

BURKINA FASO

UNITY-PROGRESS-JUSTICE

**NATIONAL COUNCIL
OF THE TRANSITION**

IVE REPUBLIC

TRANSITIONAL LEGISLATURE

LAW No. 004-2015/CNT

**RELATING TO PREVENTION AND REPRESSION
CORRUPTION IN BURKINA FASO**

THE NATIONAL TRANSITION COUNCIL

Considering the Constitution;

Considering the Transition Charter;

**Considering resolution n°001-2014/CNT of November 27, 2014, validating
the mandate of the members of the National Transition Council;**

**deliberated at its meeting of March 3, 2015 and
adopted the law whose content follows:**

TITLE I: GENERAL PROVISIONS

Chapter 1: On object and purpose

Article 1:

The purpose of this law is the prevention and repression of corruption in Burkina Faso.

Section 2

The purpose of this law is to:

- **strengthen measures aimed at preventing and combating corruption in Burkina Faso;**
- **promote integrity, accountability and transparency in the management of the public and private sectors;**
- **facilitate and support international cooperation and technical assistance for the prevention and fight against corruption, including asset recovery.**

Chapter 2: Terminology

Article 3:

For the purposes of this law, the following means:

a) Public official:

- **any civilian or military person who holds a legislative, executive, administrative or judicial mandate, whether appointed or elected, on a permanent or temporary basis, whether paid or not and regardless of their hierarchical level or seniority;**

- **any other civilian or military person vested with a function or mandate, even temporary, paid or unpaid and who contributes, in this capacity, to the service of a public body or a public enterprise, or any other enterprise in which the State holds all or part of its capital, or any other company which provides a public service;**
 - **the agent of any legal entity governed by private law responsible for the execution of a public service or a public order whatever the terms of the mission entrusted to him;**
 - **any other civil or military person defined as a public official or who is assimilated to one in accordance with the legislation and regulations in force.**
- b) Foreign public official: any civil or military person who holds a legislative, executive, administrative or judicial mandate in a foreign country, whether appointed or elected; and any civilian or military person who performs a public function for a foreign country, including for a public agency or public enterprise.**
- c) Balance of enrichment: the state of movable and immovable acquisitions during a given period weighed against the legal income obtained or the legal means mobilized which allowed these acquisitions.**
- d) Goods: all types of assets, tangible or intangible, movable or immovable, tangible or intangible, as well as legal acts or documents attesting the ownership of these assets or the rights relating thereto.**
- e) Gift: a present, object that is given to a person with the intention to be pleasant to him.**
- f) Confiscation: the permanent dispossession of property by decision of a judicial body or other competent authority.**
- g) Conflict of interest: any situation of interference between a public interest and public or private interests which is likely to influence or appear to influence the independent, impartial and objective exercise of a function.**
- h) Convention: the United Nations Convention against Corruption.**

- i) Donation: the action of voluntarily giving something to a person without ask for nothing in return.**
- j) Entity: organized group of tangible or intangible elements or natural or legal persons, which pursues its own objective.**
- k) Official of a public international organization: any international official or any person authorized by such an organization to act on its behalf.**
- l) Freezing or seizure: the temporary prohibition of the transfer, conversion, disposition or movement of property, or the fact of temporarily assuming custody or control of property by order of a court or a other competent authority.**
- m) Conventional hospitality: any disinterested act generally accepted in social relations and part of the customs of society.**
- n) Principal offense: any offense resulting in the generation of a product likely to become the subject of money laundering in accordance with the relevant legislation in force.**
- o) Controlled delivery: the method consisting of allowing the exit from the national territory, the passage through the territory or the entry into the territory of illicit or suspected illicit shipments, with the knowledge and under the control of the competent authorities, in with a view to investigating an offense and identifying the persons involved in its commission.**
- p) Assets: all movable and immovable property, rights and claims belonging to the declarant and related persons but also debts and financial commitments contracted by the latter.**
- q) Related person: any person related to the declarant through marriage, de facto union, filiation or adoption, with the exception of adult children.**
- r) Proceeds of crime: any property derived, directly or indirectly, from the commission of an offense or obtained, directly or indirectly, by committing it.**
- s) Abusive use of the mutual agreement or direct agreement procedure: exceeding the quota set by UEMOA regulations and**

the award of more than one contract by the procedure of mutual agreement or direct agreement either to a natural or legal person, or to close relatives up to the 4th degree in direct line and the 5th in collateral line in the same year.

TITLE II: PREVENTIVE MEASURES IN THE PUBLIC AND PRIVATE

Chapter 1: Codes of conduct for public officials

Article 4:

In the system of recruitment of civil service agents and for the management of their careers, the employer is obliged to: - take into account and clearly show in the call for applications the principles of integrity, honesty, responsibility, efficiency, transparency and accountability and objective criteria such as merit, fairness and suitability for the job applied for;

- provide appropriate procedures for selecting and training people called to occupy public positions considered particularly exposed to corruption; to ensure adequate remuneration; to develop adequate education and
- training programs so as to enable public
- officials to discharge their functions in a correct, honorable and dignified manner and to provide them with specialized training which makes them more aware of the risks and consequences of corruption.

Article 5:

Public administrations, elected assemblies, local authorities, public law establishments and bodies, as well as public enterprises must adopt codes and rules of conduct for the correct, honorable and adequate exercise of public functions and elective mandates.

Article 6:

When the private interests of a public official coincide with the public interest and are likely to influence the normal exercise of his functions, he is obliged to inform his hierarchical superior who takes the necessary measures to preserve the interest general.

Mention is made in his individual file.

Chapter 2: The institution of the declaration of interest and assets

Article 7:

An obligation to periodically declare interests and assets is established for certain categories of high-ranking personalities and senior civil servants with the aim of promoting transparency in the exercise of public functions and guaranteeing the integrity of state servants. and to strengthen public confidence in institutions.

To this end, it is obligatory for political figures, personalities occupying jurisdictional functions, civil servants and persons occupying positions in the civil and military administration designated in article 13 below who occupy a position in which their interests personal or private persons are likely to be affected by their official functions to declare, in accordance with Articles 14, 15, 16, 17 and 18 of this law, the nature and extent of these interests.

These persons are also required to declare the state of their assets, according to the provisions prescribed by this law.

