



REPUBLIC OF DJIBOUTI

UNITY – EQUALITY – PEACE

LAW NO. 103/AN/24/9TH
LEGISLATURE ON THE PREVENTION
AND FIGHT AGAINST CORRUPTION
AND RELATED OFFENCES



NATIONAL ANTI-CORRUPTION COMMISSION

الهيئة الوطنية لمكافحة الفساد

**PREVENTION AND FIGHT
AGAINST CORRUPTION AND
RELATED OFFENCES**



TITLE I
GENERAL PROVISIONS

CHAPTER ONE
Terminology

Article 1. - For the purposes of this Law, the following terms shall mean:

a) Public Administration

All public bodies, institutions and services established by the laws and regulations in force in the Republic, comprising both the State administration and the administration of local authorities.

b) Public Official

1. Any person holding a legislative, executive, administrative or judicial mandate, or an elective mandate at the level of local authorities, whether appointed or elected, permanent or temporary, remunerated or not, regardless of hierarchical level ;
2. Any other person entrusted with a function or mandate, even temporary and whether remunerated or not, who, in that capacity, contributes to the service of a public body or a public enterprise, or any other enterprise in which the State holds all or part of the capital, or any other enterprise performing a public service;
3. Any other person defined as a public official or considered as such in accordance with the applicable legislation.

c) Assets

All types of property, whether tangible or intangible, movable or immovable, corporeal or incorporeal, as well as any legal documents or instruments evidencing ownership or rights related to such property;

d) Gift

Any property or advantage offered to a person.

e) Commission

The National Independent Commission for the Prevention and Fight Against Corruption (CNIPLC) ;

f) Confiscation

The permanent deprivation of property pursuant to a decision of a court or competent authority ;

g) Conflict of Interest

Any situation in which a public official has personal interests that could influence, or appear to influence, the performance of their duties and responsibilities as assigned under their functions or a specific act ;

h) Convention

The United Nations Convention against Corruption ;

i) Corruption

Corruption refers to all offences provided under Title IV of this Law and the laws referenced in Article 3.

j) Whistleblower

A person who reports criminally punishable acts to the

competent authorities.

k) Entity

An organized set of tangible or intangible elements, or natural or legal persons, pursuing a specific objective ;

l) Freezing or Seizure

The temporary prohibition of the transfer, conversion, disposal or movement of assets, or the temporary assumption of custody or control of assets pursuant to a decision of a court or other competent authority ;

m) Instigator

A person who encourages or induces one or more individuals to commit an unlawful or criminal act.

n) Proceeds of Crime

Any property or economic benefit derived directly or indirectly from any crime or offence.

r) Assets (Patrimony)

All movable and immovable property, rights and claims belonging to the declarant and related persons, as well as any debts and financial commitments incurred by them.

s) Transparency

A system essentially based on the free flow of information and open conduct of activities, enabling timely and easy access to reliable and comprehensive data. Such data allow concerned individuals to understand how a specific action is carried out, to comprehend the decision-making process, and to assess it in order to take appropriate measures to safeguard their interests, while also enabling them, where necessary, to pursue the

persons involved without difficulty or obstruction.

t) Integrity

The set of principles and codes of conduct reflecting compliance with the law and its objectives, avoiding conflicts of interest, and refraining from any act likely to undermine public confidence in the accuracy, reliability and lawfulness of performance and conduct, and their conformity with the rules governing them.

CHAPTER 2

Purpose and Scope of Application

Article 2. - This Law applies to any public official, any employee or agent of the private sector, any individual, any association or other non-governmental organization, any national or foreign private enterprise, any foreign public official, and any agent or officer of an international public organization who has participated as a perpetrator, co-perpetrator, instigator or accomplice in an act of corruption or a related offence.

Article 3. - This Law supplements the legislative instruments relating to the prevention and suppression of corruption, including the United Nations Convention against Corruption, the Penal Code, Laws No. 104/AN/24/9TH L, No. 105/AN/24/9TH L, No. 106/AN/24/9TH L of 6 March 2024, and Law No. 03/AN/13/7TH L of 16 July 2013.

Its purpose is to:

- To prevent and suppress corruption and related offences ;
- To promote the principles of integrity, accountability, transparency and responsible governance within the public and private sectors ;
- To strengthen international cooperation in the prevention

and suppression of corruption, including in the recovery of illicit assets.

