

# ***LAW No. 2019-574 Instituting the Penal Code***

**THE NATIONAL ASSEMBLY ADOPTED;**

**THE PRESIDENT OF THE REPUBLIC enacts the Law with the following content:**

## **BOOK I: GENERAL PROVISIONS APPLICABLE TO ALL OFFENSES**

### **PRELIMINARY TITLE: GENERAL PROVISIONS**

Article 1: Provisions under this Book shall be applicable to all offenses unless provided otherwise by a legal provision.

Article 2: Constitutes an offence any act, action or omission which troubles or is likely to trouble the public order or social peace by infringing or not the rights of persons and which as such is punishable by law.

Article 3: Criminal offences are classified according to their gravity as felonies, misdemeanors or petty offences.

An offence is characterized as:

Felony: if it is punishable by a life sentence or an imprisonment of more than ten years;

Misdemeanor: if it is punishable by an imprisonment of less than or equal to ten years and more than two months and a fine of more than 360,000 francs or one of these two penalties only;

Petty offence: if it is punishable by an imprisonment of less than or equal to two months and a fine less than or equal to 360,000 francs or one of these penalties only.

Article 4: A Decree determines petty offences and applicable penalties within the limits and according to the distinctions under article 3.

Article 5: The nature of the offence falling within one of the categories provided for in article 3 shall not be altered where, as a result of subsequent offences, excuses or mitigating circumstances, the penalty incurred is relating to a different category.

Article 6: The offence is punished by penalties and, possibly, by security measures.

The purpose of the penalty is to punish the offence committed and must be aimed at correcting the perpetrator, whom it punishes either in his person, property, rights or honor.

The purpose of a security measure is to prevent, by appropriate means, any offence by a person who constitutes a real danger to society because of his or her likeliness for committing offences.

Article 7: The sentence constitutes the main penalty when it is the main punishment for the offence.

The sentence constitutes the additional penalty when it is added to the main penalty.

Article 8: Additional penalties and security measures are mandatory or optional.

Article 9: Any penalties and security measures must be expressly ordered. Nevertheless, additional penalties and security measures, where they are mandatory, are automatically applied as a consequence of the main penalty, even if the judge has omitted to pronounce them

Article 10: The main penalties are classified as criminal, correctional and petty offences penalties:

1°) are criminal penalties: in addition to life sentence, all sentences of imprisonment exceeding ten years;

2°) petty offences penalties: sentences pronounced for acts qualified as petty offences;

3°) are correctional penalties: all other sentences pronounced.

Article 11: Constitutes an excuse, any condition or circumstance exhaustively provided for and defined by the law, the admission of which, without making the offence disappear, entails either:

1°) exemption from punishment and in this case, the excuse is said to be exculpatory excuse;

2°) compulsory mitigation of the penalty incurred and in this case, the excuse is said to be mitigating excuse.

Article 12- Any person whose conviction for criminal offence has become final and has not been revoked by amnesty, pardon or other legal measures, is in a state of recidivism.

Any decision which applies provisions relating to subsequent offences must expressly refer to the previous conviction or convictions from which it draws the legal consequences and state that the said offence was committed within the prescribed period.

Article 13: Any personal circumstances of the offender or victim of an offence such as age, nationality, parenthood, status as a public official, member of the military or recidivist, shall be assessed at the time the offence is committed.

Article 14: The judge shall not classify as an offence and punish an act that is not legally defined and incriminated as such.

He shall not order other penalties and security measures than those established by law and provided for the offence.

Article 15: The criminal law shall be construed strictly.

Article 16: The criminal law is of strict application.

The application by analogy of a criminal provision to an act it was not intended to sanction shall be prohibited.

Article 17: The criminal law applies equally to all.

However, the distinctions allowed are those provided for by the law and which are based, in particular, on the immunities under public law, the gravity of the offence and the fault, the age or the special status of the offender and his threat to the society.

Article 18: Is a minor any person under the age of eighteen at the time the offence was committed.

Minors of ten, thirteen and sixteen years of age are those who have not reached these ages at the time of the commission of the offense.

## **CHAPTER 1: TERRITORIAL APPLICATION OF CRIMINAL LAW**

Article 19: The criminal law applies to all offenses committed on the territory of the Republic, which includes:

- 1°) the land space within the borders of the Republic;
- 2°) its territorial waters;
- 3°) the air space above the land territory and territorial waters;
- 4°) ships and aircraft registered in Côte d'Ivoire.

No crew member or passenger of a foreign ship or aircraft who commits an offence on board to the detriment of another crew member or passenger within the territorial waters or air space of Côte d'Ivoire shall be tried by the courts of Côte d'Ivoire except in the following cases:

- 1°) the intervention of the Ivorian authorities has been requested;
- 2°) the offence has threatened public order;
- 3°) the offender or victim of the offence is Ivorian.

Article 20: Criminal law shall apply to offenses committed partially or totally abroad, under the conditions provided for by the Criminal Procedure Code.

Criminal law also applies to any felony or misdemeanor punishable by imprisonment, committed outside the territory of the Republic when a victim is of Ivorian nationality at the time the offense is committed.

Article 21: The offence shall be deemed to have been committed:

- 1°) in the place where the act that constitutes it is committed;
- 2°) in any of the places where one of its constitutive elements is carried out;
- 3°) in the various places where the commission of the act is extended or repeated;

4°) in the place where one of the acts is committed, the repetition of which is necessary to constitute the offence;

5°) in the place of the act, its immediate purpose or result.

The attempt is deemed to have been committed in the place where the act that constitutes the *actus reus* element, as defined in article 28, is committed.

Article 22: Foreign criminal sentences can be taken into consideration for the granting and revocation of suspended penalties, recidivism, the application of security measures, incapacities and loss of rights, rehabilitation, reparations, restitutions or other civil effects, as well as for all other legal consequences provided for by this Law.

This consideration is subject to the condition that the foreign sentence has been pronounced in relation to offences considered as felonies or misdemeanors under Ivorian law, that it was ordered by an ordinary court and not from a specialized court, and that its regularity, its definitive nature and its conformity with Ivorian public order have been established by the judge on basis of a certified document from the criminal record or an official document from the foreign judicial authority.

## **CHAPTER 2: APPLICATION OF CRIMINAL LAW IN TIME**

Article 23: No one shall be prosecuted or tried for an act which, under a new law, no longer constitutes an offence.

If, prior to this law, penalties and security measures have been pronounced for this act, their execution shall be terminated, with the exception of placement in a care home and confiscation as a police measure.

However, in case of infringement of a criminal provision sanctioning a prohibition or an obligation for a specific period of time, the prosecution shall be validly initiated or continued and the penalties and security measures executed, notwithstanding the end of this period.

Article 24: Any new provisions are applicable to offences committed before their coming into force and which have not led to a *res judicata* conviction, when they are less severe than the previous provisions

However, offences committed before the entry into force of the new criminal provision shall continue to be tried in accordance with the previous law.

Any law providing for a security measure is immediately applicable to offences which have not been the subject of a final conviction, even where the former legislation provided for the application of a penalty in place of the security measure.

Article 25: Any conviction resulting from a decision made in the presence of the accused person and which is not or is no longer subject to any appeal by the public prosecutor or the convicted person shall be deemed final.

## **TITLE II: OFFENCE: COMMISSION AND PARTICIPATION**

### **CHAPTER 1: COMMISSION OF THE OFFENCE**

Article 26: An offence is only committed when all of its constituent elements are fulfilled and met.

If the offence is constituted by an act that is continuous or repeated, or if it is constituted by the combination of several acts, the offence is deemed to have been committed until such time as these acts have come to an end.

Article 27: Acts merely intended to prepare or make possible the commission of an offence are not punishable, unless they constitute in themselves an offence provided for by law.

They may, however, give rise to the application of a security measure in accordance with the conditions set out in articles 90 and 91.

Article 28: Any attempt to commit a felony manifested by an act which unequivocally implies the irrevocable intention of its author to commit the felony shall be considered as the felony itself if it was suspended or failed only because of circumstances beyond the offender's control.

Attempted misdemeanor is considered as the misdemeanor itself in the conditions set out by a provision of the law.

The attempt is punishable even if the intended purpose could not be achieved due to a factual circumstance.

### **CHAPTER 2: PARTICIPATION IN THE OFFENSE**

Article 29: Is a perpetrator of an offence a person who :

1°) commits it materially ;

2°) without personally carrying it out materially, has participated in its commission with the perpetrator provided for in 1°) of this article or uses a person who is criminally not reliable to commit it or knowingly compels another person to commit it;

3°) knowingly and unequivocally incites a third party to commit the offence, by giving instructions to commit it or by provoking its commission through the use of gifts, promises, threats, abuse of authority or power, deception or culpable incitement, even if the offence was neither attempted nor committed.

Article 30: Is an accomplice in committing a felony or misdemeanor a person who, without taking a direct part in its realization, knowingly:

- 1°) procures any means to be used for the offence, such as weapons, tools or information;
- 2°) directly or indirectly aids or assists the offender in the acts that achieve or prepare it.

Article 31: Any accomplice to a felony or a misdemeanor or an attempt is also an accomplice to any offense whose commission or attempt was a foreseeable consequence of the complicity.

Article 32: Any accomplice to a felony, misdemeanor or attempted felony shall be subject to the same penalties and security measures as the actual perpetrator of the felony, misdemeanor or attempted felony.

### **TITLE III: PENALTIES AND SECURITY MEASURES**

#### **CHAPTER 1: GENERAL PROVISIONS**

Article 33: All offenses are punishable by the penalties and security measures provided for by law when the criminal reliability of the accused or the defendant is judicially established.

Article 34: In the event of a combination of aggravating and mitigating circumstances, the maximum and minimum penalties incurred shall be fixed taking into account successively:

- 1°) the aggravating circumstances inherent to the commission of the offence
- 2°) aggravating circumstances inherent to the personal character of the offender;
- 3°) mitigating excuses inherent to the commission of the offence;
- 4°) mitigating circumstances inherent to the personal character of the offender;
- 5°) the fact that the offender is a recidivist.

If the mitigating circumstances are granted, the sentence is then pronounced in accordance with articles 114, 115 and 116.

Article 35: Sentences and security measures pronounced within the limits set or authorized by the law must take into account the circumstances of the offence, the danger it poses to public order, the personality of the convicted person and his possibilities of rehabilitation.

Any accomplice to an offence shall be punished for his or her own act, according to the degree of participation, culpability and the danger posed by his or her act and person.

No security measure, with the exception of confiscation as a police measure, may be ordered without the judge who pronounces it having previously established, by reasoned decision, that the person concerned is socially dangerous.

Article 36: The main penalties are:

- 1°) imprisonment, either for life or for up to 20 years;
- 2°) a fine
- 3°) community service.

Article 37: Penalties involving deprivation of liberty are qualified as:

- 1°) imprisonment for ordinary offenses;
- 2°) military detention in military matters.

Article 38: The fine is common to all offences.

Community service is applicable only to misdemeanors and petty offenses.

Article 39: Accessory penalties are:

- 1°) general confiscation;
- 2°) special confiscation;
- 3°) sequestration;
- 4°) deprivation of certain rights;
- 5°) military dismissal and stripping off rank;
- 6°) publication of the conviction.

Article 40: Security measures are:

- 1°) confinement for security purposes;
- 2°) confinement in a health care facility;
- 3°) prohibition to appear in certain places;
- 4°) ban on residence on the territory of the Republic;
- 5°) closure of a business
- 6°) ban on professional activity;
- 7°) surveillance and assistance
- 8°) confiscation by police measure;
- 9°) surety bond of good conduct.

## **CHAPTER 2: PRINCIPAL PENALTIES**

### **Section 1: Penalties involving deprivation of liberty**

Article 41: The judge shall specify the nature of the deprivation of liberty that he orders according to the distinctions provided for in article 37.

The reduction or increase, for legally accepted reasons, of the principal penalty incurred does not entail modification of the qualification of the penalty involving deprivation of liberty pronounced.

Article 42: The deprivation of liberty penalty shall be executed in accordance with the law.

Article 43: Imprisonment shall be served in a correctional facility.

Article 44: Military detention shall be carried out in a special facility. Failing that, persons sentenced to military detention shall be separated from other convicts.

Article 45: The remand warrant in force shall be considered as a document for the execution of the sentence and the security measure depriving the person of liberty which were finally pronounced.

If the convict is not in pre-trial detention or if an arrest or detention warrant is not issued against him at the hearing under the conditions provided for by the criminal procedure law, the time limit for appeal granted to the Public Prosecutor by the provisions of the Criminal Procedure Code shall not be an obstacle to the execution of the sentence or the security measure depriving the person of liberty.

Article 46: When it is established that the convicted woman is pregnant, any sentence of deprivation of liberty pronounced against her shall not be executed until six months after her delivery.

Article 47: The father and mother sentenced, even for different offences, to custodial sentences not exceeding one year and not detained on the day of the judgment, shall, upon their request, be exempted from serving their sentence simultaneously if, having proof of a common residence, they have their minor child in their care and custody.

Article 48: The duration of any temporary deprivation of liberty is counted from the day of the arrest of the convicted person.

The sentence pronounced in days is computed by twenty-four (24) hours.  
It is calculated from date to date when it is pronounced in months.

A convict whose sentence ends on a legal holiday, a Saturday or a Sunday shall be released on the preceding working day.

Article 49: The duration of the preventive detention shall be deducted in full from the duration of the temporary custodial sentence pronounced.

For the enforcement of sentences pronounced by military courts, the time during which the convicted person has been deprived of his liberty by a disciplinary measure, if this measure was taken for the same reason, shall be considered as preventive detention.

The above paragraphs are applicable to preventive detention followed by a suspended sentence in the event of subsequent revocation of the said suspension.

The deduction provided for in the present article is excluded for any period of pre-trial detention coinciding either with the execution of a sentence of deprivation of liberty or of a confinement for security, or with the enforcement of a remand order.

Any period of pre-trial detention common to two or more proceedings is, unless the sentences are merged, deducted from only one of the sentences of deprivation of liberty pronounced.

Article 50: The final enforceable sentences of deprivation of liberty which have not been merged are served in their order of severity.

The execution, in progress, of a custodial sentence is not legally suspended by the intervention of another custodial sentence or security measure that has become final and enforceable.

Any sentence involving deprivation of liberty, pronounced for an offence committed prior to or during the periods of execution of the security confinement, shall be executed after this confinement.

Article 51: Sentences involving deprivation of liberty may be served under the regime of semi-liberty or release on parole.

## **Section 2: Fine**

Article 52: The judge sets the amount of the fine taking into account the material situation of the convicted person, his resources and family responsibilities, his profession, his age and health condition.

The fine is paid to the Public Treasury.

Article 53: All convicts of the same felony or misdemeanor are jointly held for the payment of:

- 1°) restitution;
- 2°) damages;
- 3°) fines
- 4°) fees.

The judge may exceptionally and by reasoned decision exempt all or some of the convicted persons from joint liability for fines.

Article 54: In the event of insufficiency of the convicted person's assets, restitution and damages take precedence over fines and fees.

## **Section 3: Community service**

Article 55: When a misdemeanor or a petty offence is punishable by imprisonment for a term not exceeding three years, the court may decide, in lieu of imprisonment, that the convicted person perform unpaid community service for a period of twenty to two hundred and eighty hours for the benefit of either a public entity, a private entity entrusted with a public service mission, or an association authorized to carry out community service.

In the event of non-performance of community service, the convicted person shall serve the sentence provided for in the judgment of conviction.

Article 56: The sentence of community service shall not be pronounced against an accused person who is not present at the hearing.

Article 57: The community service sentence shall not be carried out concurrently with a custodial sentence.

Article 58: The modalities of execution of the community service sentence are determined by a decree.

### **CHAPTER 3: ADDITIONAL PENALTIES**

#### **Section 1: General confiscation**

Article 59: General confiscation for the benefit of the State shall be pronounced by the judge in cases provided for by law.

Article 60: General confiscation concerns all or part of the present property of the convicted person, of whatever nature, whether movable or immovable, divided or undivided, without, however, prejudicing the rights of third parties to the said property.

The following shall not be confiscated:

- 1°) property declared unseizable by law;
- 2°) the personal property of the spouse or children of which the convicted person had the administration, management or disposal de facto or de jure.

Article 61: If the convicted person is married, the confiscation shall apply only to his own property and to his share in the undivided property between him and his spouse.

If there are heirs with reserved portions, the confiscation only concerns the available portion and, if necessary, the sharing or the auction shall be carried out according to the rules applicable in matters of succession.

Article 62: Any judicial decision pronouncing the total or partial confiscation of an asset is published in the Official Gazette and in a Legal Gazette at the request of the Administration in charge of the Domain.

Any holder in any capacity whatsoever, any manager of movable or immovable property belonging directly, indirectly or through an intermediary, to persons whose assets are confiscated in whole or in part, any debtor of any sum, value or object of any kind to the same persons - for whatever reason - must make a disclosure statement within three (3) months of the publication or perform any act giving rise to a disclosure.

The disclosure statement is made in two registered letters, with acknowledgement of receipt, addressed, one to the Public Prosecutor's Office of the court which convicted the person, the other to the Administration in charge of the Domain. .

The disclosure statement must contain all useful information on the name and address of the disclosing person, the person whose property is confiscated, the nature and exact composition of this property, as well as its location.

The declaration statement shall have attachments, if need be, of certified copies of all useful documents.

Article 63: Any onerous or free of charge act, by persons or by testament, carried out either directly or through an intermediary or any other indirect means, insofar as its purpose is to set aside a property from the confiscation measures that may affect it, is null and void.

In the event of cancellation of an onerous contract, the price shall be returned only to the extent that it has actually been paid.

Article 64: Any unsecured creditor shall claim the amount of his claim in accordance with the conditions laid down in Article 62 and provide all the proof necessary for admission to the liabilities of the confiscated property.

If the creditor fails to make the claim within the prescribed time limit, he may no longer bring an action for the share of the property that has devolved to the State, unless he can justify that the impossibility of making the claim within the said time limit was due to a legitimate cause such as remoteness, absence or incapacity.

If such a cause is proved, the time limit for making the claim is three years.

Secured, unsecured creditors and mortgagees may be reimbursed before their claim is due.

## **Section 2: Special confiscation**

Article 65: The confiscation of movable and immovable properties belonging to the convicted person is a compulsory additional penalty when such properties are product of the offense.

It is an optional additional penalty in cases provided for by law when the properties have been used to commit the offence.

Article 66: Properties confiscated in application of this section are acquired by the State.

Their alienation is managed by the Administration in charge of the Domains in the forms prescribed for the sale of public properties.

They remain encumbered up to their value by debts incurred prior to the conviction.

## **Section 3: Sequestration**

Article 67: The judge may, in cases provided for by law, sequester the property of the convicted person.

The sequestered property is administered and liquidated in accordance with the legal provisions relating to sequestration in the public interest.

They are restituted in the event of accusations dismissal, acquittal or discharge, and liquidated in the event of conviction. They may only be returned or liquidated once the decision to dismiss accusations, acquit, discharge or convict the person has become final.

The funds resulting from the liquidation are used to pay the costs, fines, restitutions and damages payable by the convicted person and the remaining assets, if any, shall be returned to the convicted person. They shall be deposited with the Treasury if restitution cannot be made immediately.

Decisions ordering the sequestration or pronouncing the dismissal of accusations, acquittal, discharge or conviction are notified by the Public Prosecutor's Office to the administration in charge of the Public Domains, as soon as they are final.

#### **Section 4: Deprivation of certain rights**

Article 68: The judge may deprive the convicted person of the right:

- 1°) to be appointed to jury as an assessor, as an expert, as well as to work with the Administration and perform any other public functions;
- 2°) to obtain an authorization to carry a weapon;
- 3°) to exercise guardianship or trusteeship functions, to wear distinctions and medals, to open a school and generally to exercise all functions related to teaching, education or the care of children.

The deprivation may be of all or part of such rights.

No provision of this section may be interpreted as modifying loss, deprivations or prohibitions of rights resulting from special provisions.

Article 69: Deprivation of the rights listed in article 68 is a mandatory additional penalty to any conviction for an act qualified as a felony and optional to any conviction for an act qualified as a misdemeanor. In case of a misdemeanor, the judge may only pronounce it in accordance with a special provision of the law.

Article 70: The deprivation of rights applies from the day on which the decision from which it results has become final or from the execution of the formalities provided for by procedural laws in case of conviction in absentia.

Article 71: The deprivation of rights applies until the expiration of a period of ten years for acts qualified as felonies, and five years for acts qualified as misdemeanors.

This period is counted from the date of normal release or pardon or from the expiry of the sentence of deprivation of liberty and, where applicable, from the expiry the confinement for security to be served.

The starting point of the period provided for in the previous paragraph is the day of the release on parole if it is not revoked.

It is postponed to the day of payment of the fine pronounced, if this payment occurs after the dates provided for in paragraphs 2 and 3 of this article or to the day on which the prescription of penalties and measures referred to in this article has effective.

Any period of execution of penalties or measures involving deprivation of liberty or imprisonment for debt is automatically added to the period of deprivation fixed by the judge.

Article 72: The judge may, by reasoned decision, relieve the convicted person of all or part of the deprivation of rights or reduce the period provided for in the first paragraph of article 71 to one year.

### **Section 5: Military dismissal and stripping off rank**

Article 73: Military dismissal is perpetual. It entails:

- 1°) dismissal from the Armed Forces and the National Police;
- 2°) forfeiture of accrued ranks and the right to wear the insignia and uniform;
- 3°) inability to acquire new ranks;
- 4°) forfeiture of the right to wear decorations.

Article 74: In the event of conviction for acts qualified as felonies, dismissal shall be compulsory if the sentence pronounced is one of deprivation of liberty for more than five years and optional if the sentence pronounced is less than or equals to five years.

Article 75: Stripping off rank shall be mandatory in the event of a conviction against an officer, non-commissioned officer or member of the National Police to a suspended sentence or not of more than twelve months of deprivation of liberty for acts qualified as felonies, or to a sentence of deprivation of liberty which, even if less than twelve months, is accompanied by either a ban on appearing in certain places, or a deprivation of all or part of the rights provided for in article 68.

Article 76: Dismissal and stripping off rank shall apply right from the day on which the decision becomes final, or from the day on which the formalities provided for by procedural laws are carried out in the case of conviction in absentia.

The stripping off rank shall not prevent the acquisition of new ranks.

Dismissal and stripping off rank shall be applicable to military reserve force and available personnel under the same conditions as to military personnel in service.

## **Section 6: Publication of the sentence**

Article 77: The publication of the sentence, when it is provided for by law, is done in newspapers in conformity of the format or medium indicated by the judge, or by posting it in very clear characters in the places and for the duration specified by the judge and which shall not exceed two months.

If the judge deems it appropriate, he may order the publication of the sentence in newspapers and by posting.

The publication is carried out at the expense of the convicted person.

## **CHAPTER 4: SECURITY MEASURES**

### **Section 1: Confinement for security purposes**

Article 78: Security confinement shall be applicable under the conditions laid down in articles 125 to 129. Prisoners under security confinement shall be held in special facilities.

They shall be required to work.

They may be released on parole under the conditions laid down by law.

### **Section 2: Confinement in a health care facility**

Article 79: In the event of dismissal of accusations, acquittal or discharge for one of the reasons provided for in article 102, the judge shall order the committal to a care home of the offender or accomplice of the felony or misdemeanor, when a medical assessment establishes that his liberty is dangerous to himself or to others.

This confinement is only ordered upon request of the public prosecutor.

The competent medical authority shall, on its own initiative or at the request of the judge responsible for the enforcement of penalties, and in any event at least every six months, provide an opinion as to whether the measure of confinement is still necessary due to the danger that the person confined presents to himself or to others.

In the event that the release no longer presents a danger, the judge responsible for the enforcement of penalties, upon the request of the public prosecutor competent for the place of confinement, shall put an end to it.

### **Section 3: Prohibition to appear in certain places**

Article 80: In cases of felony or misdemeanor, the judge may, taking into account the gravity of the acts and the danger they present, prohibit the convicted person from returning to the places where his presence would be likely to disturb the public order.

The judge may also prohibit the convicted person from residing or appearing in the home where the victim resides.

This prohibition may not exceed ten years for a felony.

Article 81: A ban on appearing in certain places is automatically applicable from the day on which the conviction becomes final or the day on which the penalty is prescribed and is executed in accordance with the provisions of the last paragraph of article 71.

In the case provided for in paragraph 2 of article 80, if the conviction is not immediately followed by the imprisonment of the convicted person, the prohibition to appear is automatically applicable from the day the conviction is pronounced.

#### **Section 4: Ban on residing on the territory of the Republic**

Article 82: In all cases where a conviction is handed down against a foreigner, the judge may ban the convicted person from the entire territory of the Republic.

The duration of the ban is:

- 1°) five to twenty years for a felony;
- 2°) two to five years for a misdemeanor.

The modalities for the application of this article shall be provided for by decree.

Article 83: The judge may ban from residing on the territory of the Republic any foreigner who is a threat to public order and who has been acquitted, discharged or released for any of the reasons provided for in article 102.

In case of impossibility of execution or until it is possible to execute it, the ban from the territory shall be replaced by confinement in care home.

In the event that this confinement is terminated in accordance with the provisions of article 79, the provisions of article 82 shall apply automatically.

#### **Section 5: Closure of a business**

Article 84: Irrespective of the sentence pronounced against the offender(s), the closure of an enterprise, a business, a commercial, industrial or cultural center or of any other kind that has been used to commit or facilitate the commission of the felony or misdemeanor may be ordered when the nature or gravity of the offence and the interests of public order so justify.

This measure may be limited to a specific time, place or area. It shall not exceed five years.

In the event of recidivism as provided for in articles 122 to 124, the permanent closure of a business may be ordered.

When the closure of a business is ordered, it entails the prohibition for the convicted person or for any tenant, manager or business assignee to carry out in the same premises, the same professional activity, even under another name or under another legal company name.

The measure applies automatically from the day the decision has become final, or from the day the formalities provided for by the procedural laws have been complied with in the event of a conviction in absentia.

It is executed in accordance with the rules laid down in the last paragraph of article 71.

In the event that the closure of a business leads to the redundancy of the personnel, the latter, unless they are convicted as accomplices, receives compensation equal to their salary plus any benefits in kind calculated for the duration of the closure, subject to the application of collective or specific labor agreements if they provide for a higher compensation.

The period of compensation is limited to six months if the duration of the closure is longer than this period.