Article 8:

The persons referred to in article 13 below make a certified accurate and sincere declaration of their financial situation as well as that of related persons defined in article 3.q above. They also establish the list of all other interests likely to create a conflict of interest or risk of conflict of interest respectively:

- at the registry of the Constitutional Council for personalities reporting to the executive power, parliament as well as members of the Court of Cassation, the Council of State and the Court of Auditors;**

- at the registry of the Court of Cassation for members of the Council constitutional, courts of appeal and tribunals;
- at the registry of the High Court of their domicile for civil servants and people occupying positions in the senior civil and military administration.

Article 9:

The registries of the courts which have received declarations of assets are required to transmit said declarations to the Higher State Control Authority. This proceeds to process the information contained in the declarations and to the creation of a database which it maintains, to update and analyze for the purposes of investigation relating to any suspicion of illicit enrichment or any other act of corruption. The procedure and deadline for transmitting declarations to the Higher State Control Authority are determined by regulation.

Article 10:

The declarations of personalities reporting to the executive power and parliament are subject to publication. The declarations of the said personalities are published by the Higher State Control Authority in the Official Journal of Faso.

Article 11:

The list of personalities who have fulfilled the obligation to declare their assets is published in the Official Journal by the Higher State Control Authority as well as that of personalities who have not satisfied this obligation.

Article 12:

The Higher State Control Authority communicates the information it holds, upon reasoned request to the President of Parliament, the Commission for National Reconciliation and Reforms, judicial police officers, courts and tribunals, institutions of the State responsible for the protection of public property and the repression of money laundering in cases w

prosecution has already been initiated for illicit enrichment or any other act of corruption, as well as to civil society organizations specializing in the fight against corruption in Burkina Faso.

Chapter 3: Persons subject to the declaration of interest and assets

Article 13:

Persons required to declare their interest and their assets are :

A- Members of the executive power:

- the President of Faso;
- the Prime Minister; -
ministers; -
delegated ministers; -
Secretaries of State.

B - Members of the legislative power:

- parliamentarians

C - Members of the judiciary:

- the first presidents, the presidents of chambers and the advisors of the Court of Cassation, the Council of State, the Court of Auditors and the Conflicts Tribunal;
- members of the public prosecutor's offices and government police stations of the high courts;
- the presidents and advisors of the Courts of Appeal;
- the attorneys general at the Courts of Appeal and their substitutes;
- the prosecutors of Faso and the substitutes of the prosecutor of Faso;
- government commissioners to administrative courts and their deputies;
- the presidents of the courts and other magistrates.

D - Other political and administrative figures:

- **ambassadors and permanent representatives of Burkina Faso to international organizations;**
- **consuls general;**
- **the secretaries general of the Presidency of Faso, the Prime Ministry, the Council of Ministers, ministries, Parliament, and institutions and the chiefs of staff of the President of Faso, the Prime Minister, the President of Parliament, and institutions, ministers and secretaries of state;**
- **the leader of the political opposition;**
- **the first person responsible for any political party;**
- **chief clerks holding office.**

E - Members of institutions and administrative authorities independent:

- **the President and members of the Constitutional Council;**
- **the President of the Economic and Social Council;**
- **the President of the Higher Council of Communication;**
- **the Faso Mediator;**
- **the President of the Commission for Information Technology and Liberties;**
- **the general controller and the controllers of the Higher State Control Authority;**
- **the President and members of the National Electoral Commission independent.**
- **the Grand Chancellor of National Orders;**

- **the President of the Communications Regulatory Authority electronics and postal services (ARCEP);**
- **the President and members of the Order Regulatory Authority public;**
- **the President of the Commission for National Reconciliation and reforms and the chairs of the subcommittees.**

F - Representatives of local authorities:

- **the Presidents and Vice-Presidents of the regional councils;**
- **the Presidents of special delegations;**
- **mayors and deputy mayors;**
- **members of the plot allocation commissions.**

G - Persons occupying civil administration jobs and military

- **the Presidents and Vice-Presidents of public universities;**
- **the first head of the CNRST;**
- **the Inspector General of Finance and the inspectors;**
- **the President and statutory members of CENTIF;**
- **the general directors of state companies, state-owned enterprises and public establishments;**
- **the directors general and regional directors of decentralized administrations;**
- **the directors general of central administrations;**
- **financial affairs directors;**

- **public procurement directors and responsible persons
public procurement;**
- **authorizing officers, certified public accountants and
credit administrators or managers;**
- **the President and members of the Board of Directors of public institutions
and public companies;**
- **persons responsible for structures benefiting from national or foreign
public funding;**
- **the Chief of General Staff of the Armed Forces;**
- **the special chief of staff of the Presidency of Faso;**
- **the chiefs of staff of the army, air force, national gendarmerie and military
authorities with the rank of chief of staff;**
- **the deputies of the Chiefs of Staff;**
- **corps commanders and similar;**
- **the inspector general of the national armed forces;**
- **the central director of military intendancy;**
- **the commanders of the military, air and gendarmerie regions;**
- **financial administration inspectors;**
- **tax administration inspectors;**
- **customs administration inspectors;**
- **the inspectors of the administration of the general directorate of the treasury and
public accounting;**
- **inspectors from the water and forest administration;**
- **prison administration inspectors;**
- **the national anti-fraud coordinator and the members
permanent;**

- general inspectors and technical inspectors of departments ministerial;
- the central directors of the national police;
- agents assigned to border control;
- agents responsible for the fight against drugs;
- agents responsible for the fight against corruption and fraud;
- autonomously managed project or program managers;
- the director of the national gold anti-fraud brigade.

H The heads of press organs, those responsible associative organizations and others:

- directors of press organs;
- the first person responsible for associative organizations and non-governmental organizations which receive foreign funding.

Other public officials may be called upon to declare their assets at the request of the Higher State Control Authority or any other prosecuting, investigative or judgment authority.

Chapter 4: Deadlines for making the declaration of interest and assets and updating

Article 14:

The President of Faso, upon taking the oath and thirty days after the end of his mandate, the Prime Minister, the ministers, the secretaries of State and the Secretary General of the Government and the Council of Ministers thirty days after their installation and thirty days after leaving office, submit the inventory of their assets to the Registry of the Constitutional Council.

Article 15:

Parliamentarians, magistrates, presidents of institutions and presidents of independent administrative authorities, within thirty days after taking office and within thirty days after the end of their mandate or function, submit the inventory of their assets at the registry of the Constitutional Council.