TITLE II
**THE NATIONAL INDEPENDENT COMMISSION FOR THE
PREVENTION AND FIGHT AGAINST CORRUPTION**

CHAPTER ONE
Mandate, Status and Organization

Section 1 - Mandate of the Commission

Article 4. - The Commission is responsible for :

1. Developing and implementing the national strategy for the prevention and fight against corruption ;
2. To receive complaints from natural or legal persons relating to acts of corruption. It examines the information and conducts investigations into reports and complaints concerning suspected corruption referred to it. If, after investigation, the Commission considers that it has gathered sufficient elements to justify the initiation of judicial proceedings, it refers the matter to the competent judicial authorities ;
3. To ensure the strengthening of intersectoral coordination and the development of cooperation with anti-corruption entities at both the national and international levels. In this capacity, the Commission is designated as the national reference authority in matters relating to the fight against corruption ;
4. To propose a comprehensive policy for the prevention of corruption, promoting the principles of the rule of law and reflecting integrity, transparency, accountability and

responsibility in the management of public affairs and public assets. The Commission contributes to fostering ethical public conduct and strengthening the principles of good governance ;

5. To collect, centralize and analyze any information that may help detect and prevent acts of corruption. In this regard, the Commission identifies factors of corruption within legislation, regulations, procedures and administrative practices, and proposes recommendations aimed at eliminating them ;
6. To provide advice on corruption prevention to any person or any public or private entity that seeks its assistance. The Commission also educates and raises awareness among public authorities, the private sector and civil society about the harmful consequences of corruption ;
7. To periodically assess the legal instruments and administrative measures in this field in order to determine their effectiveness in the prevention and fight against corruption ;
8. To receive the asset declarations of the public officials concerned, to review and analyze the information they contain, and to ensure their proper preservation ;
9. To assess public and private institutions in the area of corruption prevention and control, with a view to establishing a rating and ranking system ;
10. To oversee the development, steering and implementation of the national anti-corruption strategy ;
11. To identify the structural causes of corruption and related offences, and to propose to the competent authorities the measures necessary to eliminate them across all public and semi-public services ;
12. To issue opinions on draft legislative and regulatory

- texts relating to the fight against corruption ;
13. To receive requests for mutual assistance in matters of corruption and either execute them directly or forward them to the competent judicial authorities ;
 14. To collect data, information and statistics related to corruption in order to create a database that can be used in the fulfilment of its mandate ;
 15. To identify and carry out operations for the repatriation of illicit assets held abroad, in collaboration with the competent authorities ;
 16. To raise public awareness about the seriousness of corruption through awareness campaigns, conferences and meetings, the publication of journals and guides, the organization of training sessions, and the supervision of training programs ;
 17. To submit to the President of the Republic an annual report evaluating anti-corruption prevention and enforcement activities, identifying any shortcomings, and assessing the implementation of recommendations.

SECTION 2 - Status of the Commission

Article 5. - The Commission is an independent administrative authority endowed with legal personality and financial autonomy. It is placed under the authority of the President of the Republic.

Article 6. - The Commission enjoys autonomy from other institutions, subject to constitutional provisions. This autonomy grants it the ability to:

- effectively carry out its mandate free from any undue

influence ;

- ensure the safety and protection of its members and administrative staff against any form of pressure or intimidation, threats, insults or attacks of any kind that they may face during or in connection with the performance of their duties.

SECTION 3 - Organization of the Commission

Article 7. - The National Independent Commission for the Prevention and Fight against Corruption is composed of two bodies: the Assembly of Members and the General Secretariat. The Assembly of Members is a non-permanent body composed of nine (9) members appointed by decree issued by the Council of Ministers for a non-renewable term of four (4) years.

Article 8. - The members of the Assembly are drawn in equal proportion from:

- the public administration and the judiciary ;
- national and local representative bodies ;
- the private sector and civil society.

Members must predominantly be legal experts, economists or finance specialists. They must be individuals known and recognized for their moral integrity and probity.

The Chairperson is selected from among the members originating from the public administration or the judiciary.

Article 9. - Before taking office, the members of the Commission shall take an oath before the Supreme Court, using the following wording :

« I swear to faithfully and loyally fulfil, with complete impartiality

and fairness, the duties entrusted to me, to respect at all times the obligations arising therefrom, and to maintain the confidentiality of the deliberations in which I have participated. »

Article 10. - A member may not be removed from office before the expiry of their mandate except in the event of serious misconduct or unworthy behavior, duly established by a two-thirds majority of the members, who shall draw up an official report.