### **Section 6: Ban on professional activity**

Article 85: The judge may, in all cases of felony or misdemeanor, prohibit the exercise of a profession, trade or industrial activity that allowed or facilitated the commission of the offense, when the nature or gravity of the offense justifies it and when the continuation of this profession or professional activity may lead to recidivism by the convicted person.

The duration of this ban is set by the judge. It may not exceed ten years for a felony and five years for a misdemeanor.

In case of recidivism, it may be pronounced for life.

### **Section 7: Surveillance and assistance**

Article 86: Any person sentenced to a suspended or unsuspended term of imprisonment of more than two years may, by reasoned decision, be placed for a period of up to five years under a system of assistance and surveillance comprising general obligations and, where applicable, special obligations.

The convicted person's compliance with these obligations is monitored by the judge responsible for the enforcement of penalties.

Assistance and surveillance are carried out either by social assistance personnel or by the administrative, police or gendarmerie authorities, under the supervision of the judge responsible for the enforcement of penalties.

Article 87: The general obligations that are automatically imposed on the convicted person are:

- 1°) to comply with the summonses of the authority in charge of the assistance and surveillance;
- 2°) to receive visits from this authority and to communicate to him information or documents likely to allow the control of the convict's livelihood;
- 3°) to inform the authority of any change of job or residence and to justify the reasons for such a change;
- 4°) to inform the authority of any absence exceeding one month;
- 5°) to obtain his prior written authorization before any trip outside his constituency.

Article 88: In addition to the general obligations provided for in article 87, the judge may impose on the convicted person all or part of the following special obligations:

- 1°) to establish his residence in one or more specified places;
- 2°) not to appear in certain specified places, except with special and temporary authorization;
- 3°) to exercise a professional activity of a specific nature, taking into account his abilities;
- 4°) to submit to control measures of treatment or care including hospitalization notably for the purpose of detoxification.

Article 89: The assistance and surveillance scheme shall apply from the day on which the sentence is final, in accordance with the rules set out in the last paragraph of article 71.

The judge who ordered the measures provided for in the preceding articles may, at any time, on the proposal of the judge in charge of the enforcement of penalties and by reasoned decision, suspend all or part of the special measures or modify them.

The suspension may be revoked at any time in accordance with the preceding paragraph.

Suspended measures shall be considered executed for the time during which they were suspended.

### **Section 8: Confiscation by police measure**

Article 90: Items whose manufacture, possession, transport, trade or use are unlawful shall be confiscated for the purpose of destruction or devolved to a hospital or research center, even if they do not belong to the convicted person or even if the prosecution does not result in a conviction.

Confiscation as a police measure may be ordered, in the absence of any prosecution, on the request of the public prosecutor, by summary order

### **Section 9: Surety bond of good conduct**

Article 91: When there is a serious reason to fear that an individual will commit a felony or a misdemeanor, either because he engages in acts such as those referred to in article 27, or because

he poses serious threats, the judge shall require him to commit to behave properly and to provide sufficient surety for this purpose.

The commitment for good behavior shall be made for a period of one to five years.

The surety shall be given in the form of a bond or a security.

The judge shall determine the duration of the commitment and the amount of the security to be provided according to the nature, seriousness and the more or less dangerous nature of the preparatory acts carried out or the threats made and according to the personal and material situation of the offender or his guarantors.

The criminal court of the offender's place of residence or of the place where the acts were carried out or threats were made is competent to rule on these measures. The Public Prosecutor's Office shall refer the matter to the court by ex officio proceedings or at the request of the threatened party.

Article 92: If it is ascertained that the individual referred to in the preceding article is unable to provide the surety requested, and that this situation is not attributable to his fault, the judge shall substitute for the said surety, and for a period equal to that set for the commitment, one or more of the measures provided for in articles 87 and 88.

If he refuses to take the commitment or if, in bad faith, he does not provide the promised surety within a fixed period, the judge may compel him to do so by ordering against him, for a period equal to that fixed for the commitment, a ban on appearing in certain places, with or without one or more of the measures provided for in Articles 87 and 88.

If, in the meantime, the required bonds are provided, the alternative measures referred to in the two preceding paragraphs shall immediately cease to have effect.

Article 93: When the period of probation provided for in the commitment has elapsed without the offence, which was feared to have been committed, the bonds shall be lifted and the sums deposited shall be returned.

Otherwise, the sums deposited are acquired by the State without prejudice to the penalties and security measures applicable to the said offence.

## **TITLE IV: CRIMINAL LIABILITY**

### **CHAPTER 1: GENERAL PROVISIONS**

Article 94: The natural person responsible for his acts is the only one criminally liable. Is criminally liable for his acts the person who is capable of understanding and willing.

Article 95: Ignorance of the criminal law, motive, misrepresentation on the person of the victim or the object of the offence and forgiveness by the victim shall have no effect on existence of criminal liability.

Article 96: Legal persons, with the exception of the State and its branches, are criminally liable for offences committed on their behalf by their organs or representatives. When the criminal liability of the legal person is established, only a fine is pronounced, as a principal penalty. This may be increased to a maximum amount five times higher than that incurred for the same offence by a natural person.

The criminal liability of legal persons does not exclude that of natural persons who are offenders or accomplices in the same acts.

## **CHAPTER 2: GROUNDS FOR OFFENCE EXEMPTION**

### **Section 1: Self- defense**

Article 97: There is no offence when the acts are committed for the actual need to defend oneself or others or a legally protected property against an unjustified attack, provided that the latter cannot be prevented otherwise and that the defense is concomitant and proportionate to the circumstances, in particular to the danger and the gravity of the attack, to the importance and to the value of the property attacked.

Article 98: A person who commits a manslaughter, voluntarily inflicts assault and battery either by repelling, during the night, the climbing or breaking of fences, walls or entrances of a house, an inhabited apartment or their outbuildings, or by defending himself against the offenders of theft or looting carried out with violence, is presumed to be acting in self-defense.

### **Section 2: Lawful and legitimate authority order**

Article 99: There is no offense when the acts are ordered or authorized by law.

Article 100: There is no offence when the offender acts by order of the legitimate authority.

In this case, the person who gives the order is liable for the act carried out and is punishable insofar as this act does not exceed the order given.

The provisions of this article shall not apply if the order is manifestly unlawful.

### **Section 3: Defense of necessity**

Article 101: There is no offence when the acts are committed in order to preserve the life, physical integrity, liberty or property of the offender or a third party from serious and imminent danger, provided that the danger cannot be averted otherwise than by means proportionate to the circumstances.

## **CHAPITRE 3: GROUNDS FOR CRIMINAL IRRESPONSIBILITY**

### **Section 1: Defense of mental disorder**

Article 102: A person, who, at the time of the commission of offence, suffers from a mental disorder or an abnormal mental delay in his development, such that his will is altered or that he cannot be aware of the unlawful nature of his act, is not criminally liable.

### **Section 2: Immunities**

Article 103: Only civil damages may be awarded for offenses against property committed:  
1° by a spouse to the prejudice of the other, by a widow or widower in respect of things which had belonged to the deceased spouse ;  
2° by a child or other descendant to the prejudice of his father or mother or other ascendants, by the mother or father or other ascendants to the prejudice of their children or other descendants;  
3° by relatives in the above degrees, provided that the offence was committed during the marriage.

Article 104: Offenses committed by persons enjoying diplomatic immunity, as provided for in international conventions, shall not give rise to criminal proceedings before the Ivorian courts.

Persons of Ivorian nationality who are members of the staff of an embassy, consulate or international organization accredited to Côte d'Ivoire shall not invoke this immunity.

### **Section 3: Amnesty**

Article 105: Amnesty puts an end to public prosecution.

It clears all convictions and puts an end to all penalties and security measures, with the exception of confinement in a health center and confiscation as a police measure.

The amnesty is not applicable to fees if the conviction is final.

It does not entail:

- 1° neither the restitution of fines and fees already paid nor that of confiscations already executed;
- 2° neither the reinstatement in public functions nor in employments, ranks, public or ministerial offices; it does not give the right to career restoration.
- 3° neither the restitution of decorations nor the reinstatement in National Orders.

Amnesty does not prevent applications for review to establish the innocence of the amnestied person.

It has no effect on civil action or disciplinary action and penalties.

#### **CHAPTER 4: AGGRAVATING CIRCUMSTANCES**

Article 106: Circumstances that aggravate the penalty incurred shall be provided for by law.

Except in cases where the law specifically provides for the penalties for felonies or misdemeanors committed by public officials, those of them who have participated in other felonies or misdemeanors which they were tasked to investigate or prosecute, shall be punished as follows:

- 1° in the case of a misdemeanor, to double of a penalty attached to the type of misdemeanor;
- 2° in the case of a felony, to an imprisonment of not less than ten years.

Article 107: When the value of the items procured by means of ordinary felonies and misdemeanors, whether in a single act or in a series of acts in the same prosecution, is equal to or greater than 25,000,000 and less than 500,000,000 francs, the imprisonment sentence pronounced shall not be less than:

- 1° twenty years of imprisonment if it is a felony ;
- 2° ten years' imprisonment in the case of a misdemeanor.

When the value of items procured is equal to or greater than the maximum provided for in the first paragraph, the penalty may not be less than:

- 1° life imprisonment if it is a felony;
- 2° twenty years' imprisonment in the case of a misdemeanor.

Article 108: The aggravating circumstances provided for in this chapter have no bearing on the classification of the offence and excludes the application of the provisions relating to mitigating circumstances and suspended sentences.

#### **CHAPTER 5: EXCULPATORY EXCUSES**

Article 109: A person who commits an offence under irresistible duress from which it is impossible to escape is entitled to the exculpatory excuse provided for in article 11.

Duress is assessed taking into account the nature of the offence and its gravity with regard to the situation of the offender and the victim due to their age, their sex and the balance of power or dependence existing between them.

Article 110: Submission to the laws, decrees or regulations from the enemy or rebel authority, to the orders or authorizations given by this authority or by the authorities which depend on it or have depended on it, can, according to the circumstances of the case, be considered as an exculpatory excuse.

## **CHAPTER 6: MITIGATING EXCUSES**

Article 111: Any person guilty of a crime or misdemeanor directly caused by the illegitimate act of another against himself or, in his presence, against his spouse, descendant or ascendant, brother or sister, the person living with him, his master or apprentice, his principal or agent, the minor, the incapacitated person or the detainee in his hands, shall benefit from the mitigating excuse.

The provocation must be such as to deprive a normal person of self-control.

Article 112: When a mitigating excuse is established, the principal penalties incurred are reduced as follows:

- 1° the sentence of life imprisonment shall be replaced by a sentence of imprisonment for one to ten years ;
- 2° the temporary and criminal custodial sentence is replaced by imprisonment for six months to five years;
- 3° the correctional custodial sentence is replaced by a custodial sentence of ten days to six months or by a community service sentence.

## **CHAPTER 7: MINORITY**

Article 113: Acts committed by a minor of ten years of age are not subject to criminal qualification and prosecution.

A minor of thirteen years of age shall benefit, if guilty, from the exculpatory excuse of minority. Minors between the ages of ten and thirteen may only be subject to protection, assistance, surveillance and education measures provided for by law.

Minors between the ages of sixteen and eighteen benefit from the mitigating excuse of minority. In the case of felonies and misdemeanors, the mitigating excuse of minority results in the application of half of the penalties provided for in article 112.

In the case of a misdemeanor, it excludes any imprisonment sentence. The judge may only impose a sentence of community service or an admonition.

## **CHAPTER 8: MITIGATING CIRCUMSTANCES**

Article 114: Except in cases where the law excludes them, the judge may, having regard to the circumstances, the degree of gravity of the acts and the personality of the offender, grant the latter the benefit of mitigating circumstances.

Article 115: When the benefit of mitigating circumstances is granted, the main sentence is reduced as follows:

- 1° in matters of felonies :
  - to an imprisonment of two to twenty years if the felony is punishable by a life sentence ;

- to an imprisonment of one to three years if the felony is punishable by a temporary custodial sentence;

On top of the sentence pronounced, a fine which may not exceed 1,000,000 francs may be ordered.

2° in matters of misdemeanor:

- to a custodial sentence lower than the legal minimum and to a fine if the offence is punishable by a custodial sentence and a fine; the custodial sentence may be reduced to one day;

- to the penalty of deprivation of liberty provided for in the preceding paragraph or to a fine not exceeding 1,000,000 francs if the offence is punishable only by deprivation of liberty;

- to a fine of less than the legal minimum if the offence is punishable by a fine only or if it is punishable either by a fine or by a custodial sentence and the judge orders only the fine.

3° in the case of a petty offence, to a fine of less than the legal minimum, excluding any custodial sentence.

Article 116: In matters of military offenses and as an exception to article 118, a fine cannot be substituted for military detention.

## **TITLE V: MULTIPLE OFFENSES**

### **CHAPTER 1: OFFENSES COMBINATION**

Article 117: No one shall be punished twice for the same act.

Article 118: When the same act is likely to have several qualifications and when the offences committed have distinct constitutive elements, this act can be submitted to the judge under its different qualifications but can only give rise to a single prosecution.

Only the penalties and security measures incurred for the most serious of the offenses for which the prosecution was brought and which the judge chose shall be imposed.

Article 119: When several offenses, qualified as felonies or misdemeanors, have been committed by the same person without him or her being a recidivist and are the subject of the same prosecution, the penalties for each of these offenses shall not be cumulative.

Only the penalties and security measures incurred for the offence subject to the most severe principal penalties may be pronounced.

The principal penalties pronounced in application of the preceding paragraph are deemed to apply indivisibly to all the offences established insofar as they could have been pronounced for each of them.

When the offences are prosecuted more than once, the judge hearing the second prosecution may order that the principal penalties be combined. In this case, only the principal penalties

pronounced for the offence that was most severely punished are executed. For the application of this paragraph, account shall be taken of commuted and reduced sentences resulting from pardon and not of the sentences initially pronounced.

Article 120: The severity of the principal penalties incurred shall be determined according to the following rules:

1° an account of legal causes which aggravate or mitigate the penalty incurred shall be taken;

2° if the penalties are, in the sense of article 36, of the same nature, the most severe is the one with the highest maximum; if they have the same maximum, the most severe is the one with the highest minimum;

3° in the case of equal duration, imprisonment is more severe than military detention;

4° when deprivation of liberty and fine penalties are concurrently imposed, the most severely punished offence is that with the highest penalty involving deprivation of liberty;

5° notwithstanding the foregoing provisions, a fine is considered to be more severe than a custodial sentence if, when fictitiously converted into a custodial sentence at the rate of 10,000 francs per day, it appears to be more severe than the custodial sentence.

The severity of the principal penalties imposed shall be determined in accordance with provisions in 2° to 5° of the preceding paragraph of this article.

Article 121: If the judge fails to rule on offence combination or if the convicted person makes a request after the decision has been rendered and the judge refuses to grant it, the principal penalties shall be served cumulatively without exceeding the maximum total penalty incurred for the most severely punished act.

Additional penalties and security measures are executed cumulatively. When they are identical and temporary, the total may not exceed the temporary maximum provided for by law for offenses qualified as felonies.

If the additional penalties and security measures are incompatible with any of the principal penalties imposed, or with each other, they shall be carried out in the order indicated by the judge, unless the law provides otherwise.

## **CHAPTER 2: RECIDIVISM**

Article 122: Any person, having been finally sentenced for more than five years imprisonment for a felony, commits another felony which is itself punishable by a term of imprisonment, shall be sentenced to the maximum of the incurred penalty which may be increased to twice the said maximum.

Article 123: Any person who having been finally convicted of a felony and sentenced to more than five years imprisonment, commits a misdemeanor punishable by imprisonment, shall be sentenced to the maximum penalty which may be increased to twice the said maximum.

Any person who, having been finally convicted for a misdemeanor to more than one year imprisonment, commits the same misdemeanor shall be sentenced for this second misdemeanor to a term of imprisonment equal to or greater than twice the sentence previously imposed, but which may not exceed twice the maximum sentence.

Recidivism occurs if an offence is committed between the day the first conviction becomes final and the day five years have elapsed since the expiry or prescription of the first sentence.

The offenses of theft, fraud, breach of trust, concealment of obtained from an offence, as well as the offenses provided for by the legislation on bank and postal checks shall be considered as the same offenses.

Article 124: The provisions of articles 122 to 123 shall be applicable to the case of recidivism of felonies and misdemeanors punishable by military detention.

Article 125: When a recidivist is convicted as a habitual offender, the judge, in addition to applying articles 122 to 123, may order security confinement for a period of five to twenty years.

Article 126: Any recidivist is deemed to be a habitual offender within the meaning of the preceding article when, taking into account the conviction for the new offence committed, he is the subject of:

1° two convictions for felonies with a custodial sentence;

2° one of the convictions provided for in 1° and two convictions for misdemeanors with a custodial sentence of more than one year;

3° four convictions for misdemeanors with a sentence of deprivation of liberty of more than one year.

Article 127: The offenses which may give rise to security confinement must have been committed within a period of ten years, calculated from the date of the last offense likely to lead to confinement, in accordance with the provisions of the last paragraph of article 71.

No account shall be taken of convictions erased by amnesty or rehabilitation, nor of convictions against minors at the time of the commission of the acts.

When a prosecution is likely to result in a security confinement, prior investigation must be carried out.

A lawyer must be appointed to the accused if he has not chosen one, if not the proceedings are null and void.

Article 128: Security confinement shall not be ordered against women and individuals over sixty years of age or under eighteen years of age at the end of the principal sentence initially pronounced.

In their cases, security confinement is replaced by a ban on appearing in certain places for a period of five years or by the assistance and surveillance scheme provided for in articles 86 to 89, depending on whether they are adults or minors.

Any person sentenced to a security confinement who reaches sixty years of age shall immediately benefit from replacing this measure by a ban on appearing in certain places and for the remaining period, which shall not exceed five years.

Article 129: In the application of this chapter, account shall be taken of the sentences initially pronounced and not of the sentences resulting from the commutation measures.

## **TITLE VI: EXEMPTION FROM EXECUTION OF SENTENCES AND SECURITY MEASURES**

### **Section 1: Suspended sentence**

Article 130: In the event of a conviction for an ordinary felony or misdemeanor to a term of imprisonment of up to five years and a fine or to one of these two penalties only, the judge may, if the convicted person had not been subject to a sentence of imprisonment for a felony or misdemeanor that has become final, order that the execution of the imprisonment and the fine or of one of these two penalties only be suspended in whole or in part for a period of five years.

The suspension of the execution of the main sentence has no effect on the additional sentences as well as on the security measures, deprivation of rights and incapacity and the costs and civil sentences.

If during the period thus fixed, counting from the day on which the decision becomes final, the convicted person commits another felony or misdemeanor followed by a prison sentence, the suspension of the execution of the first sentence is revoked and the suspended sentence is executed without possible combination with the second.

Otherwise, the expiration of the time limit shall have the effects provided for in Article 105.

The provisions of this article shall apply under the same conditions to offenses punishable by military detention.

Article 131: When the execution of imprisonment is partially suspended, the portion of the sentence not suspended shall be executed in priority.

### **Section 2: Pardon**

Article 132: A pardon granted by decree of the President of the Republic is a total or partial, definitive or conditional waiver from the execution of a sentence or a security measure that has become final, except for confinement in a health center and special confiscation.

The decree on pardon may commute any sentence to a lesser sentence in the legal scale of penalties.

Unless expressly exempted by the decree of pardon, the commutation of a life sentence automatically entails a five-year ban on appearing in certain places and takes effect on the date of the decree of pardon.

The joint liability may be revoked by way of a pardon.

### **Section 3: Statute of limitations**

Article 133: The statute of limitations for sentences is:

- 1° twenty years for criminal sentences;
- 2° five years for correctional sentences
- 3° two years for petty offences sentences.

This period starts from the day:

- 1° the conviction becomes final;
- 2° of the completion of the formalities provided for by procedural laws in case of conviction in absentia.

It is calculated in accordance with the provisions of the last paragraph of article 71.

The above provisions are applicable to additional penalties that are not automatically executed right from the day the conviction is final.

They are also applicable to temporary security measures which are not automatically executed right from the day the conviction is final. However, in this case, the limitation period is twenty years.

### **Section 4: Death of the convicted person**

Article 134: The death of the convicted person does not prevent the execution of the pronounced pecuniary sentences and the ordered confiscations from being pursued on his property.

The death of the convicted person does not prevent the execution of the pronounced pecuniary sentences and the ordered confiscations from being carried out on his property.

## **BOOK II: SPECIFIC PROVISIONS FOR EACH OFFENCE.**

Article 135: Matters not governed by this book shall be covered by special laws.

### **TITLE 1: CRIMES AND OFFENSES AGAINST THE JUS COGENS, THE STATE AND PUBLIC INTERESTS**

#### **CHAPTER 1: OFFENSES AGAINST THE JUS COGENS**

##### **Section 1: Crime of genocide**

Article 136 : Any person who, with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, commit any of the following acts shall be punished by life imprisonment:

- 1° Killing members of the group;
- 2° Causing serious bodily or mental harm to members of the group;
- 3° Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- 4° Imposing measures intended to prevent births within the group;
- 5° Forcibly transferring children of the group to another group.

##### **Section 2: Crimes against humanity**

Article 137: Any person who, as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack, commits any of the following acts shall be punished by life imprisonment:

- 1° Murder;
- 2° Extermination;
- 3° Enslavement;
- 4° Deportation or forcible transfer of population;
- 5° Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- 6° Torture;
- 7° Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- 8° Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in article 138 below, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the International Criminal Court;
- 9° Enforced disappearance of persons;
- 10° The crime of apartheid;
- 11° Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Article 138: For the purpose of article 137:

1° "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in article 137 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

2° "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

3° "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

4° "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

5° "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

6° "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

7° "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

8° "The crime of apartheid" means inhumane acts of a character similar to those referred to in article, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

9° "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time;

10° "gender" refers to the two sexes, male and female.

### **Section 3: War crimes**

Article 139: Anyone who commits a war crime is punished with life imprisonment.

Are war crimes:

1° Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- Willfully killing;
- Torture or inhuman treatment, including biological experiments;
- Willfully causing great suffering, or serious injury to body or health;
- Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
- Willfully depriving a prisoner of war or other protected person of the rights of fair and regular;
- Unlawful deportation or transfer or unlawful confinement;
- Taking of hostages.

2° Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

- Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
- Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

- Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- Killing or wounding treacherously individuals belonging to the hostile nation or army;
- Declaring that no quarter will be given;
- Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
- Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
- Pillaging a town or place, even when taken by assault;
- Employing poison or poisoned weapons;
- Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123 of the Roma Statute;
- Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 138-6° enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
- Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
- Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

- Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions;
- Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

3° In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:

- Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
- Taking of hostages;
- The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

4° Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

- Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- Pillaging a town or place, even when taken by assault;
- Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 138-6°, enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
- Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;

- Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- Killing or wounding treacherously a combatant adversary;
- Declaring that no quarter will be given;
- Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
- Employing poison or poisoned weapons;
- Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.

Article 140: Provisions of paragraphs 3 and 4 under article 139 shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

Article 141: The protected persons referred to in article 139 are, in particular

- 1° wounded, sick or shipwrecked civilians or soldiers ;
- 2° civilians in the hands of the party to conflict
- 3° persons who are not directly participating or who are no longer participating in hostilities
- 4° medical and religious personnel, whether civilian or military;
- 5° persons deprived of their liberty for reasons connected with the armed conflict, whether they are interned or detained.

#### **Section 4: Common provisions**

Article 142: Is punished by life imprisonment, any person who, with a view to carrying out, permitting or providing support in any of the acts referred to in this chapter:

- 1° publicly provokes it;
- 2° agrees or conspires with another person, orders or forms a gang or group, joins or associates with its activities or complies with its instructions.

A conspiracy is any concerted and agreed decision between two or more persons with the aim of committing an offence.

Article 143: In all cases provided for in this chapter:

- 1° a military commander or a person effectively acting as a military commander shall be

criminally responsible for crimes committed by forces under his or her effective command and control, or effective authority and control, as the case may be, when he or she failed to exercise proper control over such forces in cases where:

- that military commander or person knew, or by reason of the circumstances should have known, that those forces were committing or about to commit those crimes;
- and that military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or stop their commission or to refer them to the competent authorities for investigation and prosecution;

2° with respect to the relationship between a superior and subordinates not described in paragraph 1° of this section, the superior shall be criminally liable for crimes committed by subordinates under his or her effective authority and control, where he or she failed to exercise proper control over such subordinates in cases where:

- the superior knew that his or her subordinates were committing or about to commit such crimes or deliberately disregarded information that clearly indicated this;
- the crimes were related to activities within the superior's effective responsibility and control; and
- the superior failed to take all necessary and reasonable measures within his or her power to prevent or stop their commission or to refer them to the appropriate authorities for investigation and prosecution.

The penalty is imprisonment for fifteen to twenty years and a fine of 1,000,000 to 10,000,000 francs.

Article 144: The provisions of articles 105, 114, 115, 130 and 133 relating respectively to amnesty, mitigating circumstances, suspension and statute of limitations of the sentence, are not applicable to the offences provided for in this chapter.

An order to commit genocide or a crime against humanity is obviously unlawful.

## **CHAPTER2: OFFENCES AGAINST STATE SECURITY AND NATIONAL DEFENSE**

### **Section 1: Treason and espionage**

Article 145: shall be guilty of treason and punished by imprisonment for life or military detention for life, any Ivorian, any soldier in the service of Côte d'Ivoire, who:

- 1° takes arms against Côte d'Ivoire;
- 2° has intelligence contacts with a foreign power, with a view to inciting such a power to undertake hostilities against Côte d'Ivoire, or provides it with the means to do so, either by facilitating the entry of foreign forces on Côte d'Ivoire territory, or by undermining the loyalty of the Armed Forces, or in any other way;
- 3° handing over to a foreign power or its agents either Ivorian troops, or territories, towns,

works, stations, stores, equipment, ammunition, ships, buildings, aircraft or train belonging to Côte d'Ivoire or assigned to its defense;

4° with a view to undermining national defense, destroys or deteriorates a ship, aircraft or train, equipment, supply, construction or installation of any kind, or who, for the same purpose, makes defects in them, either before or after their completion, that are likely to damage them, prevent them from performing normally or cause an accident.