The members of the Constitutional Council, the Courts of Appeal and the tribunals, within thirty days after taking office and within thirty days after the end of their mandate or function, submit the inventory of their assets to the registry of the Court of Cassation.

Article 16:

Representatives of local authorities and all persons other than those referred to in articles 14 and 15 above, make, at the registry of the High Court of their domicile, their declaration of assets thirty days after taking office and thirty days after the end of their mandate or function.

Article 17:

The declaration of assets referred to in articles 14, 15 and 16 above is subject to a mandatory annual update as well as upon the occurrence of any event likely to significantly affect the interests of the declarant in relation to the function that he exercises.

Article 18:

The persons referred to in articles 14, 15 and 16 above are required to communicate to the Higher State Control Authority, during the exercise of their mandate or function, all changes to their assets exceeding 100 % of their annual taxable income.

Article 19:

The Higher State Control Authority is responsible for verifying the completion of these formalities with the registries of the Constitutional Council, the Court of Cassation and the High Courts within the allotted time limits and, where applicable, of make the recall in accordance with the provisions of article 29 below.

Chapter 5: The form and content of the declaration of interest and assets

Article 20:

The declaration of assets is made in the form of an enrichment balance, following a declaration form drawn up by the Higher State Control Authority to be collected from the registries of the Constitutional Council, the Court of Cassation and the High Courts. This form is completed by the declarant in triplicate.

Article 21:

The asset declaration concerns the components of the gross assets of individuals, namely:

- land and real estate properties;**
- professional properties and company shares;**
- bank and stock market investments;**
- furniture, domestic equipment, vehicles;**
- art and collectibles;**
- intellectual property;**
- the actuarial value of the annuities and pensions to be received.**

This declaration also includes the property of related persons defined in Article 3 of this law.

Article 22:

Movable property includes:

- **current or savings bank accounts, stock market values, shares in commercial companies in general, life insurance, annual income linked to the position held or from any other source ;**
- **furniture, collections of valuable objects, works of art, jewelry, precious stones, accompanied by their estimated value, copyright on intellectual and cultural works, patents and trademarks filed;**
- **motor vehicles;**
- **goodwill, notes receivable;**
- **all other movable property held in Burkina Faso and abroad.**

Article 23:

The buildings include:

- **properties built in Burkina Faso and abroad with description in Annex ;**
- **undeveloped properties in Burkina Faso and abroad;**
- **buildings by destination in Burkina Faso and abroad.**

For the above properties, the declarant communicates the addresses, the references of the authentic titles and an estimate of the building in acquisition value.

Article 24:

In addition to the assets mentioned in articles 21, 22 and 23 above, the declarant mentions the liabilities of his assets including mortgage debts, personal debts and all other commitments to be included in the liabilities of his assets.

Article 25:

The declarant is required to indicate his or her marital status and marital regime. It also indicates whether or not he uses one or more loan(s) names.

Article 26:

The Higher State Control Authority assesses variations in the financial situations of the persons covered by this law as they result from the declarations and observations sent to it. It requires, if necessary, additional information from the declarant in order to complete its asset declaration.

Article 27:

The Higher State Control Authority, after observing a significant unjustified increase in the declarant's assets, gives him formal notice by registered letter with acknowledgment of receipt, to produce the relevant justifications. If the declarant fails to comply within thirty days, the Higher State Control Authority transmits his file to the competent prosecution authority for legal purposes.

Article 28:

The information contained in the asset declarations is kept in the archives of the Higher State Control Authority for a period of at least ten years, after the departure of the declarant from the last position held.

Chapter 6: Failure to declare interest and assets

Article 29:

Any person subject to the declaration of assets who, at the end of the deadlines provided for in Articles 14, 15, 16 and 116 of this law, and three months after a reminder by notified bailiff's writ, at the request of the Higher state control authority, to person or real domicile, will not have

completed this formality, is deprived of a quarter of her emoluments until she provides proof of completion of this formality.

The Higher State Control Authority is required to produce this reminder within sixty days.

Article 30:

Any person who knowingly makes an incomplete, inaccurate or false declaration, or has made duly noted false observations, is deprived of one third of his emoluments with legal action.

Chapter 7: The obligation to declare donations, gifts and other benefits in kind received in the exercise of functions

Section 31:

Public officials referred to in Article 3, in the exercise of their function or during the exercise of their function, are prohibited from accepting donations, gifts and other benefits in kind with the exception of conventional hospitality and minor gifts of a value below a threshold set by decree taken by the Council of Ministers.

Section 32:

When the value of the donation, gift or benefit in kind exceeds the threshold fixed by the decree provided for in Article 31 above, the person subject to the requirements of this law who, due to protocol obligations, does not may decline it, making a declaration to the hierarchical authority and to the Higher State Control Authority according to the provisions of the aforementioned

Said donation, gift or benefit in kind is the subject of a transfer, as the case may be, to the national heritage, to the community to which the beneficiary belongs or any other competent structure following the terms defined by regulation. It is inventoried and the registration number is communicated to the Higher State Control Authority.

Article 33:

The acceptance of donations, gifts or benefits in kind whose value exceeds the regulatory threshold set or the failure to declare said donations, gifts or benefits in kind, exposes the person to the sanctions provided for this purpose.

Chapter 8: Transparency in relations with the public

Article 34:

Institutions, administrations and public bodies have the obligation to:

- make information on the organization and operation of public administration decision-making processes public and accessible to users;**
- simplify administrative procedures and make them known to users by any means;**
- publish by any means for the attention of agents and users awareness-raising information on behaviors with a high risk of corruption to be prohibited within the public administration;**
- organize effective access of the media and the public to information concerning the files for which they are responsible subject to the protection of privacy, honor, dignity of individuals and reasons of national security, public order as well as the secrecy of the instruction;**
- respond to citizens' requests and grievances within deadlines reasonable;**
- motivate their decisions when they are unfavorable to the citizen and specify the remedies in force.**

Chapter 9: Prevention of corruption in commercial transactions

Article 35:

Company directors and persons exercising the powers of director in a company or an enterprise are required to respond in writing to the results of the auditor's inspection which has notably highlighted:

- payments and receipts of illicit payments by the company or one of its representatives;**
- payments or receipts of commissions the amount of which is not related to the services rendered;**
- irregular accounting practices in the company, which gave rise to transactions falling within their competence;**
- cash payments amounting to more than two million (2,000,000) CFA francs.**

Article 36:

The auditors are required to report to the Faso prosecutor any payment received or made under conditions that appear to be illicit, by legal or natural persons whose accounts they control.

