentence.

SECTION 19: Accessory penalties:

The following are accessory penalties:

a) for natural persons:

- forfeiture ;
- publication of the judgment ;
- closure of an establishment ;
- confiscation.



b) for corporate bodies:

- ban, for a specified period of time, on the direct or indirect exercise of any or all of its activities ;
- placement under judicial supervision for a specified period of time ;
- closure, for a specified period of time, of establishments or branches having served in the commission of offences ;
- publication or media broadcast of the judgment ;
- any other accessory penalties provided for by special instruments.

SECTION 20: Preventive measures

The following are preventive measures:

a) for natural persons:

- ban on exercise of activity ;

- preventive confinement ;
- post-penal supervision and assistance ;
- confinement in a special health institution ;
- confiscation.

b) for corporate bodies:

- ban on exercise of activity for a specified period of time ;
- confiscation ;
- placement under judicial supervision, for a specified period of time.

SECTION 21: Classification of Offences

(1) Offences shall be classified as felonies, misdemeanours and simple offences according to the principal penalties provided for them, as follows:

- a felony shall mean an offence punishable with death or with loss of liberty for a maximum of more than 10 (ten) years and fine where the law so provides ;
- a misdemeanour shall mean an offence punishable with loss of liberty or with fine, where the loss of liberty may be for more than 10 (ten) days but not for more than 10 (ten) years, and the fine more than CFAF 25 000 (twenty-five thousand) ;
- a simple offence shall mean an offence punishable with imprisonment for up to 10 (ten) days or with fine of up to CFAF25 000 (twenty-five thousand).

(2) The nature of the offence shall not be affected by:

- modification of the penalty imposed by reason of an excuse or of mitigating circumstances;
- aggravation of the penalty imposed under Sections 88 or 89 of this Code.



CHAPTER II
PRINCIPAL PENALTIES

A – DEATH

SECTION 22: Conditions Precedent to Execution

(1) Every sentence of death shall be submitted to the President of the Republic for his decision on commutation.

(2) No death sentence may be executed until the President shall have signified his decision not to commute.

(3) No woman with child may be executed until after her delivery.

(4) No execution may take place on Sunday or on a public holiday.

SECTION 23: Execution

(1) Execution of a death sentence shall be by shooting or hanging as may be ordered by the judgment and shall be public unless otherwise ordered in the decision not to commute.

(2) The bodies of persons executed shall be returned to their families at their request, but on condition of a quiet funeral.

(3) Nothing may be published by the press beyond the official record of the execution and any official communiqué that may be released.

(4) The detailed application of this Section shall be prescribed by decree.

B – IMPRISONMENT

SECTION 24: Imprisonment

Imprisonment shall mean loss of liberty during which the offender shall be obliged to work, subject to any contrary order of the court for reasons to be recorded in the judgment.

SECTION 25: Prisoner's fund

(1) The proceeds of every prisoner's work shall be allocated as follows:

- 1/3 to the Treasury ;



- 2/3 to the building up of a reserve fund for the prisoner

(2) The conditions governing the implementation of this Section, particularly those with regard to the management of the fund, shall be laid down by regulation.

C – FINE

SECTION 25-1: Fine

(1) Fine shall mean a financial penalty by virtue of which a convict, natural person or corporate body, pays an amount of money, specified by Law, into the Public Treasury.

(2) The maximum amount of fine applicable to corporate bodies shall be five times that provided for natural persons.

(3) Where a corporate body is guilty of an offence punishable with imprisonment only, the fine to be paid shall be from CFAF 1 000 000 (one million) to CFAF 500 000 000 (five hundred million).

D - DISSOLUTION

SECTION 25-2: Dissolution

(1) Dissolution shall mean capital punishment which may be passed against corporate bodies.

(2) A judgment on dissolution may be passed against a corporate body that has acted in violation of its object clause.

(3) The judgment on the dissolution of a corporate body shall refer such corporate body to the competent court for winding up at the instance of the Legal Department.

E - CLOSURE OF AN ESTABLISHMENT

SECTION 25-3: Closure of an establishment

The penalty of closure of an establishment shall mean the temporary or final closure of an establishment considered to be a corporate body.