Article 146: Shall be guilty of treason and punished by life imprisonment or military detention for life, any Ivorian, any soldier in the service of Côte d'Ivoire, who, in time of war:

1° incites soldiers to serve a foreign power or aid them to do so ;

2° enrolls soldiers for a foreign power;

3° serves as intelligence for a foreign power or its agent for the realization of the foreign power's plotting against Côte d'Ivoire;

4° hinders the flow of military equipment or resources;

5° deliberately engages in an undertaking to demoralize the Armed Forces or the nation in view of jeopardizing the national defense.

Article 147: Any Ivorian, who, with a view to supporting a foreign power, obtains, hands over, destroys or allows to be destroyed in any form and by any means whatsoever, intelligence information, objects, documents or processes that must be kept secret in the interest of national defense, shall be guilty of treason and is punished by life imprisonment.

Article 148: Any foreigner or stateless person who commits any of the acts provided for in Articles 145-2, 3 and 4, 146 and 147 shall be guilty of espionage and shall be punished by life imprisonment.

The incitement to commit or the offer to commit one of the crimes referred to in this section is punished as the crime itself.

## **Section 2: Offenses against national defense**

Article 149: Anyone who gathers, with the intention of delivering to a foreign power, intelligence information, objects or processes whose gathering and use are likely to undermine national defense, shall be punished by life imprisonment.

Article 150: Is punished by imprisonment for five to ten years, any custodian, any depositary by function or position, of intelligence information, objects, documents or processes that must be kept secret in the interest of national defense or whose knowledge may lead to the discovery of a secret of national defense who, without intent of treason or espionage:

1 ° destroys it, conceals it, allows it to be destroyed or concealed;

2 ° brings it or allows it to be brought to the attention of a person whose not entitled to know it or the public.

If the custodian or the depository of the information has acted by recklessness, negligence or carelessness, the penalty is imprisonment from five to ten years.

Article 151: Is punished by imprisonment of five to twenty years, any person who, without intent to commit treason or espionage and while he was neither the custodian nor the depository:

1° misappropriates information, objects, documents or processes kept secret in the interest of national defense or the knowledge of which may lead to the discovery of a secret of national defense ;

2° commits one of the offences provided for in the first paragraph of the preceding article.

Article 152: Any person who, knowingly and without prior authorization from the competent authority, delivers or communicates to a person acting on behalf of a foreign power or enterprise either an invention of interest to national defense or information, studies or manufacturing processes relating to such an invention or to an industrial application of interest to national defense shall be punished by imprisonment for a term of five to twenty years.

Article 153: Any person who, without intent to commit treason or espionage, brings to the knowledge of an unentitled person or of a foreign power or enterprise any information, studies or manufacturing processes relating to an invention of this kind or to an industrial application of interest to the national defense, shall be punished by imprisonment for a term of one to five years.

Article 154: Shall be punished by imprisonment for a term of five to twenty years, anyone who:

1° enters under a disguise or a false name, or by hiding his status or nationality, into military installation or a station, works, barracks or cantonments, into a war building or a commercial building used for the national defense, into an aircraft or a train or into a military vehicle, into a military or maritime facility of any kind, or into an installation or construction site of interest to the national defense;

2° even without disguising himself, or without hiding his name, his status or his nationality, uses a hidden means of correspondence or remote transmission of any kind likely to undermine national defense;

3° willfully flies over Ivorian territory in a foreign aircraft without being authorized to do so by a diplomatic convention or by the Ivorian authorities;

4° in a prohibited zone protected by the military authority, carries out drawings, photographs, surveys or topographical operations in or around places, works, stations or facilities of interest to the national defense without the authorization of the military authority;

5° disregards a prohibition and stays around facilities and sites enumerated in the preceding paragraph;

6° communicates to an unqualified person or makes public an information relating either to the measures taken to track down and arrest the perpetrators and accomplices of crimes or offenses defined in sections 1 and 2 of this chapter, or to the progress of the prosecution and investigation, or to the proceedings session of the courts held in camera.

However, in peacetime, the offenses provided for in 3°, 4°, 5° and 6° under paragraph 1 of this article are punishable by imprisonment of one to five years and a fine of 500,000 to 5,000,000 francs.

Article 155: Shall be punished by imprisonment for a term of five to twenty years, any person who:

1° by hostile acts not authorized by the Government exposes Côte d'Ivoire to a declaration of war or to reprisals;

2° by acts not authorized by the Government exposes Ivoirians to reprisals;

3° engages, with the agents of a foreign power, in intelligences to harm the military or diplomatic situation of Côte d'Ivoire or its main economic interests.

Article 156: Any person who, in time of war, directly or through an intermediary, and in disregard of the prohibitions enacted, engages in trade acts or maintains correspondence or relations with agents of an enemy power, shall be punished by imprisonment for a term of five to twenty years.

Article 157: Any person who, in time of war, knowingly performs an act likely to be detrimental to national defense, which is not provided for or punishable by any other law, shall be punished by imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs.

Article 158: Any person who, in time of peace, with a view to harming national defense, interferes with the movement of military equipment, or by any means whatsoever, provokes, facilitates or organizes a violent or concerted action intended for the same purpose, shall be punished by imprisonment for a term of five to twenty years.

Article 159: Anyone who, in peacetime, knowingly participates in a plan to demoralize the Armed Forces with the aim of harming national defense shall be punished by imprisonment for a term of five to twenty years.

Article 160: Anyone who, in peacetime on the territory of the Republic and clandestinely enrolls or instructs with a view to enrolment, persons called to take arms on behalf of or on the territory of a foreign power, shall be punished by imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs.

Article 161: Attempts to commit the offenses provided for in this section are punishable.

The provisions of the present section are applicable to the perpetrators of the same acts committed to the detriment of foreign powers specified by decree of the Cabinet.

### **Section 3: Attack, conspiracy and other offences against the State authority and the integrity of national territory**

Article 162: The act of committing one or more acts of violence likely to jeopardize the institutions of the Republic constitutes an attack, in particular the act:

- 1° destroying or changing the constitutional government;
- 2° to incite citizens or residents to take arms against the authority of the State or to against each other;
- 3° to undermine the integrity of the national territory;
- 4° to organize massacre and serial crimes.

The attack is punishable by life imprisonment.

Article 163: Constitutes a conspiracy the agreement between several persons to commit an attack when this agreement is concretized by one or several material acts committed or started to prepare the execution.

Conspiracy is punishable by imprisonment of five to twenty years.

If the conspiracy is not followed by an act committed or begun to prepare its execution, the penalty is imprisonment for five to ten years and a fine of 500,000 to 5,000,000 francs.

Article 164: Anyone who makes an unauthorized proposal to form a conspiracy to commit one of the crimes provided for in the preceding article shall be punished by imprisonment for one to five years and a fine of 100,000 to 1,000,000 francs.

The judge may, as an additional penalty, deprive the convicted person of all or part of the rights referred to in article 68.

Article 165: Anyone who, except in the cases provided for in the two preceding articles, undertakes by any means whatsoever to undermine the integrity of the national territory shall be punished by imprisonment for one to ten years and a fine of 200,000 to 2,000,000 francs.

When the offence is committed or attempted with the use of weapons, the penalty is life imprisonment.

In addition to firearms and objects considered to be weapons under legislation in force, any sharp, piercing or blunt object, device, tool or utensil, whether hand-held or thrown, is

considered a weapon. Scissors, pocket knives and simple sticks are only considered weapons if they are used to kill, injure, hit or threaten.

Article 166: Anyone who incites or causes incitement of armed troops, hires or causes hiring or enrolls troops or provides them with arms or ammunition without the order or authorization of the legitimate authority shall be punished with life imprisonment.

Article 167: Anyone who, without right or legitimate reason, takes any military command or who, against the order of the Government, retains such a command, shall be punished by life imprisonment.

Commanders who keep their army or troop together after their dismissal or separation has been ordered shall be punished with the same penalty.

Article 168: Anyone who, being able to dispose public force, requires or orders, or causes to be required or ordered the use of public force to prevent the execution of the laws on military enrollment or mobilization, shall be punished by imprisonment for five to twenty years.

If this order is followed by actions, the convict is punished by life imprisonment.

#### **Section 4: Crime of aggression**

Article 169: The planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations commits a crime of aggression.

The crime of aggression is punishable by imprisonment or military detention for life.

The provisions of articles 143 and 144 shall apply.

Article 170: Constitutes a crime of aggression use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Whether or not a war is declared, the following acts are acts of aggression:

1° The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;

2° Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

3° The blockade of the ports or coasts of a State by the armed forces of another State;

4° An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

5° The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

6° The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

7° The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

### **Section 5: Participation in mercenary activity**

Article 171: The following shall be punished by imprisonment for five to ten years and a fine of 1,000,000 to 5,000,000 francs:

1° any person, specially recruited to fight in an armed conflict and who is neither a national of a State party to the said armed conflict, nor a member of the armed forces of that State, nor has been sent on a mission by a State other than one of those parties to the conflict as a member of the armed forces of the said State, who takes or attempts to take a direct part in the hostilities with a view to obtaining a personal advantage;

2° any person, specially recruited to take part in a concerted act of violence aimed at overthrowing the institutions or undermining the territorial integrity of a State and who is neither a national of the State against which the act is directed, nor a member of the armed forces of that State, nor has been sent on a mission by a State, who takes or attempts to take part in such an act with a view to obtaining a personal advantage.

Article 172: Any person who leads or organizes a group whose purpose is the recruitment, employment, remuneration, equipment or military training of a person defined in the preceding article shall be punished by imprisonment from five to twenty years and a fine of between 5,000,000 and 10,000,000.

Article 173: In the event of a conviction for the offenses provided for in this section, the judge shall order the deprivation of rights and the prohibition on appearing in certain places or the ban to reside on the territory of the Republic provided for in Articles 71-72, 80-83.

The judge shall also order the confiscation of property used to commit the offenses provided for in this section.

## **CHAPTER 3: OFFENSES AGAINST PUBLIC SECURITY**

### **Section 1: Armed gangs**

Article 174: Any person who, with a view to disturbing the State by any of the crimes provided for in Article 162, or by invading, looting or dividing up public or private property, or by attacking or resisting the public forces acting against the perpetrators of these felonies, heads armed gangs or exercises any function or command in them, shall be punished with life imprisonment.

The same penalty applies to the person who leads the association, incites or causes to be incited, organizes or causes to be organized gangs or, knowingly and willfully, provides or procures them with subsidies, weapons, ammunition and tools of the offence or sends them supplies or who, in any other way, practices intelligences with the leaders or commanders of the gangs.

Article 175: Individuals, who are part of the gangs, without exercising any command or duty, are punished with imprisonment of five to twenty years.

### **Section 2: Participation in an insurrection movement**

Article 176: An insurrection movement is any collective violence likely to endanger the institutions of the Republic or to undermine the integrity of the national territory.

Any person who participates in an insurrection movement is punished by imprisonment of five to twenty years for:

1° making or helping to make barricades, entrenchments or any other work whose purpose is to hinder or stop the operations of the public force ;

2° preventing, with the use of violence or threats, the convening or meeting of the police force, by provoking or facilitating the gathering of insurgents either by the giving orders or making proclamations, or by carrying flags or other rallying signs, or by any other means of appeal to gathering;

3° invading or occupying buildings, stations and other public facilities or houses whether inhabited or not in order to attack or resist the public force. The penalty is the same for the inhabitants of the premises who, without coercion and knowing the purpose of the insurgents, give them access to the said premises.

Article 177: Shall be is punished by imprisonment of five to twenty years, anyone who, in an insurrection movement:

1° seizes arms, ammunition or materials of any kind either by violence or threats, or by looting stores or offices, shops or other facilities, or by disarming agents of the public force;

2° carries arms or ammunition, or wears uniform or costume or other civil or military insignia.

If the bearer of arms or ammunition is wearing a uniform, costume or other civil or military insignia, he shall be punished by life imprisonment.

Article 178: Those who lead or organize an insurrection movement or who knowingly and voluntarily provide or procure arms, ammunition and tools of offence to the insurgents, or send supplies or who, in any way whatsoever, engage in intelligence with the leaders of the movement, shall be punished by life imprisonment.

### **Section 3: Offenses against public order**

Article 179: Shall be punished by imprisonment of three to five years, whoever, apart from the cases mentioned in articles 137 to 175:

1° is guilty of acts or maneuvers likely to jeopardize public security or to cause serious disturbances to public order, to discredit institutions and their functioning or to provoke and incite citizens or inhabitants to disobey laws and orders of the legitimate Authority;

2° uses, in any of the circumstances provided for in article 184, the means provided for in said article when such means are seditious or constitute a threat to public order.

Article 180: Anyone who accepts, asks for or accepts gifts, presents, subsidies, offers, promises or any other means, with a view to engaging in propaganda likely to compromise public security or to cause disturbances, to discredit institutions or their functioning, or to incite citizens or inhabitants to disobey the laws, shall be punished by imprisonment for one to five years and a fine of twice the value of the promises accepted or asked for or of the things accepted or asked for, without the said fine being less than 500.000 francs.

Article 181: Anyone who receives propaganda funds from abroad, directly or indirectly, in any form or for any purpose, and engages in political propaganda, shall be punished by imprisonment for one to five years and a fine of twice the value of the funds received, but not less than 500,000 francs.

Article 182: Anyone who distributes, puts on sale, exhibits to the public or holds for sale, distribution or exhibition, for propaganda purposes, leaflets or brochures of foreign origin or inspiration, of a nature detrimental to the national interest, shall be punished by imprisonment for a term of six months to five years and a fine of 300,000 to 3,000,000 francs.

Article 183: Any person who publishes, disseminates, discloses or reproduces by any means whatsoever, false news, fabricated or falsified documents or documents falsely attributed to third parties, when this results or could result in disobedience to the law, an assault on the morale of the population or discrediting institutions or their functioning, shall be punished by imprisonment of one to three years and a fine of 500,000 to 5,000,000 francs.

If the publication, dissemination, disclosure or reproduction is made through the press, the directors or co-managers of the publication or editors shall be liable to a fine of 500,000 to 5,000,000 francs.

Article 184: Anyone who, by means of gesture, verbally, shouting or threats, by writing, image, drawing, printed document, placard or poster or any other sound or visual means either in a public place or one that is open to the public, or by a means that allows visual or auditory contact with the public, directly provokes either theft, or murder, looting, arson or destruction of buildings, or any of the offences provided for in Chapters 2 and 3 of this Title, shall be punished:

1° if the provocation is followed by the action, to the same penalty as the perpetrators of the offence;

2° if the provocation is not followed by action, to imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs.

Article 185: Shall be punished by the penalties provided for in article 184-2° whoever, by any of the means referred to in the said article:

1° promotes murder, looting, arson or destruction of buildings, theft, crimes against the law of nations and the offences provided for in chapters 2 and 3 of this title ;

2° appeals to the public with the intention of making the Authority disapproved and provoking solidarity with one or more convicts for any of the offenses provided for in the preceding article or in the first paragraph of this article.

Anyone who organizes fundraising for the payment of fines imposed for any of these offenses is punished with the same penalties.

#### **Section 4: Violence against health personnel and facilities**

Article 186: Shall be punished by imprisonment of five to twenty years and a fine of 500,000 to 5,000,000 francs, anyone who, in times of peace or internal unrest and tension:

1° deliberately attacks hospitals or places where the sick or wounded are gathered, as well as medical equipment, units, means of transport and personnel;

2° hinders the passage of medical transport or the performance of medical missions by medical personnel.

#### **Section 5: Common provisions**

Article 187: Subject to the obligations resulting from professional confidentiality, any person who, having knowledge of a plan or an act of treason, espionage or any other activity likely to harm national defense, fails to report it to the authorities as soon as he has knowledge of it, shall

be punished in time of war by imprisonment of five to twenty years, and in time of peace by imprisonment for a term of between one and five years and a fine of between 300,000 and 3,000,000 francs.

In addition to the persons referred to in article 30, shall be punished as accomplice anyone who:

1° provides, without coercion and with knowledge of their intentions, subsidies, means of survival, accommodation, place of retreat or meeting place to the perpetrators of felonies or misdemeanors against State security;

2° knowingly carries the correspondence of the perpetrators of such felonies or misdemeanors or knowingly facilitates, in any way whatsoever, the search for, concealment, transport or transmission of the object of the felonies or misdemeanors.

In addition to the persons referred to in article 205, shall be punished for concealment anyone who:

1° knowingly conceals the objects or tools used or to be used to commit the felony or misdemeanor or the material objects or documents obtained by the felony or misdemeanor;

2° knowingly destroys, conceals, hides or alters a public or private document of a nature to facilitate the investigation of the crime or misdemeanor, the finding of evidence or the prosecution of the perpetrators and accomplices.

The spouse, descendants and ascendants in the direct line of descent of the convict benefit from the exculpatory excuse.

Other relatives and allies up to and including the fourth degree may benefit from the exculpatory excuse.

Article 188: Shall benefit from the exculpatory excuse:

1° anyone who, before the commission or attempted commission of an offence against State security, gives firsthand information to the authorities;

2° except for specific offenses that he has committed, anyone who, having been part of an armed group without exercising any command, quits at the first warning of the authorities or surrenders to them.

Shall benefit from mitigating excuse, anyone who:

1° reports the offence or its attempt before the proceedings are initiated;

2° after the initiation of the proceedings, secures the arrest of the offenders or accomplices either of the same offence or of other offences of the same nature or of equal gravity.

Article 189: The compensation received by the convict or its value are acquired by the Treasury by the decision of conviction.

Article 190: In the event of conviction for any of the offenses provided for in this chapter, the judge shall pronounce the deprivation of rights and the prohibition of appearing in certain places provided for in Articles 68 to 72, 80 and 8.

## **CHAPTER 4: OFFENSES AGAINST THE PUBLIC PEACE AND TRANQUILITY**

### **Section 1: Gatherings**

Article 191: Constitute a gathering:

1° any armed grouping of persons on the public highway or in a public place; the gathering is armed if at least one of the individuals in it is carrying a weapon;

2° any unarmed grouping of persons on the public highway or in a public place likely to disturb public order or public peace.

The gathering shall be dispersed by force after the competent administrative authority or a law enforcement officer wearing the insignia of his office has twice ordered the persons participating in the gathering to disperse, using any means likely to inform them effectively.

The gathering may also be dispersed by force and without warning if law enforcement officials are targets of violence or assault.

Article 192: Shall be punished by imprisonment of two months to one year and a fine of 100,000 to 1,000,000 francs, any unarmed person who is part of a gathering and does not quit it after the first warning.

Imprisonment shall be from six months to three years and a fine of 200,000 to 2,000,000 francs if the unarmed person continues to voluntarily take part in an armed gathering which was dispersed only after of the use of force.

Article 193: Anyone found carrying a weapon in an armed gathering shall be punished by imprisonment for six months to three years and a fine of 200,000 to 2,000,000 francs.

Imprisonment shall be from one to five years and a fine of 300,000 to 3,000,000 francs in the case of a gathering dispersed by force.

Any person who continues to be part of an assembly after the second warning by a representative of the public authorities may be sentenced to payment of the damage due to the gathering.

Article 194: Any direct provocation under the conditions provided for in article 184 to an unarmed gathering is punishable by imprisonment of one month to one year and a fine of

100,000 to 1,000,000 francs, if it is followed by action and, if not, by imprisonment for fifteen days to six months and a fine of 50,000 to 500,000 francs.

Any direct incitement under the same conditions to an armed assembly shall be punished by imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs if it is followed by action, and, if not, by imprisonment for three months to one year and a fine of 100,000 to 1,000,000 francs.

Article 195: In the event of conviction for one of the offenses provided for in this section, the judge shall pronounce the deprivation of rights and the prohibition of appearing in certain places provided for in articles 68 to 72, 80 and 81.

## **Section 2: Public demonstrations**

Article 196: Persons who, when planning a demonstration on the public highway, make an incomplete or inaccurate declaration likely to mislead as to the conditions of the demonstration or who, either before the declaration is filed or after the prohibition, send by any means an invitation to take part in the said demonstration, shall be punished by imprisonment of one to six months and a fine of 100,000 to 1,000,000 francs.

Article 197: Persons who take part in a prohibited demonstration shall be punished by imprisonment of between six months and two years and a fine of between 100,000 and 1,000,000 francs.

Article 198: Persons who organize an undeclared or prohibited demonstration shall be punished by imprisonment for one to three years and a fine of 500,000 to 5,000,000 francs.

Article 199: Persons who participate in the organization of an undeclared or prohibited demonstration shall be punished by imprisonment for one to three years and a fine of 500,000 to 5,000,000 francs.

Article 200: In the cases provided for in articles 197 and 198, a ban on appearing in certain places for five years may be pronounced.

Article 201: Anyone found to be carrying a weapon, object or dangerous tool during a demonstration shall be punished by imprisonment for one to five years and a fine of 500,000 to 5,000,000 francs. The convict may also be banned from appearing in certain places for five years.

## **Section 3: Disruption of meetings and assemblies**

Article 202: Anyone who, verbally or by threats, by violence or force or in any other way, disturbs, prevents or disperses a meeting, demonstration, procession or assembly of any kind, duly notified or authorized, shall be punished by imprisonment of one to six months.

If the meeting, demonstration, procession or assembly is of an official nature or is organized by a public authority within the scope of its powers, the penalty shall be imprisonment for three months to one year.

If the offenders referred to in this article are carrying weapons, the penalty shall be imprisonment for a term of six months to two years.

#### **Section 4: Criminal gangs and concealment**

Article 203: Anyone who joins a gang or participates in a gang agreement, regardless of the duration or the number of members, with the aim of preparing or committing felonies or misdemeanors against persons or property, shall be punished by imprisonment of one to five years.

The felonies provided for in the preceding paragraph shall be punishable by a minimum term of imprisonment of five years or more.

The penalty is imprisonment for five to ten years, if the offender has tools or means suitable for committing offenses or if he is carrying weapons.

The offender, who, prior to any prosecution, reveals to the authorities the agreement or the gang existence of the association benefits from the exculpatory excuse.

Article 204: Persons who, knowingly and without being forced to do so, usually provide shelter, a meeting place, means of communication or tools to criminals who are part of the gangs or agreement, as referred to in the preceding article, are punished as accomplices.

The provisions of paragraph 3 of the preceding article shall apply.

Article 205: Persons who, apart from the cases provided for in the preceding article, knowingly give asylum to a person whom they know to have committed a felony or misdemeanor or whom they know to be wanted for a felony or misdemeanor, or who protect or attempt to protect the said person from arrest or investigation, in particular by concealing or destroying the object, proceeds or instruments of the felony or misdemeanor or its evidence, or who help him or her to hide or to flee, shall be punished by imprisonment for a term of one month to three years.

The provisions of the preceding paragraph shall not apply to the spouse, parents or relatives of the person concerned up to and including the fourth degree, or to any person not depending on the person concerned.

#### **Section 5: Disbanded fighting groups and movements**

Article 206: Any group of persons possessing or having access to arms, with a hierarchical organization and likely to disturb public order, constitutes a fighting group.

Article 207: Anyone who participates in a fighting group is punished by imprisonment of one to three years and a fine of 300,000 to 3,000,000 francs.

Article 208: Anyone who creates a fighting group is punished by imprisonment for one to five years and a fine of 500,000 to 5,000,000 francs.

Article 209: Anyone who participates in the continuation or reconstitution, whether overt or covert, of an association or grouping dissolved by the competent authority shall be punished by imprisonment of between six months and one year and a fine of between 100,000 and 1,000,000 francs.

Art. 210: In the event of a conviction for one of the offenses provided for in this section, the judge shall order the deprivation of rights and the prohibition of appearing in certain places or the ban on residence on the territory of the Republic provided for in articles 68 to 72 and 80 to 83.

Article 211: Legal persons found criminally liable for the offenses provided for in this section shall be subject to a fine of between 5,000,000 and 50,000,000 francs.

Article 212: The judge shall also order the confiscation of movable and immovable properties used to commit the offences provided for in this section.

### **Section 6: Trespassing in an educational institution**

Article 213: Anyone who enters or remains within the an educational institution without being authorized to do so by virtue of legislative or regulatory provisions or having been authorized to do so by the competent authorities, with the aim of disrupting the peace or order of the institution, is punished by imprisonment of between six months and one year and a fine of between 100,000 and 1,000,000 francs.

When the offence provided for in the preceding paragraph is committed by a person carrying a weapon, the penalty is imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs.

Article 214: When the offense provided for in paragraph 1 of the preceding article is committed in a group, the penalty is imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs. When the offence provided for in the preceding paragraph is committed in a group with at least one person carrying a weapon, the penalty is imprisonment for five to ten years and a fine of 1,000,000 to 5,000,000 francs.

Article 215: In the event of conviction for one of the offenses provided for in this section, the judge shall pronounce the deprivation of rights and the prohibition to appear in certain places or the ban on residing on the territory of the Republic provided for in articles 68 to 72 and 80 to 83.

The judge shall also order the confiscation of movable properties used to commit the offenses provided for in this section.

### **Section 7: Introduction of weapons into an educational institution**

Article 216: Any person authorized or entitled to enter an educational institution who enters or remains there carrying a weapon without legitimate reason shall be punished by imprisonment of three months to one year and a fine of 100,000 to 500,000 francs.

### **Section 8: Begging**

Article 217: Any person who, being able to perform paid work, habitually engages in begging, using threats or entering a residential building or an outbuilding against the will of the occupant, shall be punished by imprisonment for a term of ten months to two years.

The penalty shall be doubled against the person who provokes or incites to commit the offence.

The convicted person may be prohibited from appearing in certain places for five years or banned from residing on the territory of the Republic.

Article 218: A beggar who is found carrying a weapon or any other tools suitable for committing theft or other offenses, or providing the means to enter homes, shall be punished by a term of imprisonment of two to five years.

Article 219: A beggar who commits violence against persons or their properties is punished by imprisonment of two to five years.

If the violence is accompanied by one of the circumstances mentioned in article 218, the penalties shall be doubled.

Article 220: The penalties provided for in this Law against individuals carrying false certificates, passports or travel documents shall be doubled when applied to beggars.

### **Section 9: Infringement of the freedom of worship and the dignity of corpses**

Article 221: Shall be punishable by a prison term of fifteen days to six months and a fine of 50,000 to 500,000 francs, any person who, by assault, violence or threats, causes an individual to practice or refrain from practicing a religion, to belong or to cease to belong to a religious association.

Article 222: Any person who, by disturbance or disorder, prevents, delays or interrupts the worship in the usual places of celebration shall be punished by the penalties provided for in the preceding article.