Article 37:

Payments whose lawful nature has not been established are subject to profit tax regardless of their form and the place of their payment.

Article 38:

Measures aimed at prohibiting corruption in the private sector are taken and effective, adequate and dissuasive disciplinary sanctions are provided, where appropriate, in the event of non-compliance with said measures.

The measures taken to this end include:

- **strengthening cooperation between detection and monitoring services law enforcement and the private entities concerned;**
- **promoting the development of standards and procedures aimed at preserving the integrity of the private entities concerned, codes of conduct so that companies and all professions concerned carry out their activities in a correct, honorable and adequate manner to prevent conflicts of interest and to encourage the application of good commercial practices by companies among themselves, as well as in their contractual relations with the State;**
- **the promotion of transparency between private entities;**
- **prevention of improper use of procedures and regulations of private entities;**
- **the regular carrying out of internal audits by private companies;**
- **the culture of integrity by signing a creative integrity pact of the company.**

Article 39:

The accounting and auditing standards used in the private sector must help prevent corruption by prohibiting:

- **the establishment of off-book accounts;**
- **off-book or insufficiently identified transactions;**
- **the recording of non-existent expenses or liabilities for which the object is not correctly identified;**
- **the use of false documents;**
- **the intentional destruction of accounting documents before the end of the mandatory retention periods provided for by the laws and regulations in force.**

Chapter 10: The participation of civil society

Article 40:

The participation of civil society in the prevention and fight against corruption is encouraged notably through:

- transparency on the sources of financing and in the management of the resources made available to it;**
- the transparency of decision-making processes and the promotion of citizen participation in the management of public affairs;**
- teaching, education and awareness programs on dangers that corruption represents for society;**
- effective access of the media and the public to information concerning corruption subject to the protection of privacy, honor, dignity of persons and reasons of national security, public order as well as of the secrecy of the instruction.**

Chapter 11: Monitoring and evaluating the implementation of preventive measures

Article 41:

The Higher State Control Authority monitors and evaluates preventive measures against acts of corruption and related offenses provided for by this law.

To this end, it provides an update on implementation in its annual activity report and makes the recommendations necessary for the effectiveness of the planned measures.

TITLE III: INCRIMINATIONS, SANCTIONS FOR ACTS OF CORRUPTION AND PROCEDURE

Chapter 1: Incriminations and sanctions for acts of corruption

Section 1: Corruption of public officials

Article 42:

Is punishable by imprisonment of two years to five years and a fine equal to double the value of the agreed promises, undue advantages or things received or requested without the said fine being less than two million (2,000,000) of CFA francs:

- anyone who promises, offers or grants to a public official, directly or indirectly, an undue advantage, either for himself or for another person or entity, so that he performs or refrains from performing an act in the exercise of its functions;**
- any public official who requests or accepts, directly or indirectly, an undue advantage, for himself or for another person or entity, in order to perform or refrain from performing an act relating to his duties.**

Section 2: Unjustified advantages in public procurement

Article 43:

The following are punishable by imprisonment of five years to ten years and a fine of two million (2,000,000) to ten million (10,000,000) CFA francs:

- any public official who enters into, approves or revises a contract, an agreement, a public order or an amendment in violation of the legislative and regulatory provisions in force with a view to providing others with an unjustified advantage;**

- any trader, industrialist, artist or craftsman, entrepreneur in the private sector or in general, any natural or legal person who enters into a contract or public order, even occasionally, with the State, local authorities, establishments or organizations of public law and state companies by taking advantage of the authority or influence of the agents of the aforementioned organizations to increase the prices that they normally and habitually charge or to modify, to their advantage, the quality of the foodstuffs or services or delivery or supply times.

Article 44:

Anyone who coerces or attempts to coerce by force or threats, corrupts or attempts to corrupt by promise, offers, gifts or presents a public official, whether the attempt was or not followed by effect.

Section 3: Corruption in public procurement

Article 45:

Any public official who, during the preparation, of the negotiation, conclusion or execution of a public order, a contract or an amendment concluded in the name of the State or local authorities, State public establishments or State companies, receives or attempts to receive, directly or indirectly, for its own benefit or for the benefit of a third party, remuneration or an advantage of any kind whatsoever from a private contractor.

Article 46:

Is punishable by imprisonment of two years to five years and a fine equivalent to double the agreed promises, undue advantages, things received or requested of the value of a public order and a ban on tendering for public contracts for two years, all

natural or legal person co-contracting with the State or local authorities, public establishments of the State or State companies who grants or offers remuneration or any advantage whatsoever by himself or through an intermediary person to a public official in with a view to obtaining a public order.

Article 47:

Any public official who abusively resorts to the direct agreement procedure in a public order concluded in the name of the State or local authorities, State public establishments or State companies.

Section 4: Corruption of foreign public officials and international public officials of organizations

Article 48:

Is punished by imprisonment of five years to ten years and a fine of two million (2,000,000) to ten million (10,000,000) CFA francs or one of these two penalties only:

- anyone who promises, offers or grants to a foreign public official or an official of a public international organization, directly or indirectly, an undue advantage, for himself or for another person or entity, in order that he accomplishes or refrain from performing any act in the exercise of his duties, with a view to obtaining or retaining a public order or an undue advantage in connection with international trade or otherwise;
- any foreign public official or official of a public international organization who requests or accepts, directly or indirectly, an undue advantage, for himself or for another person or entity, in order to perform or refrain from performing a act relating to his duties.

Section 5: Theft of property by a public official

Section 49:

Any public agent, who removes, destroys or dissipates for his own benefit or for the benefit of another person or entity, any property, any fund or value, public or private, or anything of value which has been given to him or her under a contract, either because of his functions.

Section 6: Illicit and abusive use and retention of public property by a public official

Article 50:

Is punishable by imprisonment of one year to five years and a fine of five hundred thousand (500,000) to one million five hundred thousand (1,500,000) CFA francs or one of these two penalties only, any public official who knowingly and unduly withholds from his or her profile or for the benefit of another person or entity, any property, any public funds or securities, or anything of value which has been given to him or her either under a contract or because of his duties, or who makes illicit and abusive use of public property.