The report is transmitted to the President of the Republic, who may in turn order an investigation. If the investigation confirms the incriminating facts, the member concerned is suspended and the dismissal procedure is initiated.

In the event of dismissal, resignation, death or any other permanent incapacity of a member, a replacement shall be appointed within one month, under the conditions provided for in this Law.

The new member shall complete the ongoing mandate and may not be reappointed.

Article 11. - The General Secretariat is a permanent body composed of a Secretary-General and several directorates, namely:

- a Directorate for Research and Education ;
- a Directorate for International Cooperation and the Repatriation of Illicit Assets ;
- a Directorate for Investigations and Asset Declarations ;
- a Directorate for Planning, Monitoring and Evaluation.

The Secretary-General, the directors and the heads of department shall take an oath before the Court of Appeal, using the formula set out in Article 9.

The organization, functioning and responsibilities of the Assembly of Members and the General Secretariat shall be defined by decree issued by the Council of Ministers.

Article 12. - The members of the Commission, as well as its technical and administrative staff, are required to uphold their oath by maintaining the confidentiality of complaints, claims and deliberations.

They may not be prosecuted, investigated, arrested or tried for acts, decisions, measures taken or opinions expressed in the performance of their duties.

This immunity does not cover acts of corruption committed by the aforementioned persons in the exercise of their functions.

Article 13. - All members and employees of the Commission, even after leaving office, are bound by professional secrecy. Any breach of this obligation constitutes an offence punishable under Article 437 of the Penal Code relating to the violation of professional secrecy.

Article 14. - Whistleblowers, witnesses, experts, victims and their relatives, as well as the members and staff of the Commission, shall benefit from State protection against any possible acts of retaliation or intimidation.

The modalities and the nature of such protection shall be determined by a decree issued by the Council of Ministers.

TITLE III
**PREVENTION OF ACTS OF CORRUPTION AND RELATED
OFFENCES AND THE DISCLOSURE OF DOCUMENTS
AND INFORMATION TO THE COMMISSION**

CHAPTER ONE
Preventive Measures within the Public Sector

Section 1 - Asset Declaration

Article 15. - An asset declaration requirement is established for State public officials with the aim of promoting transparency and good governance in the exercise of public functions. The declaration covers the inventory of all assets, both within the national territory and abroad, owned by the individual, as well as those belonging to their spouse and minor children.

Article 16. - The following public officials are subject to the asset declaration requirement :

- The President of the Republic
- The President and members of the National Assembly
- Members of the Government
- The President and members of the Constitutional Council
- The Ombudsman
- Ambassadors and consuls general
- The Director General of National Security
- Magistrates
- The Governor of the Central Bank
- Local elected officials (members of the executive bodies of local authorities)
- Senior officers and heads of corps of the National Army, the National Gendarmerie, the Republican Guard, the

- National Police and the Coast Guard
- The Head of the Civil Protection Corps
 - Secretaries-general, technical advisers, directors, chiefs of staff and project managers
 - The President and members of the National Human Rights Commission of Djibouti
 - The President and members of the National Independent Commission for the Prevention and Fight against Corruption
 - The President and members of the National Communication Commission
 - The President and members of the Board of Directors, directors and senior executives of the Djibouti Ports and Free Zones Authority and its affiliated companies
 - The President and members of the Public Procurement Commission
 - State Inspectors General and financial inspectors
 - The Directors of Treasury, Taxation, Customs, State Property and Land Registry
 - The President of the University and the deans of faculties
 - The President and members of the Board of Directors of public institutions and public enterprises
 - The director generals and financial controllers of public institutions and national or binational companies
 - As well as any official holding a senior State function, particularly authorizing officers and accounting officers responsible for public expenditure.

The Commission may request any other public official to submit an asset declaration.

Article 17. - The public official or elected representative shall submit an asset declaration within two months following the

date of their appointment or election, and whenever the Commission deems it necessary. In the event of a substantial change in their assets, the public official shall immediately renew the initial declaration, following the same procedures.

The asset declaration must also be submitted within two months after the end of their mandate or termination of duties, and whenever the Commission considers it necessary in the context of its investigations. The declaration template shall be established by regulation.

Article 18. - Persons subject to the asset declaration requirement, whether currently in office or serving a mandate, must submit their asset declarations within two months following the promulgation of this Law.

Article 19. - The list of public officials who have submitted their asset declarations shall be published in the Official Gazette..

Article 20. - The asset declaration process is confidential. Any person involved in its implementation is bound by professional secrecy.