Article 223: Shall be punished by an imprisonment of six days to three months, whoever, verbally or by gesture or writing, publicly insults a religious leader on the occasion of the exercise the ministry.

Anyone who uses violence or assault against a religious leader in the exercise of his ministry is punished by imprisonment of one month to two years.

Article 224: Shall be punished by an imprisonment of one month to one year and a fine of 50,000 to 500,000 francs, whoever:

- 1° disrupts a funeral ceremony or convoy;
- 2° infringes or desecrates the place where a dead person rests;
- 3° defaces or desecrates a funerary monument.

Article 225: Shall be punished by imprisonment of two months to two years and a fine of 100,000 to 1,000,000 francs, any person who:

- 1° desecrates or mutilates all or part of a corpse, whether buried or not;
- 2° outrages or publicly strikes a corpse;
- 3° causes a corpse or part of a corpse to disappear or be removed.

## **Section 10: Racial or religious discrimination**

Article 226: For the purposes of this section, is qualified as:

1° racism, any form of physical, moral or intellectual hostility or any manifestation of hatred towards a human being or a community because of its racial origin or the color of its skin, any acts, words or writings aimed at establishing or instituting a hierarchy of races, the preservation or exaltation of a so-called superior race;

2° xenophobia, any manifestation of hostility or hatred towards a person or a group of persons because of their nationality or foreign origin;

3° tribalism, any manifestation of hostility or hatred towards a person or a group of persons, based exclusively on ethnic or tribal origin, any favors granted to a person or a group of persons on the basis of exclusively tribal or ethnic considerations;

4° racial discrimination, any distinction, exclusion, restriction or preference based on race, color, descent or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life public life;

5° religious discrimination means any distinction, exclusion, restriction or preference based on religion which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Article 227: The above provisions do not apply:

1° to distinctions, exclusions, restrictions or preferences established by the State of Côte d'Ivoire between its nationals and foreign nationals;

2° to special measures taken in favor of certain racial or ethnic groups, or individuals in need of special protection for the exercise of their fundamental rights;

3° distinctions and clarifications made for purely scientific or technical purposes in documents intended exclusively for specialists in the above-mentioned fields

4° to jokes relating to interethnic alliances established according to the customs and traditions of the populations of Côte d'Ivoire.

None of the above provisions shall be interpreted as affecting in any way the legislative or regulatory provisions of the State of Côte d'Ivoire relating to nationality and citizenship.

Article 228: Anyone who is guilty of racism, xenophobia, tribalism or racial or religious discrimination shall be punished by imprisonment for five to ten years and a fine of 500,000 to 5,000,000 francs.

The penalty shall be doubled if:

1° the offence was committed by means of the written press or any other written material, radio, television or any other information and communication technology instrument allowing for widespread dissemination ;

2° the offence was committed on the occasion of or in the course of a political demonstration or rally of a political nature;

3° the offence was committed by a public official within the meaning of article 254, in which case the court may order the removal from office if the offender was responsible for protecting the rights he or she violated;

In the event of a conviction for tribalism, the trial court shall order the revocation of the benefits unduly granted.

Article 229: Defamation, insult or threats made under the conditions provided for in article 184 against a group of people who belong by their origin to a particular race, ethnic group or religion,

shall be punishable by imprisonment for five to ten years and a fine of 500,000 to 5,000,000 francs.

These penalties shall be doubled if the offence was committed through the press, radio or television.

Anyone who denies another person access to places open to the public, to a job or to housing solely on the grounds of race, ethnicity or religion shall be liable to the same penalties.

Article 230: Anyone who deliberately causes bodily harm to a person, in particular by means of scarification, indelible tattooing, and teeth marking or by any other process likely to characterize the membership of this person to a specific ethnic group or grouping, shall be punishable by imprisonment of one to five years and a fine of 100,000 to 500,000 francs.

Article 231: Anyone who is guilty of disseminating false information or rumors with a racial connotation, with the intention of stirring up one community against another, even if the uprising did not take place shall be punished by imprisonment for a term of five to ten years and a fine of 500,000 to 5,000,000 francs.

Anyone who, with no grounds, makes accusations of racism, xenophobia or racial or religious discrimination against all or part of the Ivorian people in the foreign press, on foreign radio and television, by means of new information and communication technologies allowing for large-scale dissemination, in international meetings or forums held on the territory of a foreign State, shall be punished by the same penalties.

The penalty shall be doubled if:

- 1° the offender is of Ivorian nationality;
- 2° the offender is on duty in chancelleries or Ivorian diplomatic and consular missions abroad;
- 3° the offender represents Côte d'Ivoire in an international organization.

Article 232: Any person convicted under the provisions of this section may be deprived of the rights mentioned in article 68.

The publication of the conviction may be ordered.

Article 233: The offenses provided for in this section constitute misdemeanors.

### **Section 11: Illegal gambling and pawn-broking**

Article 234: Shall be punished by an imprisonment from two months to one year and a fine year and a fine of 500,000 to 5,000,000 francs, or one of these two penalties only, any person who, without authorization, and in a public place or a place open to the public:

1° runs a gambling house;

2° operates machines whose functioning is essentially based on chance and gives the hope of a large gain for a relatively small stake;

3° organizes lotteries, bets or raffles.

In any event, all funds or items found exposed, furniture, equipment, appliances used, movable property with which the premises are furnished or decorated are confiscated.

Article 235: Shall be punished by imprisonment of two to six months, persons who, whether or not they have a fixed residence, usually earn their living by practicing or facilitating on the public highway, in a public place or in a place open to the public, unlawful games.

Article 236: Any person who runs or maintains a pawnshop or pledge house without legal authorization, or who, having an authorization, does not regularly keep the prescribed business registers, shall be punished by imprisonment of fifteen days to three months and a fine of 50,000 to 500,000 francs.

## **Section 12: Charlatanism, witchcraft or magic**

Article 237: Any person who engages in charlatanism, witchcraft or magic practices that are likely to disrupt public order or harm persons or property is punished by imprisonment of one to five years and a fine of 100,000 to 1,000,000 francs

## **CHAPTER 5: FELONIES AND MISDEMEANORS AGAINST THE CONSTITUTION**

### **Section 1: Felonies and misdemeanors against the exercise of civil rights**

Article 238: Shall be punished by imprisonment of one month to one year, and a fine of 100,000 to 1,000,000 francs, any person, by using false names, false positions, false declarations, and false certificates or by concealing an electoral incapacity:

1° causes himself to be entered on a list of voters;

2° obtains a registration on several lists

3° causes a voter to be entered or struck off a list of voters without justification.

Any person who votes either by virtue of a registration obtained in the cases referred to above or by falsely taking the name and capacity of a registered voter shall be punished by imprisonment for a term of six months to two years and a fine of 70,000 to 700,000 francs.

Any voter who takes advantage of a multiple registration to vote more than once shall be liable to the same penalty.

Article 239: Any person who, being in charge in a ballot of receiving, counting or tallying the ballot papers containing the votes, removes, adds or alters ballot papers, or reads a name other than the one entered, shall be punished by imprisonment for one to five years and a fine of 100,000 to 1,000,000 francs..

Any other person guilty of the facts set forth in the preceding paragraph shall be punished by imprisonment of six months to two years and a fine of 100,000 to 1,000,000 francs.

Article 240: Anyone who enters a polling station with a weapon, without legitimate reason, shall be punished by imprisonment of fifteen days to three months.

Article 241: Anyone who, by means of false news, slanderous rumors, fraudulent tactics, abuse of authority, gifts or promises, deceives or diverts votes or causes one or more voters to abstain from voting, shall be punished by imprisonment of between one month and one year and a fine of between 100,000 and 1,000,000 francs..

Article 242: When, by assembling, shouting, threatening demonstration or violent intrusion, the electoral processes, the exercise of the electoral right or the freedom to vote are undermined, the convicts shall be punished by imprisonment of three months to two years and a fine of 50,000 to 500,000 francs.

If the offenders are carrying weapons or if the ballot has been tampered with, the penalty is increased to five years.

If the acts were committed as a result of a plan agreed on to be carried out in one or more counties, the penalty is imprisonment for five to twenty years.

Article 243: Persons who, during the electoral operations, are guilty of insults or violence either towards the polling station or towards one of its members, or who, by assault or threats, have delayed or prevented the electoral operations, shall be punished by imprisonment for a period of one month to one year and a fine of 100.000 to 1.000.000 francs.

If the ballot has been tampered with, the imprisonment is from one to five years and the fine from 200,000 to 2,000,000 francs.

The tampering with the ballot committed either by the members of the polling station, or by the agents of the authority in charge taking care of the not yet counted ballot papers shall be punished by imprisonment from two to ten years.

Article 244: Any person who removes or destroys the ballot box containing the votes that are not yet counted shall be punished by imprisonment of one to five years and a fine of 200,000 to 2,000,000 francs.

If this removal or destruction is carried out with violence, the penalty is doubled.

The attempt is punishable.

Article 245: Anyone who buys or sells a vote shall be punished by imprisonment of three months to one year and a fine of twice the value of the things received or promised.

Article 246: Criminal and civil proceedings for the sanctioning of the offenses referred to in this section shall be barred after three months, beginning with the month in which the results of the election were declared.

In no case shall a conviction have the effect of nullifying an election that has been declared valid by the competent authorities or that has become final as a result of the absence of any regular protest made within the time limits laid down by the laws and regulations on the said election.

## **Section 2: Offenses against freedom**

Article 247: Any public official, as defined under article 254, who orders or performs any arbitrary act or act that infringes on individual freedom, civil rights or the Constitution, shall be punished by imprisonment of three months to one year.

If the acts mentioned in the first paragraph have been ordered by a member of the Government, he shall be punished by imprisonment of six months to two years.

The persons referred to in this article shall benefit from the exculpatory excuse if they can prove:

1° that their good faith has been deceived;

2° that they have taken all useful measures to stop the act or to report the offender.

Article 248: If the act violating the Constitution is performed with the forged signature of a member of the Government or of a public official within the meaning of Article 254, the offender and anyone who knowingly makes use of the forgery shall be punished by imprisonment for a term of five to twenty years.

Article 249: Those who, being in charge of the administrative or judicial police, deny or neglect to comply with an investigation to establish illegal and arbitrary detentions either in prisons or in any other place and who do not prove having reported them to the higher authority, shall be punished by imprisonment of three months to one year.

Article 250: Shall be punished by six months to two years correctional institution agents who:

1° admit a person into custody without a warrant or judgment or in the case of deportation or extradition without an order from a legitimate authority

2° detain a person beyond the date of his release;

3° refuse to bring a detainee before the competent authorities

4° remove detained persons without an order from the lawful authority

5° refuse to provide their records to the same authorities.

Article 251: Any magistrate or judicial police officer who provokes, gives or signs a judgment, order or warrant for the prosecution, indictment or arrest of a person without having obtained the prior authorizations that may be required by law, is punished by imprisonment of three months to one year.

Article 252: Magistrates or judicial police officers who detain or cause to be detained a person outside the places or beyond the time limits specified by the legislation in force shall be punished by imprisonment of three months to one year.

### **Section 3: Interfering with administrative and judicial authorities**

Article 253: Shall be punishable by imprisonment of six months to three years:

1° magistrates who interfere in the exercise of legislative power, in particular by stopping or suspending the execution of one or more laws;

2° magistrates and judicial police officers who act beyond their powers by interfering in the attributions of administrative authorities, in particular by issuing regulations falling within the competence of these authorities and by forbidding the execution of their orders;

3° prefects, sub-prefects, mayors and other administrators who interfere in the exercise of legislative or judicial power, or who issue orders or bans of any kind to courts or tribunals or who impede the execution of judicial decisions.

### **Section 4: Common provisions**

Article 254: In all cases provided for in this chapter, the judge may deprive the convicted person of the rights referred to in article 68.

## **CHAPTER 6: OFFENSES AGAINST OFFICE DUTIES COMMITTED BY PUBLIC OFFICIALS**

Article 255: For the purposes of this law, a public official is defined as:

1° any natural person who holds an elective, executive, administrative, military, paramilitary or judicial position, whether appointed or elected, on a permanent or temporary basis, whether paid or not, and regardless of his or her hierarchical level;

2° any person who performs a public duty, including for a public entity or a public enterprise, or who provides a public service;

3° any person entrusted, even occasionally, with a public service or mission, acting in the exercise or on the occasion of the exercise of his duties;

4° any public or ministerial official;

5° any agent, employee or clerk of any other legal person governed by public law or of any a public or ministerial official;

6° and in general, any other person acting in the name of the State and/or with the resources of the State, or defined as a public official or assimilated thereto, in accordance with the regulations in force.

### **Section 1: Coalition of public officials**

Article 256: Punished by imprisonment of six months to three years public officials who form a coalition and decide on:

1° measures contrary to the laws or regulations legally adopted;

2° measures against the execution of the decisions of the Administration and the Judiciary;

3° measures, in particular collective resignations, whose purpose is to prevent or suspend either the execution of a public service or the administration of Justice.

If this coalition takes place between civil and military authorities, the offenders are sentenced to imprisonment for two to five years.

### **Section 2: Abuse of authority**

Art. 257. - Any public official who, acting in this capacity, has entered the home of a person against his or her will, outside the cases provided for by law or without the formalities prescribed by law, is punishable by imprisonment of three months to one year and a fine of 50,000 to 500,000 francs.

Article 258: Any judge who, even in the case of silence or obscurity of the law, refrains from ruling and who, after a party has made a request, perseveres in his denial of justice, is punished by a fine of 50,000 to 500,000 francs.

The exercise of any public duty may, in addition, be prohibited for five years.

Article 259: Any public official who, without legitimate reason, uses or causes to be used violence against persons in the exercise or on the occasion of the exercise of his duties, shall be punished according to the nature and gravity of such violence and the penalty shall be increased in accordance with the rule laid down in article 106.

Article 260: Any public official who requests or orders, or causes to be requested or ordered, the action or use of public force, against the execution of a law or against the collection of a legal contribution, or against the execution of either an order or a warrant, or of any other order of legitimate authority, shall be punished by imprisonment for a term of two to ten years.

If this request or order is followed by actions, the penalty is increased to the maximum.

In this case, articles 114 and 115 shall not apply.

Article 261: If, as a result of the orders or requests, other offenses punishable by greater penalties than those provided for in Article 259 are committed, these greater penalties shall be applied to the public officials guilty of having given the orders or made the requests.

Article 262: Any public official who, after having been officially informed of the cessation of his duties or mandate, but continues to exercise them, shall be punished by imprisonment for a term of six months to two years and a fine of 50,000 to 500,000 francs.

Article 263: In all the cases referred to in this chapter, the judge may deprive the convicted person of the rights listed in article 68 and impose on him the ban on appearing in certain places provided for in article 80.

## **CHAPTER 7: OFFENSES AGAINST PUBLIC AUTHORITY AND THE FUNCTIONING OF PUBLIC SERVICES**

### **Section 1: Offending and slandering Heads of state, representatives of foreign governments and national and foreign emblems**

Article 264: Anyone who, under the conditions provided for in article 184, offends the President of the Republic or the Vice President of the Republic is punished by imprisonment of three months to two years and a fine of 300,000 to 3,000,000 francs, or by one of these two penalties only.

Article 265: Any person who, under the conditions provided for in article 184, publicly offends a foreign Head of State or Government shall be punished by imprisonment for a term of three months to two years and a fine of 300,000 to 3,000,000 francs, or by one of these two penalties only.

Article 266: Any person who, under the conditions provided for in article 184, insults ambassadors and plenipotentiary ministers, envoys, chargés d'affaires or other diplomatic representatives accredited to or on mission with the Government of the Republic, shall be punished by imprisonment of between fifteen days and one year and a fine of between 100,000 and 1,000,000 francs, or by one of these two penalties only.

Article 267: Anyone who, with malicious intent, contempt or any other similar sentiment, in a public place, open or exposed to the public, tears off, destroys, degrades or outrages the national

emblem or the national coat of arms, shall be punished by imprisonment for a period of one month to two years and a fine of 50,000 to 500,000 francs, or by one of these penalties only

A person who, under the same conditions, tears off, destroys, damages or outrages the emblem or coat of arms of a foreign nation used on the occasion of a public ceremony or displayed publicly by an official representative of that nation accredited to the Government of the Republic shall be liable to the same penalty.

## **Section 2: Contempt against public authorities**

Article 268: Anyone who, under the conditions provided for in article 184, insults the Prime Minister, the President of the National Assembly, the President of the Senate, the President of the Constitutional Council, the President of the Economic, Social, Environmental and Cultural Council, the Ombudsman of the Republic or the President of the Supreme Court, the President of the Court of Auditors or any other President or head of a national institution shall be punished by imprisonment of between one month and two years and a fine of between 200,000 and 2,000,000 francs.

Article 269: Any person who, under the conditions set out in article 184, in the exercise of his or her duties or on the occasion of the exercise of his or her duties, outrages a member of the Government, a member of the National Assembly, a Senator, a member of the Economic, Social, Environmental and Cultural Council, a magistrate of a Supreme Court or a member of a national institution, shall be punished by imprisonment for a period of between fifteen days and two years and a fine of between 100,000 and 1,000,000 francs.

Article 270: Any person who, under the conditions provided for in article 184, outrages a magistrate other than those referred to in the preceding article, a member of the jury or assessor, in the exercise of his duties or during the exercise of his duties, shall be punished by imprisonment for a period of eight days to two years and a fine of 50,000 to 500,000 francs.

Article 271: If the contempt referred to in articles 267, 268 and 269 is committed during an official ceremony, in an assembly or at a court hearing, the penalty is imprisonment for one to three years.

Articles 114 and 115 shall not apply.

Article 272: Contempt committed under the conditions provided for in article 184 and directed at any public official, in the exercise or on the occasion of the exercise of his duties, shall be punishable by imprisonment for a period of fifteen days to three months and a fine of 50,000 to 500,000 francs or one of these two penalties only.

Article 273: Any person who, under the conditions provided for in Article 184, seeks to throw discredit on a judicial act or decision, in such conditions as to undermine the authority of the

judiciary or its independence, shall be punished by one to six months imprisonment and a fine of 50,000 to 500,000 francs, or by one of these two penalties only.

The judge may, in addition, order the convict to be prohibited from appearing in certain places.

Article 274: Any person who, before the final judicial decision is made, publishes comments intended to exert pressure on the statements of witnesses or on the decision of the investigating or trial courts shall be liable to the penalties provided for in the preceding article.

Article 275: If the offenses provided for in this section are committed through the press, the second paragraph of article 183 shall apply.

### **Section 3: Violence against public authorities**

Article 276: Shall be punished by an imprisonment of two to five years and a fine of 100.000 to 1.000.000 francs, whoever exerts violence or assaults, without resulting in injury, on the President of the National Assembly, the President of the Senate, the President of the Constitutional Council, the President of the Economic, Social, Environmental and Cultural Council, the Ombudsman of the Republic, the President of the Supreme Court, the President of the Court of Auditors or any other president or head of a national institution on the occasion of or in the exercise of his duties.

If the victim is a member of that assembly, council, court or institution or a magistrate other than those referred to in the preceding paragraph, a member of the jury or assessor, the penalty shall be imprisonment for two to five years and a fine of 50,000 to 500,000 francs.

The penalty is three to five years imprisonment if the assault takes place under the conditions referred to in the first paragraph of article 270.

Articles 114 and 115 are not applicable.

The judge may, in addition, deprive the convicted person of the rights listed in article 68.

Article 277: Violence or assault of the kind mentioned in the preceding article directed against a public official, if it takes place while he is performing his duties or on the occasion of the performance of his duties is punishable by imprisonment of one month to three years and a fine of 100,000 to 1,000,000 francs.

Article 278: If the violence referred to in the two preceding articles has caused injury or illness, the penalty is imprisonment for five to twenty years.

If the violence has caused death, the maximum of this penalty shall be pronounced.

Articles 114 and 115 shall not applicable.

If the violence has not caused injury or illness, the penalty shall be imprisonment of five to twenty years if committed with premeditation.

If the violence is committed with intent to kill, the guilty party is punished with life imprisonment.

#### **Section 4: Threats and acts of intimidation against persons holding public office**

Article 279: Shall be punishable by imprisonment of one month to three years and a fine of 100,000 to 1,000,000 francs whoever threatens to commit a felony or an misdemeanor against persons or properties of a person holding an elective public office, a magistrate, a lawyer, a public or ministerial official, a member of the National Gendarmerie, a member of the National Police, the customs, the labor and social laws inspection, the correctional administration, a military or volunteer firefighter or any other person in a position of public authority, in the exercise or because of his duties, when the status of the victim is apparent or known to the offender.

Article 280: Shall be punished by imprisonment of one month to one year and a fine of 100.000 to 1.000.000 francs anyone who threatens to commit a felony or misdemeanor against persons or property of an agent, a public transport network operator, a teacher or any member of staff working in public school establishments or any other person entrusted with a public service mission, as well as a health professional, in the exercise of his or her duties, when the victim's status is apparent or known to the offender.

Article 281: The same penalties shall be applicable in the event of threats made against the spouse, ascendants or descendants in the direct family line of the persons mentioned in the two preceding articles or any other person usually living in their home, by reason of the functions exercised by these persons.

The penalty is doubled when it is a threat of death.

#### **Section 5: Rebellion**

Article 282: The fact of resisting, by means of threats, violence or assault, a public official acting in the exercise of his duties, for the execution of laws, orders of the public authority, decisions or judicial mandates, constitutes rebellion.

Article 283: Anyone who commits rebellion shall be punished by imprisonment of three months to one year.

If the offender is carrying a weapon, the sentence of imprisonment shall be from one to two years.

Article 284: If the rebellion is committed in a group, the sentence of imprisonment shall be increased to five years.

If one of the offenders is carrying a weapon, the penalty shall be ten years.

Article 285: Articles 114 and 115 shall not apply to articles 282 paragraph 2 and 283.

Article 286: In the event of a conviction for one of the offenses provided for in this section, the judge shall pronounce the deprivation of rights and the prohibition of appearing in certain places or the ban on residence on the territory of the Republic provided for in articles 68 to 72 and 80 to 83.

### **Section 6: Non-compliance with administrative and judicial decisions**

Article 287: Shall be punished by imprisonment of one month to one year any person who:

1° appears in a place where he is prohibited or circumvents the measures of surveillance or assistance of which he is the subject in application of 80;

2° returns to the place where the offence took place, or to the place of residence of the victim, contrary to the prohibition imposed on him under article 80;

3° exercises a profession that was prohibited or reopens a business that was closed, pursuant to articles 84 and 85;

4° violates one of the deprivations of rights under article 68;

5° circumvents a measure of assistance or post-custodial supervision imposed on him under articles 87 and 88;

6° violates the prohibition on re-entering the territory of the Republic duly notified pursuant to articles 82 and 83 or to a deportation order;

7° removes, covers or defaces a sign posted in accordance with articles 77,

8° fails to comply with the obligations relating to salaries and allowances under article 84, paragraph 6;

9° deliberately refuses to comply with an enforceable or final court decision.

Article 288: Any person who knowingly breaks or attempts to break seals affixed by decision of the Administration or in execution of a court decision in any matter whatsoever shall be punished by imprisonment of one to three years.

Where seals have been broken, the custodian shall be punished, in case of negligence, with six days to six months imprisonment.

If he breaks the seal himself, he shall be imprisoned for two to five years.

If the breaking of the seal was committed with violence against persons, the offender is punished with five to ten years of imprisonment.

Article 289: Anyone who, while legally detained, escapes or attempts to escape shall be punished by imprisonment of three months to one year.

If the escape or attempted escape is made by the breaking of a prison or violence against persons, the penalty shall be imprisonment for one to five years.

If the escape or attempted escape is carried out with weapons, the penalty shall be imprisonment for two to ten years.

Any prisoner who escapes or attempts to escape from a health or hospital facility to which he has been transferred, or while he is employed outside a prison facility or on permission, or during a transfer, shall be punished with the same penalties and according to the distinctions provided for in the preceding paragraphs.

Article 290: Persons responsible for the prison responsible for the custody or transportation of the detainees shall be punished, in the case of negligence, by imprisonment for a term of ten days to six months, and in the case of complicity, by the same penalties imposed on the detainee for escape or attempted escape, according to the distinctions referred to in the preceding article..

In case of negligence, the arrest of the escapee within a period of four months from the date of his escape shall terminate the public prosecution under the present article.

Article 291: No proceedings shall be instituted against persons who have attempted to procure or facilitate an escape, if, before the escape is carried out; they have informed of the plan to the administrative or judicial authorities and have revealed to them the authors of the plan.

Article 292: Anyone who, in violation of the regulations of the prison administration, hands over or attempts to hand over to a detainee, in any place whatsoever, sums of money, correspondence or any other objects, shall be punished by imprisonment for a period of fifteen days to six months.

Any person who, under the conditions of the preceding paragraph, takes out or attempts to take out money, correspondence or any other object from a prisoner shall be punished by the same penalty.

### **Section 7: Hindering the functioning of public services**

Article 293: Any person who is guilty of removing or destroying documents, papers, registers, deeds or objects, regardless of their medium, contained in archives, registries or public repositories, in pending or closed proceedings, or handed over to a public depository in this capacity, shall be punished by imprisonment of one to five years.

The penalties provided for in the first paragraph of this article shall be increased to double:

1° if the offence is committed by the depository himself;

2° if the offence is committed with violence against persons;

3° if the documents, papers and other materials removed or destroyed were of a nature to facilitate the investigation of felonies and misdemeanors, the discovery of evidence or the punishment of the offender.

If the offence was committed because of the negligence of the depository, he shall be punished by imprisonment of three months to one year.

Article 294: Any person who, without authority or authorization, takes a copy, in whatever form and by whatever means, of a secret or confidential administrative document shall be liable to imprisonment for a term of three months to one year.

Article 295: Any public official who, by his negligence or systematic obstruction, causes delays, slowdowns or disorders seriously affecting the functioning of the public service he is responsible for, shall be punished by imprisonment for one to three months and a fine of 100,000 to 1,000,000 francs.

Article 296: Any person who, by means of assault, threats or planned maneuvers, organizes or attempts to organize a collective refusal to pay taxes, duties, fees or other fiscal charges, whatever their nature, shall be punished by imprisonment of between six months and two years and a fine of between 100,000 and 1,000,000 francs..

Article 297: Any person who incites the public to delay the payment of taxes, duties, fees or other charges shall be punished by imprisonment of three months to one year and a fine of 50,000 to 500,000 francs.