Section 7: Concussion

Article 51:

Any public official who requests, receives, demands or orders to collect what he knows is not or exceeds what is due, either to himself, to the administration, or to the parties for whom he collects, is punished. :

- imprisonment of one year to five years and a fine equal to double the proceeds of the offense if the value is less than or equal to five hundred**

one thousand (500,000) CFA francs, without this fine being less than two million (2,000,000) CFA francs;

- **imprisonment of five years to ten years and a fine equal to double the value of the proceeds of the offense if this is greater than five hundred thousand (500,000) CFA francs without this fine being able to be less than ten million (10,000,000) CFA francs.**

Section 8: Illegal exemptions and franchises

Article 52:

Any State agent who, for any reason whatsoever, in an illegal manner, grants exemptions or exemptions from taxes, duties, fines, deposits and other rights or gives free of charge or sells at a low price, public property in violation of laws and regulations.

Section 9: Influence peddling

Article 53:

Is punished by imprisonment of two years to five years and a fine of two million (2,000,000) to ten million (10,000,000) CFA francs or one of these two penalties only:

- **anyone who promises, offers or grants to a public official or any other person, directly or indirectly, an undue advantage, so that said agent or said person uses his real or supposed influence with a view to obtaining from an administration or a public authority, an undue advantage for the initial instigator of the act or for any other person;**
- **any public official or any other person who requests, accepts directly or indirectly, an undue advantage for himself or for another person, in order to use his real or supposed influence with a view to obtaining from an administration or a public authority an unfair advantage.**

Section 10: Abuse of functions

Article 54:

The act, for a public official, to intentionally abuse his functions or his position, by performing or refraining from performing, in the exercise of his functions, an act in violation of the laws and regulations in order to obtain a unfair advantage for himself or for another person or entity.

Section 11: Overcharging

Article 55:

Is punishable by imprisonment of three years to five years, confiscation of the amount received as a rebate and a fine equivalent to three times the value received without this fine being less than two million (2,000,000) of CFA francs, without prejudice to the sanctions provided for by the regulations on public procurement, any public agent who proceeds or arranges for invoicing, for an amount higher than its actual cost, of a good or service to be acquired by a national or local public administration entity.

Any co-author, instigator, accomplice of overbilling is punished with the same penalties as its author.

Section 12: Nepotism

Article 56:

Any political figure, any public agent, any member of the defense forces is punishable by imprisonment of one to three years and a ban on holding office in the national public administration for a period of five years. and security who uses his position or uses his influence, to directly or indirectly provide any undue material advantage, or employment, to a member of his family in direct line or in collateral line up to the third degree.

Section 13: Favoritism

Article 57:

Is punishable by a sentence of three months to one year of imprisonment and a fine of three hundred thousand (300,000) to one million five hundred thousand (1,500,000) CFA francs or one of these two penalties only, any official of the administrative or judicial order, any soldier or equivalent, any agent or employee of the administration, any person invested with an elective mandate, who procures or attempts to procure for another an unjustified advantage by an contrary act legislative or regulatory provisions intended to guarantee equal access and equality of candidates in public employment and public procurement.

Section 14: Incompatible Trade

Article 58:

Any public official carrying out commercial activities or lucrative activities other than the marketing of its non-industrial agro-pastoral, literary, scientific and artistic productions.

In addition, the confiscation of the means of this trade or lucrative activity is pronounced.

Section 15: Misappropriation of public property

Article 59:

Any person who misappropriates or dissipates for personal purposes public funds, active instruments in lieu thereof, payment documents, transferable securities, act containing or operating obligations or discharge, materials or movable objects belonging to, intended for or entrusted to the State, to communities or public establishments, to organizations or c

which she holds because of her functions, is guilty of embezzlement of public property:

- if the value of the misappropriation is less than or equal to one million (1,000,000) CFA francs, the penalty is imprisonment of one year to five years with a fine equal to three times the value of the misappropriated property without this fine being able to be less than one million (1,000,000) CFA francs;
- if the value is greater than one million (1,000,000) CFA francs and less than or equal to ten million (10,000,000) CFA francs, the penalty is imprisonment of five years to ten years and a fine equal to three times the value of the misappropriated property without this fine being less than five million (5,000,000) CFA francs;
- if the value is greater than ten million (10,000,000) CFA francs, the penalty is imprisonment of ten years to twenty years and a fine equal to three times the value of the misappropriated property without this fine being less than ten million (10,000,000) CFA francs.

In the cases provided for in indents 2 and 3, the court may also order a ban on the exercise of civil rights for a period which cannot exceed five years.

Section 16: Conflict of interest

Article 60:

Non-compliance with the provisions of article 6 of the this law.

Section 17: Illegal taking of interests

Article 61:

Any public official is punishable by imprisonment of five years to ten years and a fine of two million (2,000,000) to ten million (10,000,000) CFA francs or one of these two penalties only. which, either directly or

indirectly or by simulated act, takes, receives or retains any interest whatsoever in the acts, awards, submissions, undertakings of which he has, at the time of the act in whole or in part, the administration or supervision or, who, having the mission to order the payment or to liquidate a business, has taken any interest in it.

Section 18: Illicit simulation

Section 62:

Any person is punished by imprisonment of six months to five years and a fine of three hundred thousand (300,000) to one million five hundred thousand (1,500,000) CFA francs or one of these two penalties. of the private sector who agrees to represent a public official, acquires property or carries out commercial or lucrative activities on his behalf under a written or verbal nominee agreement.

The public official, party to this nominee agreement, is punished with the same penalties, notwithstanding the administrative and disciplinary sanctions to which he may be subject.

In addition, the court automatically orders the confiscation of the property and income that is the subject of the offense.

Section 19: The offense of appearance

Article 63:

Anyone who cannot reasonably justify the increase in their rate of life beyond a threshold set by regulation with regard to their lawful income.

The court orders the confiscation of the unjustified part of the assets.

Any person who knowingly contributed by any means whatsoever to conceal the illicit nature of the goods at the origin of the lifestyle referred to in this article.

The offense of appearance, thus referred to, is a continuous offense characterized by the possession of illicit goods or their use in a direct or indirect manner.

Section 20: Insider trading

Section 64:

Is punishable by imprisonment of two years to five years and a fine of five hundred thousand (500,000) to twenty million (20,000,000) CFA francs which may go up to ten times the value of the profit made or one of these two penalties only, any agent in the public or private sector who exploits, in anticipation, with full knowledge of the facts, information not known to the public likely to disrupt equality of opportunity or which would influence the course of any economic activity of which he was aware due to his situation or position.

The court automatically orders the confiscation of the property and income that is the subject of the offense.

Section 21: Default or false declaration of interest or assets

Section 65:

Any public official legally subject to a declaration of interest or assets which, two months after written notice from the Higher State Control Authority, knowingly does not make a declaration of its assets or makes an incomplete, inaccurate or false declaration or knowingly formulates false observations or deliberately violates the obligations imposed on it by law.

Section 22: Disclosure of information

Article 66:

Any agent of the Higher State Control Authority is punishable by imprisonment of one year to three years and a fine of five hundred thousand (500,000) to one million (1,000,000) CFA francs. or registries found guilty of having disclosed, subject to the cases provided for in Articles 10 and 11 of this law, in any manner whatsoever, totally or partially, declarations of interest and assets or observations received.

Section 23: The offense of accepting undue gifts

Article 67:

Any public official who accepts from a person a gift or any unfair advantage likely to be able to influence the processing of a procedure or a transaction in progress linked to its functions or having a link with this processing or transaction.

The donor is punished with the same penalties.

Section 24: Hidden financing of political parties

Article 68:

Is punishable by imprisonment of two years to five years and a fine of two million (2,000,000) to ten million (10,000,000) CFA francs, without prejudice to the criminal provisions in force relating to the financing of political parties , any political party leader who receives hidden funding for the benefit of his party.

Any person who secretly finances a political party is punished with the same penalties.

Section 25: Corruption and electoral fraud

Article 69:

Is punishable by a fine of five million (5,000,000) to ten million (10,000,000) CFA francs and a prison sentence of one year to two years and deprivation of civil rights for five years , any person who is guilty of acts classified as corruption or electoral fraud.

In particular, the following facts are considered to constitute corruption or electoral fraud:

- bribes to electoral actors, notably assessors and polling station presidents;**
- fraudulent registration on the electoral lists; -**
the intimidation of certain voters;
- alteration of indelible ink in order to vote several times; -**
the transfer and transportation of voters to register on a list electoral or to vote;
- the transfer of populations from one polling station to another;**
- the use of state property for electoral campaign purposes; -**
the lack of transparency in the use of resources that the State makes available to political parties for electoral campaigns;
- falsification of electoral results.**

Section 26: Corruption in the private sector

Article 70:

Is punishable by imprisonment of two years to five years and a fine equal to three times the value of the advantage or thing promised, offered or granted without being less than two million (2,000,000) CFA francs :

- anyone who promises, offers or grants, directly or indirectly, an undue advantage to any person who directs a private sector entity or**

works for such an entity, in any capacity, for itself or for another person, so that it performs or refrains from performing an act in violation of its duties;

- any person managing a private sector entity or working for such an entity, in any capacity whatsoever, who requests or accepts, directly or indirectly, an undue advantage, for himself or for another person or entity so that he performs or refrains from performing an act in violation of his duties.**

Any co-author or accomplice is punished with the same penalties.

Section 27: Taking prohibited employment

Section 71:

Is punishable by a prison sentence of one year to five years and a fine of three hundred thousand (300,000) to one million five hundred thousand (1,500,000) CFA francs or one of these two penalties only, any public agent, entrusted by the State with a mission of control, surveillance, administration or advice of a private company, who exercises less than five years, after ceasing his functions, a corporate mandate or a paid activity in this company unless expressly authorized by the competent administrative authority.

Section 28: Theft of property in the private sector

Section 72:

Any person who directs an entity or entity of the private sector or works for such an entity, in any capacity whatsoever and who, intentionally, in the context of economic, financial or commercial activities, removes any property or any private funds or securities or any other thing of value which he are handed over because of their duties.

Section 29: Laundering the Proceeds of Crime

Article 73:

Laundering the proceeds of the crimes provided for by this law is punishable by the same penalties provided for by the legislation in force in this area.

Section 30: Receipt

Article 74:

Any person who knowingly conceals in whole or in part, products obtained using one of the offenses provided for in this law.

Section 31: Obstructing the proper functioning of justice

Section 75:

The following are punishable by imprisonment of six months to five years and a fine of five hundred thousand (500,000) to two million (2,000,000) CFA francs:

- anyone who uses physical force, threats or intimidation or promises, offers or gives an unfair advantage to obtain false testimony or prevent testimony or the presentation of evidence in proceedings relating to the offenses established in accordance with this law;**
- anyone who uses physical force, threats or intimidation to obstruct the course of investigations relating to the commission of offenses established in accordance with this Law.**

Any co-author or accomplice is punished with the same penalties.

Section 32: Protection of witnesses, experts, denouncers and victims

Article 76:

No person can be excluded from a recruitment procedure or from access to an internship or a training period in a company, no employee can be sanctioned, dismissed or be the subject of a discriminatory measure, direct or indirect, in particular in matters of remuneration, training, reclassification, assignment, qualification, classification, professional promotion, transfer or contract renewal for having reported or testified, either to one's employer or to the judicial authorities or administrative, facts qualifying as an offense within the meaning of this law of which he would have become aware in the exercise or during the exercise of his functions.

Article 77:

Any person who resorts to physical or moral violence, revenge, intimidation or threat in any form and in any manner whatsoever, against the person of witnesses, experts, denouncers or victims or their parents or other persons close to them.

Any person who reveals the identity or address of a witness who has benefited from the protection provisions provided for by this law is subject to the same penalties.

Section 33: Slanderous or abusive denunciation of corruption or acts of corruption

Section 78:

Anyone who knowingly, and by whatever means, commits a slanderous or abusive denunciation of the offenses provided for by this law, to the competent authorities, against one or more persons.

Section 34: Failure to report offenses

Section 79:

Any person who, by virtue of his position or profession, permanently or provisionally, becomes aware of one or more offenses provided for in this law, and does not inform the competent public authorities in time.

However, the person who, for whatever reasons, brings the information to the attention of private anti-corruption organizations benefits from an absolute excuse.

Section 35: Aggravating circumstances

Article 80:

If the author of one or more offenses provided for by this law is a magistrate, civil servant exercising a higher state function, public officer, member of the Higher State Control Authority, officer, police agent judicial or having prerogatives of judicial police or registrar, he risks a prison sentence of five years to ten years accompanied by the same fine provided for the offense committed.