Article 298: Any person who terminates or suspends a contract of employment or supply when the foreseeable consequence of such break or suspension is either a serious danger to public health or public order, or serious bodily harm, or serious deterioration of property of any kind, shall be punished by imprisonment of one to six months.

This article shall not apply to the person who gives a minimum of fifteen days' notice

Article 299: Anyone who, in public examinations and competitions, is guilty of fraud, in particular either by knowingly communicating the test or the answer to one of the interested parties, or by making use of false documents, such as diplomas, certificates, birth certificates or other documents, or by substituting a third party for the real candidate, or by substituting another copy for the original copy, shall be punished by imprisonment of one month to three years and a fine of 50,000 to 500,000 francs, or by one of these two penalties only.

Any candidate who participates in fraud or knowingly profits from it shall be punished by the same penalties.

Article 300: Shall be punished by an imprisonment of one month to two years and a fine from 50.000 to 500.000 francs, whoever voluntarily destroyed, defaced, degraded or moved without authorization:

1° monuments, statues or other objects intended for public use or decoration, or belonging to public collections;

2° signals, boundary markers or landmarks used for the execution of geodetic or cadastral works;

Article 301: In all the cases provided for in this section, the deprivation of rights and the prohibition to appear in certain places referred to in articles 68 and 80 may be ordered.

### **Section 8: Guilty abstentions**

Article 302: Any person who, by immediate action, can prevent, without risk to himself or to third parties, either an act qualified as a felony or a misdemeanor against the physical integrity of the person, voluntarily abstains from doing so, shall be punished by imprisonment for a term of three months to five years and a fine of 300,000 to 3,000,000 francs, or by one of these two penalties only.

Article 303: Shall be punished by imprisonment from one month to three years, anyone who, having knowledge of a felony or misdemeanor already attempted or committed, did not, while it was still possible to prevent or limit its consequences or when it could be thought that the offenders or one of them would commit new felonies or misdemeanors that could be prevented by a denunciation, immediately warn the administrative or judicial authorities.

These provisions shall not apply to the spouse, parent or relative of the offender up to and including the fourth degree, or to his or her partner or any person who is not related to him or her.

Article 304: Any person who, knowing the evidence about the innocence of a person in preventive detention or on trial for a felony or misdemeanor, voluntarily refrains from immediately giving testimony to the judicial or police authorities shall be subject to the penalties provided for in the preceding article.

However, no penalty shall be pronounced against the person who gives his testimony late but spontaneously.

The provisions of the preceding paragraph shall not apply to the spouses, parents or relatives, up to and including the fourth degree, of the offender or accomplices of the felony or misdemeanor, their common-law partner or any person who is not related to them.

Article 305: Anyone who has knowledge of deprivation, ill-treatment or sexual aggression inflicted on a minor of fifteen years of age or on a person who is unable to protect himself because of his age, illness, disability, physical or mental deficiency or pregnancy, and fails to inform the judicial or administrative authorities thereof shall be punished by imprisonment of one to three years and a fine of 100,000 to 1,000,000 francs.

The provisions of the preceding paragraph shall apply even to persons bound by professional secrecy.

### **Section 9: Illegal status use**

Article 306: Shall be punishable by imprisonment of six months to one year and a fine of 100,000 to 1,000,000 francs the fact, by the founder or the *de jure or de facto* director of an enterprise which pursues a profit-making aim, of including or allowing to be included, in an advertisement carried out in the interest of the enterprise which he proposes to found or which he manages:

1 ° the name, with mention of status, of a member or a former member of the Government, of the Parliament, of a decision-making body of a territorial entity, of the Constitutional Council, of the Supreme Court, of the Court of Auditors, of the Superior Council of the Judiciary, of the Economic, Social, Environmental and Cultural Council or of a collegial body invested by law with a mission of control or advice;

2° the name, with mention of his or her function, of a magistrate or former magistrate, of a civil servant or former civil servant or of a public or ministerial official;

3° the name of a person with mention of the decoration that was awarded to him by the public authority;

The same penalties shall apply to a banker or seller making use of the advertising referred to in the preceding paragraph.

## **CHAPTER 8: OFFENSES AGAINST STATE'S GUARANTEES**

### **Section 1: Forgery and use of forgeries**

Article 307: Any public official who commits forgery in a public or authentic document, in the exercise of his duties, is punished by imprisonment of two to ten years and a fine of 200,000 to 2,000,000 francs:

1° either by forged signatures, by alteration of documents, writings or signatures, by impersonation, by writings made or inserted after the drawing up of the documents;

2° or by fraudulently distorting the substance or circumstances of the document, in particular by writing agreements other than those indicated by the parties, or by establishing as true false facts, or as acknowledged facts which were not.

Article 308: Any other person who commits a forgery in a public or authentic document shall be punished by imprisonment of one to five years and a fine of 100,000 to 1,000,000 francs:

1° either by forgery or counterfeiting the documents or signatures;

2° or by forging agreements, provisions, obligations or discharges or by inserting them in the documents;

3° or by addition or alteration of clauses, declarations or facts which these documents were intended to contain and confirm.

Article 309: Any person who knowingly makes use of the forgeries mentioned in the two preceding articles shall be punished by imprisonment of one to five years and a fine of 200,000 to 2,000,000 francs.

Article 310: The attempt of the offenses provided for in the present section is punishable.

## **Section 2: Forgery in certain administrative documents**

Article 311: Shall be punishable by imprisonment of six months to three years and a fine of 50,000 to 500,000 francs anyone who fraudulently reproduces or imitates, falsifies or alters permits, certificates, booklets, cards, bulletins, receipts, passports, passes, travel documents, registers or any other document, regardless of the medium, issued by public administrations or required by regulations in order to establish a right, identity or status, to grant an authorization or to reimburse expenses.

The same penalties shall apply to any person who knowingly makes use of documents thus reproduced, imitated, falsified or altered.

Article 312: Any person who unduly obtains one of the documents provided for in the preceding article, either by making false declarations, or under false name or capacity, or by providing false information, certificates or attestations, shall be punished by imprisonment for a period of six months to three years and a fine of 50,000 to 500,000 francs.

The same penalties shall be applicable:

1° to the person who knowingly makes use of such a document;

2° to any person who knowingly makes use of any of the documents referred to in the preceding article, where the substance has become incomplete or inaccurate.

Article 313: A public official who wrongfully issues or causes to be issued one of the documents listed in article 311 shall be punished by imprisonment for a term of one to three years and a fine of 100,000 to 1,000,000 francs.

Article 314: Shall be punishable by imprisonment of six months to three years and a fine of 50,000 to 500,000 francs, any person who, in a public or authentic document or in an administrative document intended for an authority, uses surnames and forenames other than his own.

Article 315: Anyone who has taken the name of a third party in circumstances that have caused or could have caused a conviction of the third party to be entered in the criminal record shall be punished by imprisonment for a term of six months to five years and a fine of 50,000 to 1,000,000 francs, without prejudice to any prosecution for forgery.

The sentence thus pronounced shall be served immediately after that incurred for the offence upon which the usurpation of name was committed.

The penalties provided for in the first paragraph shall be imposed on anyone who, by making false statements concerning the civil status of an accused person, has knowingly caused a conviction to be entered in the criminal record of another person.

Article 316: Anyone who, under false name or capacity, has had an Excerpt from the criminal record of a third party issued to him is punished by fifteen days to six months imprisonment and by a fine of 50,000 to 500,000 francs.

The same penalties shall be imposed on anyone who provides fictitious identity information that has caused or could have caused erroneous entries in the criminal record.

Article 317: Attempts to commit the offenses provided for in this section shall be punishable.

### **Section 3: Counterfeiting and illegal use of seals, governmental marks, hallmarks and stamps**

Article 318: Anyone who reproduces or imitates the seal of the State without authorization or knowingly uses the seal thus reproduced or imitated shall be punished by life imprisonment.

Article 319: Shall be punished by an imprisonment of two to ten years and a fine of 100,000 to 1,000,000 francs, whoever reproduces or imitates without authorization or falsifies the national stamps, the State hammers being used for the marks, the hallmarks being used to mark the gold and silver materials.

Whoever knowingly makes use of the reproduced, imitated or falsified stamps, hammers or hallmarks shall be punished with the same penalty.

The attempt shall be punishable.

Article 320: Shall be punished of an imprisonment of one to five years and a fine of 50.000 to 500.000 francs, whoever having unduly obtained the true stamps, hammers or hallmarks referred to in the preceding article, makes of it or tries to make of it an application or a use prejudicial to the rights or interests of the State.

Article 321: Shall be punished by imprisonment for one to five years and a fine of 50,000 to 500,000 francs any person who reproduces or imitates without authorization or falsifies:

1° the marks intended to be affixed in the name of the State on the various species of foodstuffs or goods;

2° the seal, the stamp or the mark of an administrative or judicial authority or of a public or ministerial official;

3° the letterheads or official prints used in the assemblies and councils of the State or public entities, the public administrations or the various judicial bodies;

4° postage stamps, footprints or reply coupons issued by the postal administration and mobile stamps.

Anyone who sells, peddles, distributes or knowingly uses the marks, seals, stamps, prints, and others referred to above, thus reproduced, imitated or falsified, shall be punished by the same penalties as those provided for the forgery or falsification of the said objects or documents.

The attempt of these offenses is punishable.

Article 322: Any person who has unduly obtained the true marks, seals, stamps or prints listed in the preceding article, makes or attempts to make fraudulent use thereof shall be punished by imprisonment for a term of six months to three years and a fine of 50,000 to 500,000 francs.

Article 323: Shall be punished by an imprisonment of six days to six months and a fine of 50.000 to 500.000 francs, whoever:

1° manufactures, sells, peddles or distributes any objects, prints or forms obtained by any process whatsoever which, by their layout, would present resemblance with those used in State's assemblies and councils or in the decentralized public entities, in the public administrations or in the various judicial bodies; a resemblance of such a nature as to cause a misconception in the public mind;

2° knowingly makes use of postage stamps or mobile stamps already used, or by any means, alter cancelled stamps with the aim of thus allowing their re-use or their sale;

3° overloads by printing, punching or any other means postage stamps or other postal fiduciary values, whether expired or not, or sells, peddles, offers, distributes or exports postage stamps so overloaded;

4° counterfeits, imitates, or alters any postage stamp and indicia, or reply coupon issued by the postal service of a foreign country, or sells, peddles, or distributes any such

5° knowingly sells, peddles, distributes, or makes use of any such sticker, stamp, postage indicia, or reply coupon.

#### **Section 4: False testimony and perjury**

Article 324: Anyone who, in the course of legal proceedings and with the aim of deceiving justice in favor or to the detriment of one of the parties, knowingly alters the truth in a deposition made under oath shall be punished by imprisonment of three months to three years and a fine of 50,000 to 500,000 francs.

The above penalties shall be doubled if the false witness has received money, any reward or promises.

Article 325: An interpreter or translator who, in the course of legal proceedings, distorts in bad faith the substance of the words or documents translated, shall be punished by the penalties of perjury.

An expert appointed by a court who, in judicial proceedings, files a false report shall also be punished by the same penalties.

Article 326: In the cases provided for in articles 324 and 325, the penalty is reduced to a fine of 50,000 to 500,000 francs where the offender voluntarily rectifies his false reports, declarations or translations before the decision made.

Article 327: Anyone who, in the course of legal proceedings, uses promises, offers or gifts, pressure, threats, assault, tactics or tricks to cause a witness, an interpreter, a translator or expert to give a false deposition, translation or report, shall be punished by imprisonment of one to three years and a fine of 300,000 to 3,000,000 francs or one of these two penalties only if this subornation does not produce its effect and in the contrary case, by the penalties for false witnesses, experts or interpreters.

The same penalties shall also apply to anyone who uses reprisals against a witness, interpreter, translator or expert because of his testimony, translation or report.

Article 328: A person to whom an oath is required by application of the laws of procedure and who makes a false oath shall be punished by imprisonment of one to three years and a fine of 100,000 to 1,000,000 francs.

Article 329: Shall be punished by the penalties of article 324, anyone who, with the aim of influencing judicial proceedings:

1° destroys material evidence or prevents a witness from appearing or giving evidence;

2° hinders the collection of material evidence;

3° fabricates or uses false material evidence or misleads a witness;

4° obtains from any person a promise not to report a felony or misdemeanor or not to testify; however, in the case of a misdemeanor, it is not punishable to obtain such an undertaking from the victim or his legal representative without the use of offers, promises, gifts or presents.

Article 330: Any person who exercises public authority or entrusted with a public service mission or any person invested with a public elective mandate, which publicly makes false statements or violates his oath, shall be punished by imprisonment of one to five years and a fine of 100,000 to 1,000,000 francs.

### **Section 5: Usurpation or illegal use of title and office**

Article 331: Anyone who, without being entitled to do so, interferes in public, administrative, judicial or military functions, or performs the acts of one of these functions, shall be punished by imprisonment for two to five years and a fine of 300,000 to 3,000,000 francs.

Article 332: Any person who publicly and without being entitled to do so, wears a costume, uniform, badge or decoration that is also subject to regulation, shall be punished by imprisonment of six months to two years and a fine of 150,000 to 1,500,000 francs.

Article 333: Any person who, without fulfilling the conditions required by law, makes use of a title attached to a legally regulated profession, an official diploma or a qualification whose conditions of attribution have been laid down by the public authorities, shall be liable to the penalties provided for in the preceding article.

Article 334: Any persons who, while carrying on an activity as a business agent or legal advisor, passes to be a magistrate, lawyer or public or ministerial official that they previously were or that they still are in an honorary capacity on any prospectus, advertisement, flier, signboard, letterhead, mandate and in general on any document or writing whatsoever used in the context of their activity, shall be punished by a fine of 50,000 to 500,000 francs.

### **Section 6: Common provisions**

Article 335: In all the cases provided for in this chapter, the judge may deprive the convicted person of the rights listed in article 68 and impose on him the ban on appearing in certain places provided for in article 80.

## **CHAPTER 9: OFFENSES AGAINST THE PUBLIC ECONOMY**

### **Section 1: Protection of the national economy**

Article 336: Any person who, by any means, knowingly spreads false facts and allegations likely to undermine, directly or indirectly, public confidence in the soundness of the currency, the value of State funds of any kind, the funds of decentralized entities and public establishments and, in general, all bodies in which these legal persons have a direct or indirect holding, shall be punished by a term of imprisonment of between three months and two years and a fine of between 300,000 and 3000,000 francs.

Any person who, by any means, incites the public:

1° to withdraw funds from public funds or from institutions mandated by law to make their payments into public funds;

2° to the sale of securities or other public bonds or to divert the public from purchasing or subscribing to them, whether or not such incitement has been followed by action.

In all cases, the publication of the sentence shall be ordered.

Article 337: Shall be punished by imprisonment of two months to two years and a fine of 2,500,000 to 25,000,000 francs, any persons who have caused or attempted to cause the artificial increase or decrease the price of commodities or goods or of public or private commodities:

1° by false or slanderous facts knowingly spread among the public, by offers made on the market with the intention of disturbing the prices, by overbids made at the prices that the sellers themselves asked, by any fraudulent means or ways ;

2° by exercising or attempting to carry out, either individually or in group, an action on the market with the aim of obtaining a gain which would not be the result of the natural play of supply and demand.

A ban on appearing in certain places may also be pronounced.

Article 338: Any person, who, with the aim of harming the national economy, organizes the transfer to a foreign country of the directors or staff of an establishment, shall be punished by imprisonment for a term of six months to two years and a fine of 500,000 to 5,000,000 francs.

Attempt shall be punishable.

Article 339: Shall be punishable by an imprisonment of two to five years and a fine of 150.000 to 1.500.000 francs:

1° any member of the personnel of an industrial, commercial or agricultural enterprise who communicates to third parties production or manufacturing secrets of that enterprise;

2° any person who communicates to others information or samples the disclosure of which would be likely to harm the national economy.

The attempt shall be punishable.

Article 340: Shall be punished by an imprisonment of two to five years and a fine of 50,000,000 to 100,000,000 francs or by one of these two penalties only, any person who:

1° exploits mineral resources without a mining title;

2° exploits mineral resources other than those covered by his mining title;

3° illegally engages in prospecting, research, exploitation or marketing of precious minerals and metals;

4° is found in possession of precious metals or minerals, without the documents or papers likely to give information on their origin;

5° while deprived of his title refuses to comply with the disciplinary provisions provided by the laws in force;

6° is a holder of a research permit, disposes of the products extracted during his prospecting or mining research work, without making a declaration.

The attempt is punishable.

The provisions of articles 114, 115 and 130 relating to mitigating circumstances and suspended sentences are not applicable.

## **Section 2: Hindering the freedom of bidding**

Article 341: Shall be punished by an imprisonment of fifteen days to three months and a fine of 100,000 to 1,000,000 francs, any person who, in auctions, hinders or disturbs the freedom of bids or tenders, by assault, violence or threats either before or during the auctions or tenders.

Shall be also punished by the same penalties:

1° any person who, by gifts, promises or fraudulent agreements, put aside the bidders, limits the bids or tenders, as well as any who receives these gifts or accept these promises ;

2° any person, who after a public auction, proceeds or participates in a re-auction without the assistance of a competent ministerial official.

The attempt of the offences provided for by this article shall be punishable.

## **Section 3: Obstacles to freedom of work**

Article 342: Any person who, by means of violence, assault, threats or fraudulent maneuvers, causes or maintains a concerted cessation of work with the intention of forcing an increase or decrease in wages or of undermining the free exercise of trade or work shall be punished by imprisonment for a period of six days to three years and a fine of 50,000 to 500,000 francs, or by one of these penalties only.

The attempt shall be punishable.

#### **Section 4: Counterfeiting and fraud in trade matters**

Article 343: Shall be punished by and by imprisonment for three months to three years and a fine of 100,000 to 1,000,000 francs or by one of these two penalties only, persons who:

- 1° counterfeit a trademark, service mark or commercial mark or and fraudulently endorse such a trademark belonging to another person;
- 2° make use of a mark without the authorization of the interested party, even with the addition of words such as “formulae manner, imitation system, or type”; however, the use of a mark made by manufacturers of accessories to indicate the destination of the product shall not be punishable;
- 3° without legitimate reason, hold goods that they know to be covered by a counterfeit or fraudulently endorsed mark or knowingly sell, offer for sale; supply or offer to supply goods or services under such a mark.

#### **Section 5: Unfair competition**

Article 344: Shall be punished by imprisonment for a term of three months to one year and a fine of 100,000 to 1,000,000 francs, or by one of these two penalties only, any person who misappropriates the clientele of another in civil, commercial or industrial matters:

- 1° by using titles, distinctive signs, trademarks or professional names that are inaccurate or misleading in order to give the impression of special qualities or abilities ;
- 2° by resorting to measures likely to cause confusion with the goods, processes or products, activities or business of others;
- 3° by denigrating goods, processes, activities or business of another or by giving inaccurate or misleading information about his own in order to take advantage of them to the detriment of his competitors.

Article 345: The maximum penalty shall be doubled if the misappropriation of clientele is done:

- 1° by granting or offering to employees, agents or auxiliaries of competitors advantages which were not to accrue to them, in order to bring them to reveal a manufacturing, organizational or operational secret;

2° by disclosing or exploiting such secrets learned or discovered under the conditions referred to in the preceding paragraph.

## **Section 6: Offenses against artistic or literary property**

Article 346: Shall constitute offense any act by which a natural person or legal entity uses or exploits an intellectual property right without the prior authorization of the owner or his eligible successors.

Any person who commits counterfeiting shall be punished by imprisonment for one to three years and a fine of 1,000,000 to 10,000,000 francs.

Anyone who sells, exports or imports counterfeit artistic and literary works shall be liable to the same penalty.

Article 347: Any person, who reproduces, represents, disseminates, translates or adapts by any means whatsoever a work of the mind in violation of intellectual property rights, as defined and governed by law, shall be punished by a fine of 500,000 to 5,000,000 francs.

Article 348: The penalty shall be imprisonment for a period of one month to one year and a fine of 5,000,000 to 25,000,000 francs, if it is established that the offender usually engages in the acts referred to in articles 346 and 347.

Article 349: Counterfeited works and the proceeds or shares of proceeds that have been confiscated shall be handed over to the owner of the intellectual property rights or his entitled successors to compensate them for the loss they have suffered. The remainder of their compensation, or the full compensation if there has been no confiscation of material, objects of counterfeit or proceeds, shall be settled through the ordinary channels.

The judge may order the publication of the sentence.

## **Section 7: Destruction or degradation of commodities, goods or materials**

Article 350: Any looting or damage of commodities or merchandise, items or movable property, committed in a group or gang and with violence shall be punishable by imprisonment for five to twenty years.

If the looted or destroyed goods are basic commodities or essential to the economic life of the country, the penalty applicable to the instigators or provokers shall be twenty years imprisonment.

Article 351: Any person who, by any means, intentionally damages foodstuffs, goods, materials or equipment of any kind used in manufacturing, shall be punished by imprisonment for a period of one month to two years and by a fine which may not exceed one quarter of the damages, nor be less than 360,000 francs.

If the offence is committed by an employee of the company, the imprisonment shall be from two to five years, without prejudice to the fine.

### **Section 8: Common provisions**

Article 352: In all the cases provided for in this chapter, the deprivation of rights and the ban to appear in certain places, mentioned in articles 68 and 80, can be pronounced.

## **CHAPTER 9: OFFENSES AGAINST HEALTH, HYGIENE AND PUBLIC MORALS**

### **Section 1: Pollution of natural products and substances**

Article 353: Shall be punished by an imprisonment of fifteen days to six months and a fine of 100.000 to 1.000.000 francs or of one of these two penalties only, whoever directly or indirectly spoils or pollutes, by any means whatsoever, any product or natural element, necessary for the life or health of the populations.

### **Section 2: Use of performance stimulants during sports competitions**

Article 354: Shall be punished by a fine of 50,000 to 500,000 francs whoever, for or during a sports competition, knowingly uses a substance intended to artificially and temporarily increase his physical abilities.

Any member of the medical or paramedical profession who knowingly provides a person with a substance intended to artificially and temporarily increase his or her physical abilities shall be punished by a fine of 100,000 to 1,000,000 francs.

The judge can pronounce the penalty provided for in article 85.

This penalty consists in the prohibition to participate in any sport competition, to be the organizer or to exercise any function.

It cannot exceed one year.

If the convicted person is not a sport professional, the penalty under article 85 can nevertheless be pronounced with the effects provided for in this article.

### **Section 3: Spread of an epizootic disease**

Article 355: Any person who deliberately causes or contributes to the spread of an epizootic disease among horned animals, dogs, cats, small farmyard animals or poultry, game, fish in territorial or inland waters and any species of protected animals shall be liable to imprisonment for a term of one to five years and to a fine of 50,000 to 500,000 francs.

The attempt shall be punishable.

Article 356: Any person who, by knowingly communicating a contagious disease to any animal, unintentionally causes or contributes to the spread of an epizootic disease in one of the species referred to in the preceding article, shall be punished by a prison sentence of three months to one year and a fine of 50,000 to 500,000 francs.

#### **Section 4: Offenses against public morals**

Article 357: shall be punished by an imprisonment from one month to two years and a fine from 50.000 to 500.000 francs whoever:

1° manufactures, holds, imports, exports, transports with a view to trading, distributing, renting, displaying or exhibiting any printed material, writings, drawings, posters, engravings, paintings, photographs, films or snapshots, phonographic materials or reproductions, emblems and, in general, any objects or images contrary to public morality ;

2° sells, rents, even free of charge and even not publicly, in any form whatsoever, displays, exhibits or projects the printed documents or items listed in the preceding paragraph;

3° makes under the conditions of article 184, songs, shootings and speeches contrary to good morals;

4° publicly draws attention to an occasion of debauchery or publishes an announcement or correspondence of this kind whatever the terms;

5° disseminates, even non-publicly, distributes, even free of charge, without the consent of the sexual partner, even occasionally, and by any means, in particular by means of information and communication technologies, screams, photographs, films or snapshots collected during their sexual relations.

Shall be punished with the same penalties any other person who commits the acts envisaged in the 5° of the preceding paragraph.

The penalties shall be doubled if the offence is committed against a minor.

The judge may prohibit the convicted person from exercising directly or through an intermediary, in law or in fact, management functions in any printing, publishing, group or distribution company of newspapers and periodicals and pronounce the deprivation of rights referred to in article 68.

The penalties provided for in this article may be pronounced even if the various acts that constitute the elements of the offenses were carried out in different countries.

When the offenses provided for in this article are committed through the press, the provisions of the second paragraph of article 183 shall apply.

Attempt shall be punishable.

Article 358: shall be considered as a pimp and shall be punished by an imprisonment of one to five years and a fine of 1.000.000 to 10,000,000 francs, whoever:

1° in any manner whatsoever, aids, assists or knowingly protects the prostitution of others or solicitation for prostitution;

2° in any form shares the proceeds of the prostitution of others and receives subsidies from a person habitually engaged in prostitution;

3° knowingly lives with a person who habitually engages in prostitution and cannot show proof of resources corresponding to his or her lifestyle;

4° hires, trains or maintains, even with his or her consent, a person, even adult, for the purpose of prostitution or delivers him or her into prostitution or debauchery;

5° acts as an intermediary in any capacity between persons engaged in prostitution or debauchery and individuals who exploit or pay for the prostitution or debauchery of others.

Attempts to commit the offenses referred to in this article shall be punishable.

Article 359: The penalties provided for in the preceding article shall be doubled in cases where the offense was committed:

1° against a person under eighteen years of age;

2° with threat, constraint, violence, abuse of authority, or fraud;

3° with the carrying of weapons;

4° by the spouse or common law partner of the person engaging in prostitution;

5° by the father, mother or other ascendants of the person engaging in prostitution, by his tutor or by persons having authority over him, by those responsible for his education, his intellectual or professional training or his supervision, or by those who are his employees;

6° by or on behalf of several persons;

7° by several offenders or accomplices.

The penalties provided for in the preceding article and in this article shall be imposed even if the various acts that constitute the offence have been committed in different countries.

Attempt shall be punishable.

Article 360: Anyone who offends against morality by inciting, promoting or facilitating the debauchery or the corrupting of minors shall be punished by imprisonment of two to five years and a fine of 500,000 to 5,000,000 francs.

The pronouncement of the sentence shall take into account the acts committed even abroad.

The attempt shall be punishable.