Section 36: Exemption and mitigation of penalties

Section 81:

Benefits from an absolutory excuse under the conditions provided for in the penal code, any person author or accomplice of one or more offenses provided for by this law, who, before any prosecution, discloses an offense to the administrative or judicial authorities or to the bodies concerned and makes it possible to identify the people involved.

Except in the case provided for in the preceding paragraph, the maximum penalty incurred by any person author or accomplice of one of the offenses provided for by this law, who, after the initiation of proceedings, facilitates the arrest of one or more several other people involved, is reduced by half.

Section 37: Additional penalties

Section 82:

In the event of conviction for one or more offenses provided for by this law, the court may impose one or more of the following additional penalties:

- the ban on exercising civil rights for a period which cannot exceed five years;
- the ban on exercising public functions or employment for a period which cannot exceed five years;
- the ban on obtaining any distinction or decoration awarded by the central State or its branches.

Section 38: Freezing, seizure and confiscation

Article 83:

Illicit income and property resulting from one or more offenses provided for by this law may be seized or frozen by court decision or order of the competent authority.

In the event of conviction for offenses provided for by this law, the court orders, subject to cases of restitution of assets or the rights of third parties in good faith, the confiscation of illicit income and property for the benefit of the Public Treasury.

The court also orders the restitution of the embezzled property or the value of the interest or gain obtained, even if this property has already been transmitted to the ascendants, descendants, collaterals, spouse and allies of the convicted person and they have remained in possession. their state or transformed into any other good

Section 39: Complicity and attempt

Section 84:

The provisions relating to complicity provided for in the penal code are applicable to the offenses provided for by this law.

Attempting the offenses provided for by this law is punishable by the penalties provided for the completed offense.

Section 40: Responsibility of the legal entity

Section 85:

The criminal liability of the legal person is retained for the offenses provided for by this law, in accordance with the rules laid down by the penal code.

Section 41: Prescription

Article 86:

Notwithstanding the provisions of the code of criminal procedure, public action and the penalties relating to the offenses provided for by this law are imprescriptible when the proceeds of the crime are transferred outside the national territory.

Section 42: Consequences of acts of corruption

Article 87:

Any contract, any transaction, license, concession or authorization resulting from the commission of one of the offenses provided for by this law may be declared null and void by the court seized subject to the rights of third parties in good faith.

Chapter 2: Procedure

Section 1: Prerogatives of controllers of the Higher State Control Authority

Section 88:

The state inspectors' reports serve as preliminary investigation reports.

The controllers of the Higher State Control Authority have the authority to request or collect all information necessary to carry out their missions from all public entities, the private sector and civil society. No opposition can be made to them except in the cases provided for by the laws and regulations in force.

When the investigations are carried out by a structure outside the public administration, the reports must, to serve as minutes of the preliminary investigation, be filed by the Higher State Control Authority.

Section 89:

When the information collected by state controllers highlights facts constituting corruption, they, in conjunction with the judicial police, search for, record the offenses in reports and gather the evidence. They communicate to the Faso prosecutor the information concerning the incriminated facts in their possession. This communication relinquishes the authority of the Higher State Control Authority.

Section 2: Special investigative techniques

Section 90:

To facilitate the collection of evidence on the offenses provided for in this Law, use may be made, in an appropriate manner, and upon authorization of the competent judicial authority, of controlled delivery or other

special investigative techniques, such as electronic surveillance or infiltration.

The evidence collected using these techniques is authentic in accordance with the regulations in force.

Section 91:

Persons against whom there is no plausible reason to suspect that they have committed or attempted to commit an offense and who are likely to provide evidence of interest to the procedure may, with the authorization of the Faso prosecutor or of the investigating judge, declare as your address the address of the police station or gendarmerie brigade.

If the person was summoned because of their profession, the address declared may be their professional address.

The personal address of these people is then entered in a listed and initialed register, which is opened for this purpose.

Section 92:

In the event of proceedings relating to an offense punishable by at least five years of imprisonment, and the hearing of a person covered by this provision is likely to seriously endanger the life or physical integrity of that person, members of his family or those close to him, the Faso prosecutor or the investigating judge may authorize that the statements of this person be collected without his identity appearing in the procedural file.

Section 93:

Under no circumstances may the identity or address of a witness who has benefited from the provisions provided for in Article 92 above be revealed, unless, in view of the circumstances in which the offense was committed or the personality of the witness, knowledge of the identity of the person is essential to the exercise of the rights of the defense.

Section 94:

No conviction can be pronounced solely on the basis of anonymous statements.

Section 3: Judgment

Section 95:

The criminal court is the competent court to hear offenses falling under this law.

Section 96:

When the Faso prosecutor is informed of an offense provided for by this law, he takes the necessary precautionary measures and proceeds as in criminal matters.

Section 97:

Civil action for compensation for damage caused by any offense provided for by this law belongs, in addition to the persons referred to in Article 2 paragraph 1 of the Code of Criminal Procedure, to associations intervening in the field of good governance or rights. humans.

Section 98:

The Faso prosecutor is required to initiate public action in the event of proven facts revealed in the reports of public structures whose mandate is the fight against corruption, for transparency and good governance and likely to be qualified as offenses within the meaning of this law.

The order of the hierarchical authority can only go in the direction of prosecution.

TITLE IV: INTERNATIONAL COOPERATION AND ASSET RECOVERY

Chapter 1: International cooperation

Section 1: Mutual legal assistance

Article 99:

Subject to reciprocity and as far as relevant treaties, agreements and arrangements and laws permit, the widest possible mutual legal assistance is particularly granted to States Parties to the Convention, in matters of investigations, prosecutions and legal proceedings concerning corruption offenses provided for in this law.

Section 2: Prevention, detection and transfer of proceeds of crime

Article 100:

In order to detect financial transactions linked to acts of corruption, and without prejudice to legal provisions relating to money laundering and the financing of terrorism, banks and non-bank financial institutions must, in accordance with the regulations in force:

- comply with personal data concerning natural or legal persons over whose accounts financial institutions exercise increased supervision, the types of accounts and operations to which they pay particular attention, the measures to be taken regarding the opening and the keeping of such accounts, and the recording of operations;**
- take into consideration the information communicated to them in the context of their relationship with foreign authorities, particularly concerning the identity of the natural or legal persons whose accounts they strictly monitor;**

- maintain, for a period of at least five years from the date of the last transaction recorded therein, adequate statements of accounts and transactions involving the above-mentioned persons. These statements must contain, in particular, information on the identity of the customer and, where possible, the beneficial owner.

Section 3: Relations with banks and financial institutions

Article 101:

Banks that do not have a physical presence and are not affiliated with a regulated financial group are not allowed to establish themselves in Burkina Faso.

Banks and financial institutions established in Burkina Faso are not allowed to have relationships with foreign financial institutions that accept that their accounts are used by banks that do not have a physical presence and are not affiliated with a group regulated financial institution.

Section 4: Communication of information

Section 102:

During ongoing investigations in their territories and within the framework of procedures initiated with a view to claiming and recovering the proceeds of the offenses provided for by this law, the competent national authorities may communicate to similar foreign authorities the useful financial information which they have.

Section 5: Financial account domiciled abroad

Article 103:

Any public official having an interest in an account domiciled in a foreign country, a right or delegation of signature or any other power over this account, is required, under penalty of disciplinary measures, and without prejudice to

criminal sanctions, to report it to the Higher State Control Authority and to keep appropriate records concerning these accounts.

Chapter 2: Asset recovery

Section 1: Measures for direct recovery of property

Article 104:

The Burkinabè courts have jurisdiction over civil actions brought by States parties to the Convention with a view to recognizing the existence of a property right over property acquired following acts of corruption.

The court seized of proceedings initiated in accordance with the first paragraph of this article may order persons convicted of acts of corruption to pay civil compensation to the requesting State for the damage caused to it.

In all cases where a confiscation decision is likely to be pronounced, the court seized takes the necessary measures to preserve the legitimate property right claimed by a third State party to the Convention.

Section 2: Recovery of property through cooperation international for the purposes of confiscation

Section 105:

Foreign judicial decisions ordering the confiscation of property acquired by means of any of the offenses provided for in this Law or the means used for its commission, are enforceable on the national territory in accordance with established rules and procedures.

By ruling, in application of the legislation in force, on an offense of money laundering or another offense falling within its jurisdiction, the court seized may order the confiscation of property of foreign origin acquired through one of the offenses provided for by this law, or used for their commission.

Article 106:

The confiscation of the property referred to in article 105 above is pronounced even in the absence of a criminal conviction due to the termination of public action or for any other reason whatsoever.

Section 3: Freezing and seizure

Article 107:

In accordance with established procedures and at the request of the competent authorities of a State party to the Convention whose courts or competent authorities have ordered the freezing or seizure of property resulting from one of the offenses covered by this law or of property, materials or other instruments used or intended to be used to commit these offences, the courts or competent authorities may order the freezing or seizure of such property where there are sufficient reasons to take such measures and the subsequent confiscation of said property goods is possible.

Article 108:

The competent court may take the precautionary measures referred to in Article 107 above on the basis of probative evidence, in particular the arrest or indictment abroad of an accused person.

Section 109:

The requests referred to in article 107 above are sent according to the procedure provided for in article 112 below. They are submitted by the public prosecutor to the competent court which rules in accordance with the procedures established for summary proceedings.

Section 4: The lifting of precautionary measures

Article 110:

Cooperation for the purposes of confiscation provided for by this law may be refused or precautionary measures may be lifted if the requesting State does not transmit sufficient evidence in a timely manner or if the property for which confiscation is requested is of minimal value.

However, before lifting any precautionary measure, the requesting State is invited to present arguments in favor of maintaining the measure.

Section 5: Requests for international cooperation for purposes of confiscation

Section 111:

In addition to the necessary documents and information that requests for mutual legal assistance must contain in accordance with bilateral and multilateral conventions and the law, requests submitted by a State party to the Convention, for the purposes of pronouncing confiscation or executing it, must mention the following information as the case may be:

- a statement of the facts on which the requesting State relies and a description of the measures requested as well as, where available, a certified copy of the original of the decision on which the request is based when it is intended to order freezing or seizure measures, or precautionary measures;
- a description of the property to be confiscated, including, to the extent possible, the location of the property and, where appropriate, its estimated value and a sufficiently detailed statement of the facts on which the requesting State relies so as to enable national courts to make a confiscation decision in accordance with the procedures in force when the request seeks a confiscation decision;

- a statement of the facts and information indicating within what limits it is requested to execute the decision, a declaration specifying the measures taken by the requesting State to properly notify third parties in good faith and guarantee due process and a declaration according to which the confiscation decision is final when the request seeks to enforce a confiscation decision.

Section 6: International cooperation procedure for the purposes of confiscation

Article 112:

The request for confiscation of the proceeds of crime, property, materials or other instruments referred to in article 107 above, located on the national territory, introduced by a State Party to the Convention, is addressed directly to the Ministry of Justice. justice who transmits it to the attorney general at the competent court.

The public prosecutor submits the said request accompanied by its requisitions to the competent court. The court's decision is subject to appeal and appeal in accordance with the law.

Confiscation decisions following requests submitted in accordance with this article are executed by the public prosecutor by all legal means.

Section 7: Execution of confiscation decisions handed down by foreign courts

Section 113:

Confiscation decisions ordered by the court of a State Party to the Convention are sent through the channel provided for in Article 107 above and are executed according to the rules and procedures in force within the limits of the request to the extent where they relate to the proceeds of crime, property, equipment or any means used for the commission of the offenses provided for by this law.

Section 8: Special cooperation

Article 114:

Information on the proceeds of offenses established in accordance with this Law may, without prior request, be communicated to a State Party to the Convention, where such information may assist that State in initiating or conducting an investigation, prosecution or legal proceeding. or may result in the submission by that State of a request for confiscation.

Section 9: Disposition of confiscated property

Article 115:

When a confiscation decision is pronounced in accordance with articles 99 to 106 above, the disposition of the confiscated property is made in accordance with the relevant treaties and the legislation in force.

TITLE V: TRANSITIONAL AND FINAL PROVISIONS

Article 116:

The persons referred to in article 13 of this law have a period of one year from its promulgation to comply with it as follows:

- in the first ninety days for members of the executive power, those of the legislative power and the judicial power; - within the following ninety days for other political figures, members of independent institutions and representatives of local authorities; - in the last one hundred and eighty days of the year for civil servants and other public administration agents.**

Article 117:

This act which repeals all previous provisions to the contrary shall be executed as the law of the State.

**Thus done and deliberated in a public session
in Ouagadougou, on March 3, 2015.**

President

Moumina Cheriff SY

The session secretary

Issa TIEMTORE