Article 361: Any person who, by gesture, verbally, writing or any other means, publicly solicits or attempts to solicit persons of either sex with a view to provoking them to debauchery shall be punished by imprisonment of fifteen days to three months and a fine of 50,000 to 500,000 francs.

Article 362: Shall be punished by imprisonment for two to five years and a fine of 1,000,000 to 10,000,000 francs, whoever :

1° holds directly or through an intermediary, manages, directs, operates, finances or contributes to financing an body whose main or secondary purpose is prostitution ;

2° accepts or habitually tolerates that one or more persons engage in prostitution or seek customers for prostitution either inside or in the annexes of the establishment, hotel, furnished house, guest house, liquor store, restaurant, club, dance hall, club, place of entertainment or any other place open to the public, which he owns or manages or finances.

The attempt shall be punishable.

The judge shall pronounce the withdrawal of the license of the convicted person.

The convicts shall be sentenced to reimburse the fees eventually used for repatriation of the persons who have exploited or attempted to exploit or contributed to the exploitation of prostitution.

The investigating magistrate may also order, on a provisional basis and for a maximum period of three months renewable, the closure of the establishment.

Article 363: Any person who, in any capacity whatsoever, has private premises or facilities and knowingly makes them available to persons engaged in prostitution, with a view to the habitual practice of debauchery, shall be punished by imprisonment of six months to two years and a fine of between 500,000 and 5,000,000 francs.

Article 364: In all cases provided for in this chapter, deprivation of rights and prohibition of appearance in certain places mentioned in articles 68 and 80 may be pronounced.

## **CHAPTER II: OFFENSES RELATED TO NEW INFORMATION AND COMMUNICATION TECHNOLOGIES**

Article 365: Anyone who creates distributes or makes available in any form whatsoever writings, messages, photos, audios, videos, drawings or any other representation of ideas or theories of a racist or xenophobic nature by means of an information system shall be punished by imprisonment of ten to twenty years and a fine of 5,000,000 to 10,000,000 francs.

Article 366: Anyone who threatens others with death or violence through an information system is punished by two to five years' imprisonment and a fine of 5,000,000 to 20,000,000 francs.

When the threat is racist, xenophobic, ethnic or religious in nature or refers to a group characterized by race, color, ancestry or national or ethnic origin, the penalty shall be ten to twenty years' imprisonment and a fine of 20,000,000 to 40,000,000 francs.

Article 367: Any person who utters or uses any insulting expression, any term of contempt or any insults that do not contain the allegation of any fact by means of an information system shall be punished by imprisonment of one to five years and a fine of 5,000,000 to 10,000,000 francs.

Article 368: Anyone who intentionally denies, approves or justifies acts constituting genocide or crimes against humanity through an information system shall be punished by imprisonment of three to five years and a fine of 75,000,000 to 100,000,000 francs.

Article 369: Any person who produces, makes available to others or disseminates data likely to disturb public order or undermine human dignity by means of an information system shall be punished by imprisonment of one month to five years and a fine of 1,000,000 to 20,000,000 francs.

Article 370: Any person who, by means of an information system, disseminates or makes available to others, except for authorized persons, instructions for use or a process enabling the manufacture of means of destruction likely to harm life, property or the environment shall be punished by imprisonment for one to five years and a fine of 5,000,000 to 20,000,000 francs.

Article 371: Anyone who disseminates or makes available to others, through an information system, methods or information inciting to suicide is punished by imprisonment of one to five years and a fine of 5,000,000 to 20,000,000 francs.

Article 372: Anyone who communicates or disseminates, by means of an information system, false information tending to lead to the belief that destruction, damage or deterioration of property or an attack on persons has been or is about to be committed, shall be punished by imprisonment of six months to two years and a fine of 1,000,000 to 5,000,000 francs.

Any person who communicates or disseminates, through an information system, false information that leads to the belief that a disaster or any other emergency situation has occurred shall be subject to the same penalties.

Article 373: Any person who threatens to commit, by means of an information system, destruction, degradation or deterioration of property or an attack on persons, when it is materialized by a writing, an image, an audio, a video or any other methods, shall be punished by imprisonment of five to ten years and a fine of 5,000,000 to 20,000,000 francs.

Article 374: Shall be convicted of treason and sentenced to imprisonment for life, any Ivorian who:

1° delivers or secures possession for delivery to a foreign country or to a foreign natural or legal person through information system, any information, document, method or computer data that must be kept secret in the interests of national defense;

2° destroys or allows to be destroyed any information, document, method or computer data that must be kept secret in the interests of national defense, in order to favour a foreign country or a foreign natural or legal person.

Article 375: Any foreigner shall be guilty of espionage and shall be punished by life imprisonment if he:

1° delivers or secures possession for delivery to a foreign country or foreign natural or legal person through an information system, any information, document, method or computer data that must be kept secret in the interests of national defense,

2° destroys or allows to be destroyed such information, document, method or computer data that must be kept secret in the interest of national defense, in order to favour a foreign country or a foreign natural or legal person.

Article 376: The offenses provided for in articles 365 and 366, paragraph 2 shall constitute misdemeanors.

Article 377: In all the cases provided for in this chapter, the deprivation of rights, the publication of the sentence and the ban on appearing in certain places as provided for in articles 68, 77 and 80 may be pronounced as an additional sentence.

The judge shall also order the confiscation of the movable property used to commit the offenses.

## **TITLE II: FELONIES AND MISDEMEANORS AGAINST PERSONS**

### **CHAPTER 1: OFFENSES AGAINST PHYSICAL INTEGRITY**

#### **Section 1: Homicides, assault and battery**

Article 378: Shall be classified as:

1° murder, homicide committed voluntarily;

2° manslaughter, killing committed with premeditation; premeditation consists in the intention formed before the action, to attack a specific person or the person who will be found or encountered, even if this intention depends on some circumstance or condition; it also consists in waiting for a person for a longer or shorter period of time, in one or more places, either to kill him or to carry out acts of violence on him;

3° parricide, the murder of the father or mother, the adoptive parents or any other ascendant;

4° poisoning, any attempt on the life of a person by the use of a substance which may cause death, more or less rapidly, in any manner whatsoever, and whatever the consequences of this attempt may be;

5° castration, the voluntary amputation of an organ necessary for reproduction;

6° sterilization, the deprivation of the ability to procreate by any means other than the amputation of an organ necessary for reproduction.

Article 379: Anyone who commits manslaughter, parricide, poisoning or the felony of castration or sterilization shall be punished with life imprisonment.

Article 380: Anyone who commits murder shall be punished by ten to twenty years imprisonment.

Murder is punishable by life imprisonment when:

1° it precedes, accompanies or follows another felony ;

2° its purpose is either to prepare, facilitate or execute a felony, or to facilitate the escape or to ensure the impunity of the offenders or accomplices of the felony;

3° the offender, for its realization, commits acts of torture or barbarism;

4° it is committed on a minor or on a person whose vulnerability is due to his or her age, illness, disability, physical or psychological deficiency or to a state of pregnancy apparent or known to the offender or any other person having a dependency relationship with him or her;

5° it is committed on the spouse or a common law partner;

6° it is committed by the ex- spouse or common law partner, if it was committed because of the relationship between the offender and the victim;

7° it is committed by several persons acting in an organized gang.

Article 381: Whoever, voluntarily, commits battery shall be sentenced:

1° to imprisonment for five to twenty years, when the battery, even without the intention of causing death, have nevertheless caused it;

2° to imprisonment for five to ten years and a fine of 100,000 to 1,000,000 francs when the violence has caused mutilation, amputation or deprivation of the use a member of the body, blindness or loss of an eye or any other permanent disability;

3° to imprisonment for one to five years and a fine of 50,000 to 500,000 francs when the violence resulted in illness or total incapacity to perform personal work for more than ten days;

4° to imprisonment of one month to one year and a fine of 100,000 to 1,000,000 francs when the violence results in no illness or incapacity for work of the kind mentioned in the preceding paragraph.

Article 382: Constitutes an assault, the fact of voluntarily exerting on person violence or any other act which does not cause any injury, but is of nature to harm the victim or to cause for him a discomfort.

Any person who commits assault shall be punished by imprisonment of fifteen days to six months and a fine of 100,000 to 1,000,000 francs.

Article 383: When the injuries are inflicted on the father or mother, an adoptive parent, an ascendant, the spouse or the common law partner of the offender, the penalties shall be:

1° imprisonment for life, in the case provided for by article 381-1°;

2° imprisonment from five to twenty years in the cases provided for by article 381-2°;

3° imprisonment from five to ten years and a fine of 50.000 to 500.000 francs, in the cases provided for by article 381-3°;

4° imprisonment of one to three years and a fine of 50,000 to 500,000 francs in other cases.

Article 384: A pardon granted to the offender by the father or mother, adoptive parents or ascendants, in the cases provided for in 2°, 3° and 4° of the preceding article, shall constitute mitigating circumstances.

Article 385: Anyone who causes illness or total incapacity to perform personal work to another person by voluntarily administering to him or her, in any way whatsoever, a substance which,

without being of a nature to cause death, is harmful to health, shall be punished by imprisonment for one to five years and a fine of 50,000 to 500,000 francs.

If the act results in a total incapacity for personal work for more than ten days, the penalty shall be imprisonment for five to ten years and a fine of 100,000 to 1,000,000 francs.

If the act results in permanent disability, the penalty shall be five to twenty years imprisonment.

If the offender has committed the offenses referred to in this article against his father or mother, his adoptive parents or his ascendants, his spouse or common law partner, the penalties shall be as follows:

1° in the case of the first paragraph, imprisonment for five to ten years and a fine of 100,000 to 1,000,000 francs ;

2° in the case of the second paragraph, imprisonment for five to twenty years;

3° in the case of the third paragraph, imprisonment for life.

Article 386: Any person who, under the pretext of traditional practices, subjects another person to practices that are harmful or likely to harm his or her physical or mental health, shall be punished by imprisonment for one to five years and a fine of 50,000 to 500,000 francs.

Article 387: In all cases provided for in articles 378 to 386, the convicts may be:

1° sentenced to a ban on appearing in certain places, as provided for in article 80;

2° deprived of the rights mentioned in article 68;

3° deprived of parental authority, if they are the father or mother of the victim.

Article 388: Homicide or assault and battery shall not change in offense classification when the victim is not the person the offender intended to harm.

Article 389: There shall be no offence when the homicide, injury or assault results:

1° from medical acts, provided that they are:

a) in accordance with scientific data, medical ethics and the professional rules;

(b) performed by a person legally entitled to perform them,

(c) performed with the consent of the patient or, if the patient is incapable of giving consent, with the consent of the patient's spouse or guardian, unless it is impossible, without risk to the patient, to communicate with them;

2° acts performed in the course of a sporting activity, provided that the offender has complied with the rules of the sport being practiced.

Art. 390. Irrespective of the cases provided for in article 97, the perpetrators of the offenses provided for in articles 380 and 381 committed while preventing, during the day, the climbing or breaking of fences, walls or entrances of a house, inhabited place or their annexes, as well as the felony of castration immediately caused by a violent assault to indecency, shall benefit from the exculpatory excuse.

## **Section 2: Omission to provide assistance**

Article 391: Any person who intentionally refrains from providing assistance to a person in danger, which he could have done without risk to himself or to third parties, either by his personal action or by causing help, shall be punished by imprisonment of three months to five years and a fine of 50,000 to 500,000 francs.

These penalties shall be doubled if the convicted person had a professional or contractual obligation to assist or help the victim.

## **Section 3: Unintentional homicide and bodily injury**

Article 392: Any person who, through clumsiness, carelessness, inattention, negligence or non-compliance with regulations, unintentionally commits a homicide or is the unintentional cause of it, is punished by imprisonment of three months to three years and a fine of 100,000 to 1,000,000 francs.

The penalty shall be one month to one year imprisonment and a fine of 50,000 to 500,000 francs, if the unintentional act caused a bodily injury which resulted in total personal work incapacity for more than six days.

The penalties provided for in the two preceding paragraphs shall be also applicable in the case where the homicide or the injuries were caused or provoked by a fire caused involuntarily.

## **Section 4: Endangering others**

Article 393: Constitutes endangerment of others any manifest and deliberate violation of a particular obligation of prudence or safety imposed by law or regulation.

Any person who endangers others shall be punished by imprisonment for one to three years and a fine of 300,000 to 3,000,000 francs.

## **Section 5: Certain forms of violence against women.**

Article 394: Constitutes genital mutilation, any offense against the integrity of a woman's genital organ by total or partial removal, infibulation, numbing or any other procedure.

Anyone who commits genital mutilation shall be punished by imprisonment of one to five years and a fine of 200,000 to 2,000,000 francs.

The penalty shall be doubled if the offender is a medical or paramedical professional.

The penalty shall be five to twenty years imprisonment when the genital mutilation results in the victim's death.

The attempt shall be punishable.

Article 395: The judge may, in addition, order the offender to be deprived of the right to practicing his profession for a period not exceeding five years if he belongs to the medical or paramedical profession.

Article 396: There shall be no offence if the mutilation is carried out under the conditions set out in article 389.

Article 397: Notwithstanding the provisions of article 304, the penalties provided for in article 394, paragraph 2, shall be imposed on the father and mother, relatives by marriage and parents of the victim up to and including the fourth degree, who, knowing that genital mutilation was imminent, did not report it to the administrative or judicial authorities or to any person with the power to prevent it.

The penalties provided for in article 394, paragraph 2, shall also apply to the spouses, common law partner, and relatives of the perpetrator up to and including the fourth degree.

Article 398: The provisions of articles 114, 115 and 130 shall not be applicable to the cases provided for in paragraphs 3 and 4 of article 394.

## **Section 6: Torture and other inhuman and degrading treatment**

Article 399: Constitutes an act of torture, the fact of voluntarily inflicting on another person acute pain or suffering, physical or mental, with the aim in particular:

1° to obtain from him or third person information or a confession;

2° to punish him for an act he or a third person has committed or is suspected of having committed;

3° to intimidate or coerce him or a third person.

It is also an act of torture to deliberately inflict severe physical or mental pain or suffering on another person for any other reason based on any form of discrimination.

Anyone who commits an act of torture shall be punished by five to ten years imprisonment and a fine of 500,000 to 5,000,000 francs.

An order to commit an act of torture shall manifestly be unlawful.

Article 400: Constitute inhuman treatments any voluntary acts that cause a person particularly severe physical or mental suffering.

Anyone who commits acts of inhuman treatment shall be punished by imprisonment of one to five years and a fine of 300,000 to 3,000,000 francs.

Article 401: Constitutes a degrading treatment any act that humiliates an individual and clearly affects his or her dignity.

Anyone who inflicts degrading treatment shall be punished by imprisonment of six months to two years and a fine of 100,000 to 1,000,000 francs.

Article 402: The penalty shall be doubled in the cases provided for in this section:

1° if the offender is a public official or if he acted on the orders of a public official or with his consent;

2° if the victim is the spouse or the common law partner of the offender;

3° if the victim is a minor;

4° if the victim has suffered permanent disability or death as a result.

## **CHAPTER 2: OFFENSES AGAINST MORALS**

### **Section 1: Rape**

Article 403: Any act of vaginal, anal or oral penetration or of any other kind for sexual purposes imposed on another person without his or her consent, using a part of the human body or an object, by violence, threat, coercion or deception, constitutes rape.

Also constitutes rape, any act of vaginal, anal, oral penetration or of any nature whatsoever with sexual purpose committed on a minor of fifteen years, even with his/her consent.

Rape shall be constituted in the circumstances provided for in the preceding paragraphs, regardless of the nature of the relationship between the offender and the victim. However, if they are married, the presumption of consent of the spouses to the sexual act shall be valid until the contrary is proven.

Anyone who commits rape shall be punished by imprisonment of five to twenty years.

The penalty shall be life imprisonment when the rape resulted in mutilation or permanent disability or death of the victim.

Article 404: Rape shall be punishable by life imprisonment when committed:

1° on a minor ;

2° on a person whose vulnerability is due to his/her age, illness, disability, physical or psychological deficiency or to a state of pregnancy apparent or known to the offender;

3° by an ascendant or any other person having authority over the victim;

4° by a person who abuses the authority conferred by his functions;

5° by several persons;

6° with the use or threat of a weapon;

7° by a person acting in a state of obvious drunkenness or under the influence of narcotics.

Rape shall be punishable by the same penalty:

1° when the offender, for this purpose, has used an electronic communication network for the dissemination of messages to a non-specified public, having allowed meeting the victim;

2° when it is preceded, accompanied or followed by torture or acts of barbarism.

## **Section 2: Indecent assault**

Article 405: Constitutes an indecent assault, any sexual act without penetration, committed on a person of the same or the different sex.

Anyone who commits an indecent assault, whether materialized or attempted, shall be punished by imprisonment for one to three years and a fine of 50,000 to 500,000 francs.

Article 406: Shall be punished by an imprisonment of two to five years and a fine from 100.000 to 1.000.000 francs, whoever commits an indecent assault materialized or attempted with violence.

The imprisonment shall be from five to ten years and the fine from 200,000 to 2,000,000 francs when:

1° the indecent assault is committed by an ascendant, an adopter or by any other person having authority over the victim;

2° the offender is assisted by one or more persons

3° the victim is a minor

4° the perpetrator belongs to the medical or paramedical profession or is responsible for the care of the victim.

Article 407: Any person who commits an indecent assault, materialized or attempted without violence, on a minor, shall be punished by imprisonment of one to three years and a fine of 360,000 to 1,000,000 francs.

Article 408: The offender of any indecent assault, materialized or attempted without violence on a minor, if he is one of the persons mentioned in 1° of the second paragraph of article 406, shall be punished by imprisonment of one to five years and a fine of 100,000 to 500,000 francs.

Article 409: The provisions of this section concerning minors shall apply when the indecent assault is committed on a person incapable of protecting himself/ herself because of his/her physical or mental condition.

In the event of conviction for one of the offenses provided for in this section, the judge may order the deprivation of rights, the prohibition of appearing in certain places or the prohibition to reside on the territory of the Republic and the prohibition on the exercise of professional activity provided for in articles 68 to 72, 80 to 83 and 85.

### **Section 3: Incest**

Article 410: Incest is constituted by having sexual intercourse with one's ascendants or descendants without limitation of degree, or with a brother or sister of the same or opposite sex.

Anyone who commits incest shall be punished by imprisonment of six months to one year and a fine of 100,000 to 1,000,000 francs or one of these two penalties only.

Article 411: Except in cases of notorious cohabitation or incestuous marriages, proceedings may be instituted only on the complaint of a relative and only against the person or persons named in the complaint.

Withdrawal of the complaint shall terminate the prosecution.

The withdrawal of the complaint after a conviction that has become final shall terminate the effects of that conviction.

Article 412: The provisions concerning minors on indecent assault shall be applicable when the incest is committed on a person incapable of protecting himself because of his physical or mental state.

The deprivation of rights provided for in article 68 may be pronounced.

### **Section 4: Indecent or unnatural acts and pedophilia**

Article 413: Any person who commits an indecent or unnatural act on a minor shall be punished by imprisonment of two to five years and a fine of 200,000 to 2,000,000 francs.

Article 414: Constitutes an act of pedophilia, any gesture, touching, caress, pornographic manipulation, use of images or sounds by any means, for sexual purposes on a minor of fifteen years.

Anyone who commits an act of pedophilia shall be punished by two to five years imprisonment and a fine of 200,000 to 2,000,000 francs.

Article 415: The provisions concerning minors relating to indecent assault shall apply where pedophilia, indecent acts or acts against human nature are committed on a person who is incapable of protecting himself or herself because of his or her physical or mental condition.

In the event of conviction for one of the offenses provided for in this section, the judge may pronounce the deprivation of rights, the prohibition of appearing in certain places or the ban on residence on the territory of the Republic and the prohibition to exercise professional activity provided for in articles 68 to 72, 80 to 83 and 85.

### **Section 5: Public indecency**

Article 416: Any act committed in a public place or a place open to the public or under the conditions provided for in article 184, which offends public morals or the moral feelings of persons who involuntarily witness it and which is likely to disturb public order, constitutes a public indecency.

Any person who commits a public decency shall be punished by an imprisonment of three months to two years and a fine of 50.000 to 500.000 francs.

The penalties may be doubled if the offence is committed against a minor or in the presence of a minor.

Article 417: Any person who publishes and disseminates, by means of books, the press, films, radio, television or any other means, texts, drawings, photographs, images or audio messages likely to reveal the identity of the victim of one of the offences provided for in this chapter, shall be punished by imprisonment for a period of between two months and two years and a fine of 300,000 and 3,000,000 francs, or by one of these penalties only.

### **Section 6: Sexual harassment**

Article 418: Commits sexual harassment and shall be punished by imprisonment of one to three years and a fine of 360,000 to 1,000,000 francs, any person who:

1° conditions the performance of a service or an act within the scope of his or her duties to obtaining favors of a sexual nature;

2° uses threats of sanctions, or effective sanctions to induce a person under his authority to grant him favors of a sexual nature, or to take revenge on a person who has refused him such favors;

3° demands favors of the same nature from a person before making him/her obtain, either for him/herself or for another person, a job, a promotion, a reward, a decoration, a prize or any other advantage.

The attempt shall be punishable.

Articles 114, 115 and 130 shall not apply.

Article 419: Anyone who makes false denunciation of sexual harassment by another person shall be punished by the penalties provided for in article 446, when the falsity of the denunciation shows that it was made solely with a view to damaging his reputation, discrediting the accused person or causing him or her any harm.

### **CHAPTER 3: FELONIES AND MISDEMEANORS AGAINST CHILDREN AND PERSONS UNABLE TO PROTECT THEMSELVES DUE TO THEIR PHYSICAL OR MENTAL CONDITION**

#### **Section 1: Infanticide, violence and assault**

Article 420: Is considered infanticide the murder of a child in the year of its birth.

Anyone who commits infanticide shall be punished with life imprisonment.

Article 421: Shall be punishable by imprisonment of one to five years and a fine of 100,000 to 1,000,000 francs, whoever exerts violence or assault on a minor or on a person unable to protect himself because of his physical or mental state, or voluntarily deprives him of food or care to the point of compromising his health.

If the violence or assault results in a total incapacity for performance of personal work for more than ten days, the penalty is imprisonment for three to ten years and a fine of 50,000 to 500,000 francs.

If the violence or assault results in permanent disability, the penalty shall be imprisonment for five to twenty years.

The penalty shall be life imprisonment:

- if the violence or deprivation routinely exerted has resulted in death, even without intent to kill;
- if the violence or deprivation was carried out with the intention of causing death.

If the offenders are the father and mother or other ascendants, the guardian or persons having authority over the victim or having his custody, if they are responsible for his education, intellectual or professional training, the penalties shall be as follows:

1° imprisonment for three to ten years and a fine of 50,000 to 500,000 francs in the cases referred to in the first paragraph;

2° imprisonment for five to twenty years and a fine of 100,000 to 1,000,000 francs in the cases referred to in the second paragraph;

3° life imprisonment in the cases referred to in the third paragraph.

If the offences referred to in this article were committed with premeditation, the offender is sentenced to the maximum penalty provided for in each case.

## **Section 2: Abandonment of a child or a person with incapacity**

Article 422: A person who exposes or causes to be exposed, abandons or causes to be abandoned, in a solitary place, a minor of 13 years of age or a person incapable of protecting himself because of his physical or mental condition, shall be punished by imprisonment of one to three years and a fine of 50,000 to 500,000 francs.

If this results in a total incapacity for performance of personal work for more than ten days, the penalty shall be imprisonment for two to five years and a fine of 50,000 to 500,000 francs.

If the act results in permanent disability, the penalty shall be imprisonment for five to ten years and a fine of 50,000 to 500,000 francs.

If death has occurred due to the act, the penalty shall be imprisonment for five to twenty years.

If the offenders are the father, mother or other ascendants, the guardian or persons having authority over the victim or having his custody, if they are responsible for his education, intellectual or professional training, the penalties shall be as follows:

1° imprisonment for two to five years and a fine of 50,000 to 500,000 francs in the case of the first paragraph;

2° imprisonment for five to ten years and a fine of 50,000 to 500,000 francs in the case of the second paragraph;

3° imprisonment from five to twenty years in the case of the third paragraph;

4° life imprisonment in the case of the fourth paragraph.

Article 423: If the minor of thirteen years of age or the person with incapacity has been abandoned or exposed in a place that is not solitary, the following penalties shall apply:

1° imprisonment of three months to one year and a fine of 50,000 to 500,000 francs, in the case of the first paragraph of the preceding article;

2° imprisonment of six months to two years and a fine of 100,000 to 1,000,000 francs in the case of the second paragraph of the preceding article;

3° imprisonment of one to five years and a fine of 200,000 to 1,000,000 francs in the case of the third paragraph of the preceding article;

4° imprisonment for five to ten years and a fine of 300,000 to 3,000,000 francs in the case of the fourth paragraph of the preceding article.

If the offenders are the father, mother or other ascendants, the guardian or persons having authority over the victim or having his custody, if they are responsible for his education, his intellectual, or professional training, the penalties referred to in the first four paragraphs of the preceding article shall apply to them, according to the distinctions provided for by the provisions the said paragraphs.

Article 424: Shall be punished by ten days to six months imprisonment and a fine of 50,000 to 500,000 francs, any person:

1° in a spirit of profit, causes the parents or one of them to abandon to himself or a third party their child born or to be born ;

2° causes to sign or tries to cause to sign, by the future parents or one of them, an act under the terms of which they commit themselves to abandon to himself or to a third, the child to be born;

3° makes use or attempts to make use of the act referred to in the preceding paragraph.

A person who, in a spirit of profit, abandons his or her born or unborn child to another person shall be punished by the same penalty.

### **Section 3: Abortion**

Article 425: The use of food, drink, medicines, substances, maneuvers, violence or any other means to cause the premature expulsion of the embryo or fetus, regardless of the stage of pregnancy when this expulsion is carried out, whether the woman has consented or not, constitutes abortion.

Anyone who commits or attempts to commit an abortion shall be punished by imprisonment for one to five years and a fine of 150,000 to 1,500,000 francs.

The imprisonment shall be five to ten years and the fine of 1,000,000 to 10,000,000 francs, if the offender usually engages in the acts referred to in paragraph 1.

Imprisonment is from two to five years and a fine of 200,000 to 2,000,000 francs if the act is the result in sterility or serious harm to the physical, gynecological or mental health of the victim.

The imprisonment shall be ten to twenty years if the act results in the death of the victim.

Article 426: A woman who procures or attempts to procure an abortion for herself, or who consents to the use of means indicated or administered to her for this purpose, shall be punished by imprisonment for six months to two years and a fine of 50,000 to 500,000 francs.

Persons exercising the medical profession or a profession related to public health who indicate, promote or implement themselves the means of procuring abortion shall be punished by the penalties provided for in paragraphs 2 and 3 of the preceding article.

Any conviction pronounced by application of article 425 and of the present article entails automatically the prohibition to exercise any function and to fill any job vacancy, in any capacity whatsoever, in maternity clinics or centers and all private establishments usually receiving, upon payment or free of charge, and whatever is the number, women in a real, apparent or presumed state of pregnancy.

In the event of a conviction handed down by a foreign court and having become *res judicata* for an offence constituting, according to Ivorian law, one of the offences specified in the present section, the criminal court of the convicted person's domicile shall, at the request of the public prosecutor's office, pronounce the prohibition referred to in the preceding paragraph, with the person concerned having been duly summoned to appear in pre-trial chambers.

Article 427: There shall be no offence when:

1° the interruption of the pregnancy is necessary to safeguard the life of the mother in grave danger;

2° the physician provides an abortion to a victim of rape at her request.

In these cases, the attending physician or surgeon shall take the opinion of two consulting physicians, who, after examination, certify that the life of the mother can only be saved by means of such surgical or therapeutic intervention or that such was the will of the rape victim, duly recorded in writing.

If there are two attending physicians at the place of the operation, the physician providing abortion shall only be obliged to take the advice of his colleague.

If the attending physician is the only one residing at the place of the operation, he/she certifies on his/her honor that the life of the mother could only be saved by the surgical or therapeutic intervention performed or that this was the wish of the rape victim.

In any event, one copy of the medical consultation shall be given to the mother, and the other shall be kept by the attending physician (s).

Article 428: Shall be punished by imprisonment for six months to three years and a fine of 100,000 to 1,000,000 francs any person, who causes the offence of abortion, even if this cause is not followed by action:

1° either by speeches made in public places or meetings;

2° or by the sale, the setting on sale or the offer; even not public or by the exposure, the posting or the distribution on the public way or in the public places, or by the distribution at home, the handing-over under band or closed envelope, of books, writings, printed materials, advertisements, posters, drawings, images, emblems;

3° or by the advertising of medical practices, whether or not they are licensed.

Article 429: Shall be punished by the penalties provided for in the preceding article, any person who sells, offers for sale, causes to be sold, distributes or causes to be distributed in any manner whatsoever, medicines, substances, tools or objects whatsoever, knowing that they were intended to commit the offense of abortion, even if this abortion would not be materialized or attempted or that the said objects would in fact be unsuitable to cause it.

#### **Section 4: Abduction of minors**

Article 430: Anyone who, by fraud or violence, abducts in any form minors from the places where they were placed by those to whose authority or direction they were subject shall be punished by imprisonment of five to ten years and a fine of 500,000 to 50,000,000 francs.

If the minor thus abducted is a minor of fifteen years of age, the maximum penalty shall be pronounced.

The penalty shall be imprisonment for five to twenty years if the minor has been found alive, before the decision of conviction has been made.

The penalty shall be life imprisonment:

1° if the offender has been paid or has had the purpose of being paid a ransom by the persons under whose authority the minor was placed;

2° if the abduction is followed by the death of the minor, or if it results in a disability of more than 30%.

Attempting to commit the offenses provided for in paragraphs 1 and 2 of this article shall be punishable.

Article 431: Anyone who, without fraud or violence, abducts or attempts to abduct a minor shall be punished by imprisonment of one to five years and a fine of 50,000 to 500,000 francs.

Article 432: When the custody of a minor has been decided by a provisional or final court decision, the father, mother or any other person who does not represent the minor to those who have the right to claim him or her or who, even without fraud or violence, abducts or misappropriates him or her from the hands of those to whom his or her custody has been

entrusted, or from the places where the latter have placed him or her, shall be punished by imprisonment for one month to one year and a fine of 50,000 to 500,000 francs.

If the convicted person has been deprived of parental authority, the prison sentence may be increased to three years.

### **Section 5: Dangerous work by children**

Article 433: Any person who knowingly makes or allows a minor to perform dangerous work , shall be punished by imprisonment of one to five years and a fine of 500,000 to 1,000,000 francs, or by one of these two penalties only.

Shall be considered dangerous by nature or according to the conditions in which they are carried out works prohibited to minors and listed by Order of the Minister of Labor.

## **CHAPTER 4: OFFENSES AGAINST THE FREEDOM AND TRANQUILITY OF PERSONS**

### **Section 1: Offenses against individual freedom**

Article 434: Any person who, without an a warrant from legitimate authorities and except in cases where the law orders the seizure of offenders, arrests, detains or subject to confinement one or more persons, shall be punishable by imprisonment of five to ten years and a fine of 500,000 to 5,000,000 francs.

Attempt shall be punishable.

Article 435: The penalty shall be imprisonment for five to twenty years if, in the cases provided for in the preceding article:

- 1° the detention or violence lasts more than one month;
- 2° the arrest is carried out with false uniforms, name, and position or on a false order of the public authority;
- 3° the confinement is accompanied by a threat of death or violence;
- 4° the victim is conditionally released.

The penalty shall be life imprisonment if the arrested, detained or sequestered persons have been subjected to acts of torture.

Article 436: The penalty shall be imprisonment for one to five years and a fine of 100,000 to 1,000,000 francs, if the offenders, who have not yet been prosecuted, have released the person arrested, detained or confined before the tenth day following the arrest, detention or confinement.

Article 437: Any person who concludes an agreement with the purpose of alienating the freedom of a third party, either free of charge or in exchange for payment, shall be punished by imprisonment for five to ten years and a fine of 500,000 to 5,000,000 francs.

The maximum penalty shall be pronounced if the agreement is concluded on a minor.

Article 438: Any person who pledges or receives a person as securities for whatever reason shall be punished by imprisonment for one to five years and a fine of 100,000 to 1,000,000 francs.

The term of imprisonment shall be increased to ten years if the person pledged or received is a minor.

Article 439: Shall be punished by imprisonment for one to five years and a fine of 360,000 to 1,000,000 francs or by one of these two penalties only, anyone who:

1° compels a person to enter into a civil, customary or religious matrimonial union;

2° for the exclusive satisfaction of his personal interest, imposes on another person work or a service which he did not accept to perform voluntarily.

The maximum penalty shall be imposed if the person forced into the marriage union or into the work or service for which he did not offer himself voluntarily is a minor.

Anyone who knowingly ministers to the celebration of the matrimonial union referred to in paragraph 1 above, or to that of any union involving a minor, shall be punished with the same penalty as the offender.

The provisions of articles 114, 115 and 130 shall not be applicable if the victim is a minor.

The attempt shall be punishable.

Article 440: In all cases of offenses provided for in this section, deprivation of rights and a ban on appearing in certain places mentioned in articles 68 and 80 may be pronounced.

## **Section 2: Enslavement and exploitation of enslaved persons**

Article 441: Shall constitute enslavement, the exercise of one of the attributes of the right of property ownership against a person.

Any person who subjects a person to slavery shall be punished by imprisonment of ten to twenty years.

Article 442: Shall constitute exploitation of a person subjected to slavery the commission on a person, whose reduction to slavery is apparent or known to the perpetrator, of a sexual assault, sequestration or the submission of the person to forced labor or service.

Anyone who exploits a person subjected to slavery shall be punished by imprisonment of five to fifteen years.

Article 443: The penalty shall be life imprisonment if the offenses provided for in this section are committed:

1° on a minor of ten years of age;

2° on a person whose vulnerability due to age, illness, disability, physical or psychological deficiency or pregnancy is apparent or known to the offender;

3° by a person who has authority over the victim or abuses the authority conferred by his or her functions;

4° by a person called, by his functions, to the fight against slavery or the maintenance of public order;

5° by being preceded or accompanied by acts of torture or inhuman treatment.

### **Section 3: Threats - Denunciations - Disclosure of professional secrecy**

Article 444: Anyone who, by means of a writing, image, symbol or emblem, threatens another person with death or violence punishable by at least five years imprisonment shall be punished as follows:

1° to imprisonment for two to five years and a fine of 50,000 to 500,000 francs, if the threat is made with an order to deposit a amount of money in a specified place or to fulfill any other condition;

2° imprisonment for one to three years and a fine of 50,000 to 500,000 francs if the threat is not accompanied by any order or condition.

If the threat made with an order or under conditions is oral, the offender shall be punished by an imprisonment of six months to two years and a fine of 50,000 to 500,000 francs.

The deprivation of rights and the prohibition to appear in certain places mentioned in articles 68 and 80 can be pronounced.

Article 445: Anyone who, by means of a writing, image, symbol or emblem, threatens another person with violence other than that referred to in the preceding article, or with the destruction of any property, shall be punished as follows:

1° imprisonment for one to six months and a fine of 50,000 to 500,000 francs, if the threat is made with orders or under conditions;

2° imprisonment of six days to three months and a fine of 50,000 to 500,000 francs if the threat is not made with an order or under conditions or if, with an order or condition, it is oral.

Article 446: Slanderous denunciation is the intentional false denunciation, by any means whatsoever, of a false fact, likely to expose the person who is the subject of it to a sanction by the administrative authority, his employer or to legal proceedings.

Anyone who makes a slanderous denunciation shall be punished by imprisonment of one to five years and a fine of 100,000 to 1,000,000 francs.

The deprivation of rights and the ban on appearing in certain places provided for in articles 68 and 80 may be pronounced.

If the act denounced is likely to result in criminal or disciplinary punishment, proceedings may be instituted under this article either after a judgment or ruling of acquittal, or after an order or ruling of dismissal, or after the report has been filed by the magistrate, public official, higher authority or employer competent to follow up on it.

The judge to whom a case is referred under this article shall stay the proceedings if proceedings concerning the act denounced are in progress.

Article 447: Any person who, by reason of his status or profession or by reason of his temporary or permanent office, has custody of a secret entrusted to him and who, except in cases where the law obliges or authorizes him to act as a whistleblower, discloses the secret, shall be punished by imprisonment of one to six months and a fine of 50,000 to 500,000 francs.

Article 448: Any person who, without authorization, reveals a fact that is secret by nature or declared secret by the court or authority seized of the matter, and that has come to his knowledge in the course of judicial or administrative proceedings in which he was present either as a party or as a witness, interpreter or representative of one of the parties, shall be punished by imprisonment of one to three months and a fine of 50,000 to 500,000 francs.

#### **Section 4: Residence and correspondence trespassing**

Article 449: Any person who enters a person's home or remains there against the person's express wishes shall be punished by imprisonment for six days to two months and a fine of 50,000 to 500,000 francs.

The above penalties shall be increased to double when:

1 ° the offence takes place during the night;

2° the offence is carried out with the use of violence, threats or assault;

3° the author is carrying a weapon or uses a false name, a false title or a false order from a legitimate authority;

4° the offence is committed by a group of persons.

Prosecution may be brought only upon complaint by the victim.

Article 450: Any person who, in bad faith and without the authorization of the addressee, opens or deletes correspondence addressed to a third party in any form or on any medium whatsoever shall be punished by imprisonment of one month to one year and a fine of 20,000 to 200,000 francs.

Any deletion or opening of correspondence entrusted to a mail delivery service committed or facilitated by an agent of the said service or by any other agent or servant of the public administration, shall be punishable by imprisonment of three months to five years.

The present article is not applicable to the father or mother or to any person exercising parental authority, with regard to correspondence addressed to their non-emancipated minor children.

## **CHAPTER 5: OFFENCES AGAINST THE FAMILY**

### **Section 1: Offences against the civil status of a child**

Article 451: Any person who, by his or her actions, compromises, destroys or alters the civil status of a child under 10 years of age, or over 10 years of age but suffering from a mental disability rendering him or her incapable of knowing his or her own identity, shall be punished by imprisonment for a term of five to ten years.

If it is not established that the child has lived, the penalty shall be one month to five years imprisonment.

If it is established that the child has not lived, the penalty shall be six days to three months imprisonment.

### **Section 2: Violation of obligations resulting from marriage**

Article 452: Shall be punishable by imprisonment of three months to one year and a fine of 100,000 to 1,000,000 francs:

1° the father or mother of a family who abandons, without legitimate reason, for more than two months, the family residence and abdicates to all or part of the legal obligations resulting from the exercise of parental authority; the two-month period may be interrupted only by a return to the home implying the will to resume family life definitively ;

2° the father or mother of a family who, without abandoning the marital home, withdraws for one month from his legal obligations resulting from the exercise of parental authority;

3° the husband who, without legitimate reason, voluntarily abandons his wife for more than one month, knowing her to be pregnant;

4° the father or the mother who, having entrusted to a third party the maintenance of their child, refuses, in bad faith, to pay the amount of the expenses necessary for this maintenance

5° the father and mother, whether or not they have been deprived of parental authority, who seriously compromise the health, safety or morality of one or more of their children by ill-treatment, by pernicious examples of habitual drunkenness or notorious misconduct, by a lack of care or by a lack of necessary parental guidance.

In the case of the offenses provided for in 1° and 2° of the first paragraph of this article, the prosecution shall initially involve an arrest of the offender by a judicial police officer, which shall be recorded in a report.

He shall be given a period of eight days to fulfill his obligations.

If the defendant is on the run or has no known residence, the arrest shall be replaced by an administrative notification to the last known address.

During marriage, prosecution shall be only carried out on the complaint of the spouse who has remained at home.

Article 453: Any person who, in disregard of a decision rendered against him by virtue of the provisions relating to marriage or in disregard of an order or judgment having ordered him to pay maintenance to his spouse, ascendants or descendants, voluntarily remains for more than two months without providing the full amount of the subsidies determined by the judge or paying the full amount of the maintenance, shall be punished by imprisonment for a term of three months to one year and a fine of 100,000 to 1,000,000 francs.

Failure to pay shall be presumed to be voluntary, unless proven otherwise. The insolvency resulting from habitual misconduct or laziness is in no case a valid excuse for the debtor.

Article 454: Any person convicted of any of the offenses provided for in the two preceding articles may, in addition, be deprived to exercise his rights as mentioned in article 68.

Article 455: Any person who, having entered into a marriage contracts another before the dissolution of the previous marriage shall be punished by imprisonment of six months to three years and a fine of 50,000 to 500,000 francs.

The civil registrar who celebrates this marriage knowing the existence of the previous one shall be sentenced to the same punishment.

The attempt shall be punishable.

Article 456: A husband or wife who is convicted of adultery, as well as his or her accomplice, are punished by imprisonment of two months to one year.

Proceedings may only be instituted upon complaint by the offended spouse. The acquiescence or forgiveness of the offended spouse shall prevent or halt any prosecution, and the offended spouse shall remain in control of halting the effect of the sentence pronounced against the other spouse, by agreeing to resume living together.

The only evidence admitted against the accomplice shall, besides the flagrant delicto, that resulting from letters or other documents written by him.

### **TITLE III: FELONIES AND MISDEMEANORS AGAINST PROPERTY**

#### **CHAPTER I: OFFENSES AGAINST THE PROPERTY OF OTHERS**

##### **Section 1: Theft**

Article 457: Anyone who fraudulently takes something that does not belong to him commits theft.

Article 458: Theft shall be punishable by imprisonment for five to ten years and a fine of 300,000 to 3,000,000 francs.

Article 459: The penalty shall be imprisonment for ten to twenty years and a fine of 500,000 to 5,000,000 francs if the theft is committed in any of the following circumstances:

1° violence not resulting in injury;

2° housebreaking, climbing or use of forged keys;

3° in group by at least two people;

4° fraudulent use of the uniform of a public official, civil or military, or the title of such a public official, or a false order from the civil or military authorities;

5° in a house inhabited or used for residence;

6° breaking a seal;

7° the use of a mask of any kind;

8° at night.

Article 460: Theft shall be punishable by life imprisonment if it is committed:

1° at night with the combination of at least two of the circumstances provided for in the preceding article;

2° when the offender is carrying a weapon;

3° with violence resulting in death or injury, or when the offender has used a vehicle to facilitate his undertaking, his escape, or is carrying a narcotic;

4° when the offender exerts sexual violence on the victim.

Article 461: The offenses provided for in articles 459 to 460 are misdemeanors.

The provisions of article 130 on suspended sentences shall not apply.

The attempt shall be punishable.

Article 462: In the event of conviction, the judge shall pronounce the deprivation of rights and the ban on appearing in certain places or the ban from residing on the territory of the Republic provided for in articles 68 to 72 and 80 to 83.

The judge may extend the duration of the deprivation of rights, the ban on appearing in certain places or the ban on residing on the territory of the Republic to twenty years.

Article 463: Shall be punished by an imprisonment of three months to one year and a fine of 50,000 to 500,000 francs, whoever, knowing that he is in absolute impossibility to pay:

1° is served with drinks or food that he consumes on the spot, in whole or in part, in the establishments intended to sell them, even if he is lodged in the said establishments, provided in this case that the accommodation does not exceed fifteen days;

2° is assigned one or more rooms in a hotel, inn, motel or guest house and actually occupies them for a period not exceeding fifteen days;

3° is served with fuels or lubricants and has all or part of the tank of a vehicle filled by a professional distributor;

4° hires a car.

The offenses provided for in this article may be prosecuted only upon complaint by the offended person. Payment of the sums due and any legal fees paid by the plaintiff, followed by the withdrawal of the complaint, shall terminate the proceedings.

Article 464: Any person who temporarily uses a vehicle or motorboat without the knowledge or consent of its owner shall be punished by imprisonment of three months to one year and a fine of 100,000 to 1,000,000 francs.

The penalties shall be doubled if the offender:

1° engages in a paid transport with this vehicle or boat;

2° causes material damage to the vehicle or boat used, or material or physical damage to third parties.

The penalties shall be reduced by half if the offender brings the vehicle or motorboat back to the place where it was located at the time he took it.

The attempt shall be punishable.

Article 465: Shall be punished by imprisonment of three months to one year and a fine of 50,000 to 500,000 any person who:

1° fraudulently connects himself in any way whatsoever to an energy, water or telecommunications distribution network;

2° makes his a lost item.

The attempt shall be punishable.

Article 466: Any person who, in disregard of legal instructions, seizes or damages property held by his debtor shall be punishable by imprisonment of three months to one year and a fine of 50,000 to 500,000 francs or by one of these two penalties only.

## **Section 2: Misappropriation**

Article 467: Constitutes a breach of trust the misappropriation, dissipation or destruction of funds to the prejudice of another, by person who has been given the money, securities or any other property and who has accepted them on the condition that he returns them, re-presents them, or uses them for a specific purpose.

The breach of trust shall be punishable by an imprisonment of one to five years and a fine of 300.000 to 3.000.000 francs.

The fine may be increased to one- quarter of the restitutions and damages, if this amount is higher than the maximum provided for in the preceding paragraph.

As soon as the evidence of the delivery of the item is provided, the one who received it shall be presumed to have diverted, dissipated or destroyed it if he cannot return it, re-present it or justify that he used it envisaged.

In order to overturn this presumption, it is up to him to prove that the impossibility of returning or re-presenting the item received or proving that he has made the use of it as intended or that the impossibility is not fraudulent or, if fraudulent, that it is not attributable to him.

Article 468: The penalties provided for in paragraphs 2 and 3 of the preceding article may be doubled if the breach of trust has been committed:

1° by a public or ministerial official, a trustee in a collective procedure for the settlement of debts, a company liquidator, a business agent, a commercial representative or any person who manages the business of others, in the exercise or on the occasion of the exercise of his functions or his profession ;

2° by a person appealing to the public in order to obtain, either on his own behalf or as director, manager or agent of a company or a commercial or industrial enterprise, the delivery of funds or securities by way of deposit, guarantee or securities.

Article 469: Shall be punished by imprisonment of one to five years and a fine of 300,000 to 3,000,000 francs or by one of these two penalties only:

1° the distrainee who destroys or misappropriates an item seized from him and entrusted either to his custody or to the custody of a third party;

2° the debtor, borrower or third party pledger who destroys or misappropriates the item given by him as a pledge,

3° the purchaser or holder of items or equipment which are the subject of a pledge, who destroys, misappropriates or alters them in any way in order to defeat the rights of the creditor.

Article 470: Attempts to commit the offenses provided for in this section shall be punishable.

### **Section 3: Acquisition of another's property by fraudulent means or violence**

Article 471: Shall be punished by imprisonment of one to five years and a fine of 300,000 to 3,000,000 francs, any person, either by making use of a false name, false capacity or true position, or by employing fraudulent maneuvers, to persuade of the existence of false undertakings, of imaginary power or credit or to give rise to the hope or fear of success, or any other fanciful event, causes to be delivered money, chattels or bonds, bills, promises or discharges and has by any of these means defrauded the whole or any part of the property of another.

If the offence was committed by a person who called on the public with a view to issuing shares, bonds, vouchers or securities of any kind, either of a company or of a commercial or industrial enterprise, the imprisonment may be increased to ten years and the fine to 10,000,000 francs.

Attempt shall be punishable.

Article 472: Shall be liable to imprisonment for a term of one to five years and to a fine of 300,000 to 3,000,000 francs, any person who makes an inaccurate or incomplete declaration with a view to obtaining from the State or from a credit institution operating under the control of the State either:

2° an undue payment or benefit of any kind;

2° a payment in fraud of the rights of a creditor with securities or who is opposing creditor;

3° an advance, a loan, an endorsement or a guarantee.

Attempt shall be punishable.

Article 473: Shall be punished by imprisonment of two months to two years and a fine of 300,000 to 3,000,000 francs, any person who abuses the needs, weaknesses or passions of a minor, an incapacitated adult or any other person who is vulnerable due to age, illness, disability, or physical or psychological deficiency, in order to have him or her subscribe, to his or her detriment, to bonds, receipts or clearances, for the loan of money or movable property or negotiable instruments or any other bonded instruments, in whatever form this subscription was made or disguised.

The fine may be increased to one-fourth of the restitution and damages if this amount is greater than the maximum provided for in the preceding paragraph.

The provisions of article 130 relating to suspended sentence shall not apply.

Article 474: Shall be punished by imprisonment of five to ten years and a fine of 100,000 to 1,000,000 francs, anyone who, by force, violence or coercion, obliges a person:

1° either to do an act that affects his or her property, such as signing, handing over or destroying a document containing or effecting an obligation, a disposal or discharge or handing over funds;

2° or to refrain from doing such an act, while such abstention is detrimental to his property.

The attempt shall be punishable.

The provisions of article 130 relating to suspended sentence shall not apply.

Article 475: Any person who, by means of a written or oral threat in any form or medium, revelations or defamatory accusations concerning the victim or a relative of the victim, demands that the victim executes one of the obligations referred to in 1° and 2° of the first paragraph of the preceding article, shall be punished by imprisonment of one to five years and a fine of 300,000 to 3,000,000 francs.

The penalties shall be doubled if the convicted person:

1° habitually engages in such activities or abuses, in order to engage in them, the information or situation provided by his profession;

2° exercises his criminal activity to the detriment of minors or persons incapable of discernment;

3° leads the victim, by these methods or their repetition, to ruin or suicide.

The provisions of article 130 relating to suspended sentences shall not be applicable.

Article 476: Shall be punished by imprisonment for a period of six months to three years and a fine of 100 000 to 1 000 000 francs, person who, by exploiting the state of vulnerability or dependence, the weakness of mind, the inexperience or the negligence of a person, is granted or promised by him, for himself or for a third party, in exchange for a service, pecuniary advantages in obvious disproportion to that service.

The convicted person shall be also sentenced to return the advantages or sums unduly received.

Attempt shall be punishable.

#### **Section 4: Concealment**

Article 477: Constitutes concealment, the fact that a person hides, keeps or pass on an object, or serves as an intermediary in order to pass it on, knowing that this object comes from a felony or a misdemeanor.

Also constitutes concealment, the fact that a person knowingly benefits, by any means, from the proceeds of a felony or misdemeanor.

Anyone who commits concealment shall be punished by imprisonment of one to five years and a fine of 300,000 to 3,000,000 francs.

The fine may be increased above 3,000,000 francs, up to half the value of the stolen object.

In the case where the act to procure the object concealed constitutes a crime, the concealer shall be punished with the penalty attached by the law to this crime.

If it is a concealment of stolen objects, the penalties shall be those set out in article 458 and the provisions of article 130 concerning suspended sentences shall not apply.

#### **Section 5: Hijacking of aircraft**

Article 478: Any person who, while on board an aircraft in flight, hijacks it by violence or threat of violence or exercises control over it, shall be punished by imprisonment for a term of five to twenty years.

The offence provided for in the first paragraph above is a misdemeanor and the attempt shall be punishable.

If these acts result in injury, illness or death of one or more persons, the penalty shall be life imprisonment.

An aircraft shall be considered to be in flight from the moment when, after boarding, all its external doors have been closed until the moment when one of its doors is opened for landing. In

the event of a forced landing, the flight shall be deemed to continue until the Competent Authority takes charge of the aircraft and the persons and properties on board.

### **Section 6: Forgery in private, commercial or bank records**

Article 479: Any person who, in any of the ways set forth in articles 307 and 308, commits or attempts to commit forgery in a private, commercial or bank document shall be punished by imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs.

Shall be punished with the same penalty, whoever knowingly makes use or attempts to make use of the forged document.

The above provisions shall not apply to forged certificates and acts referred to in article 481.

Article 480: Constitutes a blank signature, a signature appended in advance to the bottom of a document on which the signatory has intentionally left a blank to be filled in later.

Any person who, in order to obtain an advantage for himself or for a third party, or in order to cause damage to another person, abuses a blank signature entrusted to him, by fraudulently writing on it an obligation, a discharge or any other act, different from those which he was obliged or authorized to draw up, and by this means compromises or attempts to compromise the personality or fortune of the signatory, shall be punished by imprisonment for a term of one to five years, and by a fine of 300,000 to 3,000,000 francs.

Article 481: Shall be punished by an imprisonment of six months to two years and a fine of 50,000 to 500,000 francs, or by one of these two penalties only, whoever :

1° knowingly draws up an attestation or certificate stating materially inaccurate facts;

2° falsifies or modifies in any way whatsoever an attestation or certificate that was originally true;

3° knowingly makes use of an inaccurate or falsified attestation or certificate.

Shall be punished with the same penalties, any person belonging to the medical or paramedical profession who, in the exercise of his functions and for the benefit of others, falsely certifies or hides the existence of illnesses, disabilities, infirmities or a state of pregnancy, or provides false information on the origin of an illness, disability or infirmity or the cause of death.

If the documents mentioned in this article are drawn up by a public official, acting in the exercise or on the occasion of the exercise of his functions, the penalties shall be increased to double.

Attempt shall be punishable.

Article 482: Any person who fraudulently reproduces or imitates or falsifies the seals, stamps, marks or prints on the letterhead of a legal private person or of a private individual shall be

punished by imprisonment for a period of six months to three years and a fine of 50,000 to 500,000 francs.

Shall be punished with the same penalties any person who knowingly makes use of the seals, stamps, marks or prints on letterhead thus fraudulently reproduced, imitated or falsified.

The attempt shall be punishable.

### **Section 7: Offenses committed by debtors in bad faith**

Article 483: Any debtor, even a non-trading debtor, who knowingly organizes his insolvency in the course of civil or commercial proceedings instituted against him with a view to the non-performance of his obligations, shall be punished by imprisonment of one month to one year.

### **Section 8: Common provisions**

Article 484: In all the cases provided for in this chapter, deprivation of rights and prohibition of appearance in certain places mentioned in Articles 68 and 80 may be pronounced.

## **CHAPTER 2: DESTRUCTION - DEGRADATION - DAMAGE**

### **Section 1: Arsons and voluntary destruction of objects**

Article 485: Any person who, voluntarily, destroys or degrades more or less seriously by any means whatsoever, all or part of an immovable property, ship, aircraft, building, bridge, roadway, construction, installation, even a mobile one, or means of public transport of goods belonging to another person, shall be punishable by imprisonment for one to five years and a fine of 300,000 to 3,000,000 francs.

The penalty shall be imprisonment for two to ten years if the property referred to in the preceding paragraph:

1° belongs to a legal person of public law and, is placed at the disposal of the public with a view to satisfying the general interest;

2° is inhabited or is used for habitation;

3° consists of a means of public transport of persons.

The attempt shall be punishable.

Article 486: The penalty shall be imprisonment for five to twenty years if the destruction or degradation of the property referred to in the preceding article is obtained by means of fire or by the effect of an explosive device or substance.

The penalty shall be life imprisonment if the destruction or degradation causes death or permanent illness or disability, even if the property belongs to the offender.

Article 487: Anyone who sets fire to any of the objects listed in the preceding articles by deliberately setting fire to any object belonging either to himself or to another person and placed in such a way as to set fire to the said object shall be punished by the penalties provided for in article 486.

Article 488: Any person who, under the conditions laid down in the preceding article, causes a fire in a farmed or not farmed area situated less than five hundred meters from an inhabited house, a road or a public building, shall be punished by imprisonment of two to twelve months and a fine of 100,000 to 500,000 francs.

Article 489: Any person who, without authorization, manufactures, imports, buys, sells, keeps or transports either an incendiary or explosive substance or a product suitable for its manufacture shall be punished by one to five years' imprisonment and a fine of 300,000 to 3,000,000 francs.

Article 490: Any person who, causing damage to others, deliberately burns or destroys registers, securities, bills, commercial or bank instruments, containing or effecting obligations, disposals or discharges, shall be punished by imprisonment of one to five years and a fine of 300,000 to 3,000,000 francs.

Article 491: Any person who destroys standing crops or naturally occurring or man-made seedlings or trees shall be punished by imprisonment of six months to three years and a fine of 50,000 to 500,000 francs.

Article 492: Any person who allows livestock to pass over the land of another person bearing crops, plantations or harvests, with the circumstance that the said passage is likely to damage these crops, plantations or harvests, shall be punished by imprisonment for one to three years and a fine of 50,000 to 500,000 francs.

The penalty shall be imprisonment for six months to three years and a fine of 50,000 to 500,000 francs where the passage of animals has caused damage to crops, plantations or harvests.

Article 493: Any person who voluntarily destroys or damages by fire or by any other means, in whole or in part, a vehicle of any kind belonging to another shall be punishable by imprisonment for one to three years and a fine of 50,000 to 500,000 francs.

The attempt shall be punishable.

Article 494: Shall be punishable by six months to two years imprisonment and a fine of 50,000 to 500,000 francs or one of these two penalties only, any person who voluntarily:

1° destroys or damages agricultural implements, livestock pens or constructions made of light materials;

2° destroys, in whole or in part, hedges or fences of any material.

Article 495: Any other voluntary damage to the movable property of others shall be punishable by imprisonment of six months to two years and a fine of 50,000 to 500,000 francs or by one of these two penalties only.

### **Section 2: Offenses against animals**

Article 496: Any person who, without necessity, poisons or kills a domesticated, tamed or captive animal or commits an act of cruelty against such an animal, whether or not he is the owner, shall be punished by imprisonment for a period of fifteen days to six months and a fine of 50,000 to 500,000 francs, or by one of these two penalties only.

Article 497: Any person who carries out scientific experiments or research on animals without complying with the regulatory requirements for such work shall be punished by imprisonment for a period of fifteen days to six months and a fine of 50,000 to 500,000 francs.

## **CHAPTER 1: OFFENSES TENDING TO EVADE MILITARY OBLIGATIONS**

### **Section 1: Insubordination**

Article 499: Any person who, except in cases of force majeure, does not arrive at his assigned duty station thirty days after the expiration of the time limit set by a regularly notified order of call-up or recall to military activity, shall be deemed to have committed insubordination.

Any voluntary enlisted or re-enlisted person who does not arrive at his duty station within the same period of thirty days shall be also liable for insubordination.

In times of war, the above time limits shall be reduced by two thirds.

Article 500: Any insubordinate officer shall be punished by two months to one year of military detention.

In times of war, the penalty shall be two to ten years of military detention. The convicted person may, in addition, be deprived of the rights mentioned in article 68 for five years and military dismissal may be pronounced.

### **Section 2: Abandonment of post**

Article 501: Any soldier who abandons his post shall be punished:

1° from two to six months of military detention;

2° from two months to two years of military detention if the abandonment takes place while he is on duty, on watch or on guard;

3° from two to five years of military detention if the abandonment takes place either in time of war, or in a territory under siege or emergency;

4° to military detention for life if the abandonment takes place in the presence of the enemy, rebels or an armed band.

The temporary penalties provided for above shall be doubled if the offender is an officer.

The post is the place where the soldier must be at a given time for the accomplishment of the mission he is entrusted by his commanding officer.

Any commander of a military unit, vessel or aircraft, who, voluntarily, in the course of a military operation, does not keep his unit, vessel or aircraft in order or voluntarily separates from his commanding officer in the presence of the enemy, rebels or an armed group, shall be also considered to have abandoned his post.

Any soldier who voluntarily causes any of the breaches provided for in the preceding paragraph shall be punished by military detention for life.

Article 502: Any soldier, who, when the ship or aircraft is in danger, abandons it without orders and in violation of the instructions received, shall be punished by two months to two years of military detention.

If he is a crew member, the penalty shall from two to five years.

If the convict is an officer, he may also be dismissed.

Article 503: Any pilot of a convoyed vessel or ship convicted of abandoning this vessel or ship shall be punished by six months to two years of military detention.

If the abandonment takes place in the presence of the enemy, rebels or an armed band or in the event of imminent danger, the penalty shall be five to ten years of military detention.

Article 504: Shall be punished with military detention for life:

1° the commander of a vessel, the pilot of a military aircraft who, voluntarily, in case of loss of his vessel or aircraft, does not abandon it last;

2° a commander who is not a pilot and who, under the same conditions, abandons his aircraft before the evacuation of the other persons on board, except for the pilot.

Article 505: Any commander of a convoyed or requisitioned ship or aircraft who, during military operations, voluntarily abandons the convoy of which he is a part or disobeys orders, shall be punished by two months to three years of military detention.

### **Section 3: Desertion**

Article 506: Shall be considered as a domestic deserter in time of peace:

1° any soldier who absents himself without authorization from his corps or division, his base or unit, his vessel or the establishment where he is undergoing treatment or who escapes from the facility where he is detained; desertion is established at the end of an established absence of six days;

2° any military person, traveling in isolation, whose mission, leave or permission has expired and who does not report to the

2° any soldier, traveling in isolation, whose mission, leave or permission has expired and who does not report to the Gendarmerie, to a corps or division, to his base, formation or vessel; in this case the desertion is established at the end of a period of 15 days calculated from the day fixed for his arrival or his return.

A soldier who has not served for three months is a deserter only after thirty days of absence.

In times of war, the above time limits shall be reduced by two thirds.

Article: 507: Desertion with conspiracy is that committed in concert by more than two soldiers.

Article 508: Any soldier who leaves the territory of the Republic without authorization for more than three days shall be considered a deserter abroad.

In time of war this period shall be reduced to one day.

Article 509: Shall be also a deserter abroad any soldier who, outside the territory of the Republic:

1° is absent without authorization for more than three days from his corps or division, from the base or formation to which he belongs, or from the vessel or aircraft he is assigned to;

2° fails to report six days after the day fixed for his return from mission, leave, permission or travel to his corps or division, to the base or formation to which he belongs, to the vessel or aircraft he is assigned to or to the Consular Authority.

In time of war the above time limits shall be reduced by two thirds.

Any soldier who, outside the territory of the Republic, is absent without authorization from the ship or aircraft on which he is embarked shall be also considered as a deserter abroad.

Article 510: The deserter inside the country shall be punished by six months to three years of military detention.

The deserter with conspiracy shall be punished by one to five years of military detention.

If the desertion takes place, either in time of war, or in a territory under siege or in a state of emergency, the penalty may be increased to ten years of military detention.

Article 511: The deserter abroad shall be punished by two to five years of military detention.

If the person convicted of desertion abroad takes a weapon or item of the State or deserts with a plot, or while on watch, the sentence may be increased to ten years.

If the desertion abroad takes place in time of war, or in a territory under siege or in a state of emergency, the sentence may be increased to fifteen years of military detention and to twenty years in case of desertion with conspiracy.

If the deserter abroad is an officer, the penalty shall be:

1° five to ten years of military detention in the cases provided for in paragraph 1 above;

2° ten to fifteen years of military detention in the cases provided for in paragraph 2 above;

3° twenty years of military detention in the cases provided for in paragraph 3 above.

Article 512: The deserter in the presence of the enemy, rebels or a yearly band, shall be punished by ten to twenty years of military detention.

The penalty shall be that of military detention for life:

1 ° if he is an officer;

2° if the desertion takes place with conspiracy.

Article 5I 3: Shall be punished with military detention for life, any soldier or any crew member of a convoyed ship, convicted of deserting to the enemy, rebels or armed band.

Article 514: Felonies punishable by military detention for life under this section shall be punishable by military detention in case of penalty under mitigating circumstances.

In all cases, military dismissal may be pronounced.

#### **Section 4: Incitement to insubordination and desertion - concealment of insubordinates and deserters**

Article 515: Anyone who, by any means whatsoever, with or without effect, provokes insubordination or desertion, shall be punished by six months to three years imprisonment.

In times of war or in a territory under siege or in a state of emergency, the penalty shall be five to ten years' imprisonment.

Article 516: Anyone who knowingly conceals an insubordinate or deserter, or in any way withdraws an insubordinate or deserter from the proceedings dictated by law, shall be punished by two months to two years imprisonment.

A fine of 20,000 to 500,000 francs may also be imposed.

Attempt shall be punishable.

Article 517: The penalties provided for in this section shall be applicable when the incitement or concealment is committed to the detriment of an allied army.

### **Section 5: Self-inflicted mutilation**

Article 518: Anyone who renders himself unfit for service, either temporarily or permanently shall be punished by one to five years imprisonment.

The deprivation of the rights provided for in article 68 shall be pronounced.

Dismissal from the army may also be pronounced, if the convict is an officer.

Attempt shall be punishable.

Article 519: The penalty of imprisonment provided for in the preceding article may be increased to fifteen years if the acts take place either in time of war or in a territory under siege or emergency.

The penalty shall be life imprisonment if the acts take place in the presence of the enemy, rebels or an armed band.

Article 520: If the offender or accomplices are physicians or pharmacists, the temporary penalties provided for in this section shall be doubled. A fine of 250,000 to 1,000,000 francs may also be pronounced.

## **CHAPTER 2: OFFENSES AGAINST HONOR OR DUTY**

### **Section 1: Capitulation**

Article 521: An officer who, in the face of the enemy, rebels or an armed band, capitulates or orders the cessation of combat or brings the flag down without exhausting all means of defense and without doing all that duty or honor requires of him, shall be punished by military detention for life.

Article 522: The person in charge of a military unit, vessel or aircraft, who, being able to attack and fight an adversary equal or inferior in strength, refrains, when not prevented from doing so by serious reason, from rescuing an Ivorian or allied troop, vessel or aircraft pursued or engaged in combat, shall be punished by one to five years of military detention.

Military dismissal may also be pronounced.

## **Section 2: Treason and conspiracy**

Article 523: Shall be punished by military detention for life any soldier or individual on board a convoyed vessel who:

- 1° provokes flight or prevents the rallying in the presence of the enemy, rebels or an armed band;
- 2° without orders from the commander causes the cessation of combat or brings down the flag.

Article 524: Any soldier convicted of conspiracy to undermine either the authority of the person in charge of a military formation, vessel or aircraft, or the discipline or security of the formation, vessel or aircraft, shall be punished by five to ten years of military detention.

The maximum penalty shall be applied to the highest ranking military personnel and to the instigators of the plot.

In time of war or in a territory under siege or in a state of emergency, or in any circumstances that may jeopardize the safety of the formation, vessel or aircraft, the convict shall be punished with military detention for life.

Article 525: Any Ivorian soldier or soldier in the service of Côte d'Ivoire who, having fallen into the hands of the enemy, undertakes, in order to obtain his or her freedom, not to bear arms against the enemy, shall be punished by three to five years' military detention.

## **Section 3: Looting**

Article 526: Shall be punished with life imprisonment the perpetrators of any plundering or damage of goods, merchandise or objects, committed in gang by soldiers either with weapons or with open force, or with breaking of doors or external fences, or with violence towards persons.

If there are one or more instigators, one or more military personnel with ranks among the convicts, life imprisonment shall be imposed only on the instigators and the military personnel with the highest rank.

The other convicts shall be punished with ten to twenty years of imprisonment.

Article 527: Anyone who, in an area of military operations, strips a wounded, sick, shipwrecked or dead person off his belongings shall be punished by five to ten years imprisonment.

The penalty shall be life imprisonment if the acts are accompanied by violence that aggravates the condition of the wounded, shipwrecked or sick person.

#### **Section 4: Destruction**

Article 528: Any soldier, pilot or commander of a vessel, a convoy or an aircraft who, through clumsiness, carelessness, inattention, negligence or failure to comply with regulations causes the loss or permanent or temporary out-of-service of any building, structure, vessel, ship, aircraft, supplies, armaments, materials or any facility for the use of the armed forces or contributing to the national defense shall be punished by military detention of one to five years.

If the offender is an officer, military dismissal may also be pronounced.

Article 529: Any military person who voluntarily causes the destruction, loss or permanent or temporary disabling of a weapon or any other movable object assigned to the service of the army, even if he or she is the owner, shall be punished with one to ten years of military detention.

If the convict is an officer, military dismissal may also be pronounced.

The penalty shall be from five to twenty years of military detention if the object made unfit for service concerns the operation of a military vessel or aircraft, or if the act is committed either in time of war, or in a fire, grounding, boarding or maneuver concerning the safety of the vessel or aircraft.

Article 530: Any soldier who voluntarily causes the destruction, loss or permanent or temporary disabling of an edifice, structure, vessel, aircraft or facility used by the armed forces or contributing to national defense shall be punished by ten to twenty years of military detention.

If the destruction is of such a nature as to cause the death of a person or to harm national defense, the penalty shall be life imprisonment.

Life imprisonment shall be also incurred if there is a loss of life or if the offender in charge of a navy or air force, pilot or a crew member of a ship or military aircraft, voluntarily causes the destruction, loss or permanent or temporary disablement of the ship or aircraft under his command or on board of which he is embarked.

#### **Section 5: Forgeries, falsifications and misappropriation**

Article 531: Any soldier who commits forgery in his accounts or who uses a false document shall be punished by two to ten years of military detention.

If the convicted person is an officer, he may also be dismissed from the military.

Article 532: Shall be punished by military detention for one to five years, any soldier who knowingly:

- falsifies or causes to be falsified substances, items, foodstuffs or liquids entrusted to his custody or who distributes or causes to be distributed said falsified substances, items, foodstuffs or liquids;
- distributes or causes to be distributed meat unfit for consumption or corrupted or spoiled substances, items, commodities or liquids.

If the convict is an officer or acts as an officer, he may also be dismissed from the military.

The offences referred to in this article shall be established in accordance with the procedure laid down in the legislation on fraud.

Article 533: Any soldier who misappropriates or diverts weapons, ammunition, vehicles, money, effects and other objects given to him for service or on the occasion of service shall be punished by one to five years of military detention.

#### **Section 6: Usurpation of uniform, decoration, distinctive insignia and emblems**

Article 534: Any soldier who publicly wears an Ivorian insignia, uniform or costume without having the right to do so shall be punished by six months to three years of military detention.

The same punishment shall be pronounced against any soldier who wears a decoration, national or foreign medal without being a holder.

Article 535: Anyone who, in a zone of military operations and in violation of the laws and customs of war, uses the distinctive insignia and emblems defined by international conventions to ensure respect for persons, property and protected places, shall be punished by one to five years imprisonment.

#### **Section 7: Contempt for the flag or the army**

Article 536: Shall be punished by military detention for six months to two years, any soldier who commits a contempt against the flag or the army.

If the convict is an officer or non-commissioned officer, military dismissal or stripping off rank may also be pronounced.

Article 537: Any soldier, who, by any means whatsoever, incites one or more other members of the army to commit acts contrary to duty or discipline, shall be punished by six months to five years of military detention.

If the acts are committed either in time of war or in a territory under siege or in a state of emergency, the penalty shall be military detention for five to ten years.

If the acts are committed in the presence of the enemy, rebels or an armed band, the penalty shall be military detention for life.

### **CHAPTER 3: OFFENSES AGAINST DISCIPLINE**

#### **Section 1: Revolt**

Article 538: Military personnel shall be in revolt if they:

1° having weapons and being in number of at least four, refuse at the first summons to obey the orders of their superior;

2° at least four soldiers together, take up arms without authorization and act against the orders of their commander;

3° gathered in number of at least eight, engage in violence by using weapons and refuse to disperse and return to order at the call of the qualified authority.

Article 539: The penalty shall be:

1° three to five years of military detention in the case of the first paragraph of the preceding article;

2° from five to ten years of military detention in the case of the second paragraph;

3° from ten to twenty years of military detention in the case of the third paragraph.

Military detention for life shall be incurred if the revolt takes place in the presence of the enemy, rebels or an armed band.

Life imprisonment may be applied to the highest ranking soldiers and to the instigators of the revolt.

Article 540: If the revolt takes place in time of war, or in a territory in a state of siege or emergency, or on board a ship or aircraft, the penalty may in all cases be increased to twenty years of military detention and the instigators shall be punished with life imprisonment.

#### **Section 2: Rebellion**

Article 541: Any attack, resistance with violence or assault against the armed force or agents of the Authority committed by a military person shall be punishable:

1° from two months to one year of military detention if the rebellion takes place without a weapon;

2° from one to three years of military detention, if the rebellion takes place with a weapon.

Article 542: If the acts are committed by several members of the army, the applicable penalty shall be military detention for six to twenty years when at least two of the convicts are visibly carrying a weapon or when there are at least eight members of the military acting in concert.

The instigators or leaders of the rebellion and the highest ranking member of the military are liable to military detention for life.

### **Section 3: Refusal to obey**

Article 543: Any soldier who refuses to obey or who, except in cases of force majeure, does not carry out the order received shall be punished by one to two years of military detention.

The penalty may be increased to five years if the act takes place either in wartime, or in a territory under siege or emergency, or on board a ship or aircraft.

Article 544: Shall be punished by military detention for life any soldier who refuses to obey, when ordered to march against the enemy, the rebels or an armed band or for any other service in the presence of the enemy, the rebels or an armed band.

Article 545: Any person in the service of the Armed Forces or employed in an establishment of the Armed Forces who refuses to obey when commanded to do so, either in the presence of the enemy, rebels or an armed band, or in the event of fire or danger threatening the safety of the establishment, a ship or an aircraft, shall be punished by imprisonment for two months to five years.

### **Section 4: Violence and contempt**

Article 546: Any soldier guilty of violence or assault against a superior shall be punished by six months to three years of military detention.

If the convict is an officer, the penalty shall be two to five years of military detention.

The penalty shall be five to ten years of military detention if the acts take place while on duty, in the course of duty or on board a ship or aircraft. The penalty may be increased to twenty years of military detention if the acts are committed by a soldier bearing arms.

The perpetrators of the above-mentioned acts shall be liable to the penalties provided for in articles 381 and 383 when, due to their consequences, the violence or assault constitutes a more severely punished offense.

In all cases where it is not incurred, the stripping off of rank may be pronounced for the offenses provided for in this article.

Article 547: Any military person guilty of contempt, by any means whatsoever, towards a superior, shall be punished by two months to two years of military detention.

If the convict is an officer, the penalty shall be from one to five years of military detention and dismissal may, in addition, be pronounced.

The penalty shall be from six months to five years of military detention if the acts take place during service, on duty or on board a ship or aircraft.

The penalty may be increased to ten years of military detention if the convict is an officer or if the acts are committed by a military person on leave.

Article 548: If the violence, assault or contempt is committed without the subordinate knowing the position of his superior, the penalty shall be six days to one year of military detention and a fine of 30,000 to 500,000 francs.

Article 549: Subject to the provisions of article 555, insult between military personnel and those of similar rank or between those of similar rank shall be punishable only if there is a relationship of subordination between them as a result of their function or employment.

Article 550: Any soldier guilty of violence against a sentry shall be punished by one to five years of military detention.

The penalty shall be from ten to twenty years of military detention if he is in possession of a weapon.

If the violence is committed in the presence of the enemy, rebels or an armed band, in time of war, in a territory under siege or emergency, in or around an arsenal, a fortress, a powder store, a base or on board a ship, the penalty shall be doubled in the case provided for in the first paragraph of this article.

The penalty shall be life imprisonment in the case provided for in the second paragraph.

Article 551: Any soldier, who, by any means whatsoever, insults a sentry, shall be punished by six days to six months of military detention.

## **Section 5: Refusal to perform a service due**

Article 552: Any officer who has received a legitimate request from the civil authority and who refuses or fails to make the forces under his command act shall be punished with one to two years of military detention.

Article 553: Any military officer who refuses or who, without legitimate excuse, fails to attend the hearings of the Military Court where he is called to sit shall be punished by two to six months of military detention.

## **CHAPTER 4: ABUSE OF AUTHORITY**

Article 554: Any soldier who except in the case of legitimate defense uses violence against a subordinate shall be punished by six months to five years of military detention.

The perpetrators of the above-mentioned act are liable to the penalties provided for in articles 381 and 383 when, due to their consequences, the violence constitutes a more severely punished offence.

Article 555: Any member of the army, who, by any means whatsoever, seriously offends a subordinate without having been provoked to do so, shall be punished by two months to six months of military detention.

The penalty shall be from two months to one year of military detention if the acts take place during service, on the occasion of service or on board a ship or aircraft.

Article 556: There is no offence if the acts referred to in articles 554 and 555 above are committed in order to rally fugitives in the presence of the enemy, rebels or an armed band or to stop either looting or devastation or disorder likely to compromise the safety of a ship or aircraft.

If the acts referred to in articles 554 and 555 above take place without the superior knowing the status of the victim, the penalty shall be six days to one year of military detention and a fine of 30,000 to 500,000 francs.

Article 557: Any soldier who abuses his powers of requisition or who refuses to give receipt of the quantities supplied shall be punished by two months to two years of military detention.

Any soldier who requisitions without being entitled to do so shall be punished by one to five years of military detention.

The penalty shall be five to ten years of military detention if the requisition is carried out with violence.

The penalties provided for in this article shall be pronounced without prejudice to the restitution to which the convict may be sentenced.

Military dismissal or stripping off rank may also be pronounced.

Article 558: Any member of the army who illegally establishes or runs a court shall be punished by ten to twenty years of military detention, without prejudice to any greater penalties that may be incurred as a result of the detentions suffered or the execution of sentences pronounced.

## **CHAPTER 5: OFFENSES AGAINST INSTRUCTIONS**

Article 559: Any member of the military who violates a general instruction or an instruction that he has personally been given to carry out or to cause to be carried out, or who violates an

instruction given to another member of the military, shall be punished by two months to two years of military detention.

The penalty may be increased to five years if the act is committed either in wartime, or in a territory under siege or in a state of emergency, or in the presence of the enemy, rebels or an armed band, or when the safety of a military establishment, a ship or an aircraft is at stake.

Article 560: Any military person convicted of sleeping while on duty shall be punished by two to six months of military detention.

The penalty shall be five to ten years of military detention if the acts take place in one of the situations provided for in the second paragraph of the preceding article.

Article 561: Any soldier who intentionally fails to carry out a mission for which he is responsible shall be punished with life imprisonment if the mission relates to war operations against the enemy, rebels or an armed group.

If the mission is failed through negligence, the convict shall be punished by one to three years of military detention and if he is an officer, military dismissal may also be pronounced.

Article 562: The penalties provided for in the second paragraph of the preceding article shall be applicable to any military person who, through negligence:

1° allows himself to be under the sway of the enemy, rebels or an armed band;

2° separates from his superior in the presence of the enemy, rebels or an armed band;

3° is the cause of the taking over by the enemy, the rebels or an armed band of the building, ship or aircraft under his command or on board which he is embarked.

Article 563: Any person in charge of a navy force or vessel has a professional obligation to provide assistance or rescue to any vessel or ship in distress, under the conditions provided for and in accordance with penalties in article 391.

Any person in charge of an Ivorian vessel has the same obligation with regard to vessels in distress.

### **BOOK III: FINAL PROVISIONS**

Article 564: Law No. 81-640 of 31 July 1981 instituting the Penal Code and Law No. 98-757 of 23 December 1998 on the criminalization of certain forms of violence against women are repealed.

Article 565: This law shall be published in the Official Gazette of the Republic of Côte d'Ivoire and enforced as a State law.

Done in Abidjan on June 26, 2019.

Alassane OUATTARA.