Any breach of the confidentiality of the asset declaration, whether through disclosure or any form of publication, is punishable under Article 437 of the Penal Code relating to the violation of professional secrecy.

Section 2 - Obligations of the State and Public Institutions

Article 21. - Corruption prevention mechanisms shall be adopted by the heads of public entities, private establishments, companies and non-governmental organizations in order to prevent the harmful consequences of corruption.

Article 22. - The entities referred to in the previous Article shall:

- a)** promote transparency and good governance ;
- b)** develop, with subject-matter experts, an awareness and education program on the prevention and fight against corruption ;
- c)** develop and adopt a procedural manual that defines and clarifies decision-making processes at all levels ;
- d)** specify the deadlines for decision-making and the rules governing them ;
- e)** comply with the tender procedure in the awarding of contracts ;
- f)** establish an internal audit department ;
- g)** submit reports of said audits to the competent authorities;
- h)** adopt the staff code of conduct ;
- i)** adopt procedures and regulations enabling users to obtain information on the organization and functioning of public administration decision-making processes ;
- j)** simplify administrative procedures ;
- k)** publish awareness information on the risks of corruption within the public administration ;
- l)** respond to citizens' requests and grievances ;
- m)** provide justification for their decisions when they are unfavorable to the citizen and specify the applicable avenues of appeal ;
- n)** recruit staff through competitive examinations ;
- o)** ensure and uphold professional ethics ;
- p)** treat all service applicants equally and protect them from any dilatory or harmful practices ;
- q)** take any other measure that may contribute to achieving the objectives set out in this Law ;
- r)** Every public and private employer is required to establish education and awareness programs on the harmful

consequences of corruption for the personnel under their authority.

Article 23. - A rating system shall be established by the Commission in order to classify the various institutions according to their level of involvement and responsibility in the prevention and fight against corruption.

In the event of non-compliance, the Commission shall issue recommendations requiring them to comply with the provisions of this Law.

If these recommendations are not implemented within a period of 12 months, the Commission shall refer the matter to the competent authorities.

Article 24. - The procedures applicable to public procurement must be based on transparency, fair competition, and the other rules and principles set out in the Public Procurement Code.

Article 25. - To strengthen the fight against corruption, the State, the National Assembly, regional and municipal authorities, public institutions and all public-law bodies, as well as public enterprises engaged in economic activities, must promote integrity, honesty and accountability among public officials and elected representatives by adopting, in particular, codes and rules of conduct for the proper, honorable and appropriate exercise of public functions and elected mandates.

Article 26. - Every public official is required to declare to their administration any external activity or situation incompatible with their function and likely to create conflicts of interest with their duties and responsibilities.

CHAPTER 2

Preventive Measures Relating to the Private Sector, the Media and Civil Society

Section 1 - Measures Concerning the Private Sector

Article 27. - Private sector operators must contribute to the fight against corruption by:

1. strengthening cooperation with detection and enforcement services ;
2. developing standards and procedures to safeguard the integrity of the private entities concerned, including codes of conduct ensuring that companies and relevant professions carry out their activities in a proper, honorable and appropriate manner, in order to prevent conflicts of interest and to encourage the application of good business practices both between companies and in their contractual relations with the State ;
3. supporting the promotion of transparency among private entities ;
4. preventing the improper use of regulatory procedures applicable to private entities ;
5. encouraging the implementation of internal audits within private companies.

Article 28. - The accounting practices used in the private sector shall be maintained in accordance with the regulations in force.

The accounting and auditing standards used in the private sector must contribute to preventing corruption by prohibiting :

1. the establishment of off-the-books accounts ;
2. off-the-books or insufficiently identified transactions ;
3. the recording of non-existent expenditures or liabilities whose purpose is not properly identified ;
4. the use of false documents ;
5. the intentional destruction of accounting documents before the expiry of the deadlines established by the applicable legislation and regulations ;
6. overbilling.

Section 2 - Participation of Civil Society and the Media

Article 29. - Subject to legal provisions, the press contributes to the prevention and fight against acts of corruption by publishing corruption-related facts of which it becomes aware. The Commission, as well as other services involved in the prevention and fight against corruption, must develop mechanisms of collaboration with the press.

Article 30. - The participation of civil society in the prevention and fight against corruption is encouraged through, in particular :

- the transparency of decision-making processes and the promotion of citizen participation in the management of public affairs ;
- educational, training and awareness programs on the harmful consequences that corruption poses to society ;
- the effective access of the media and the public to information concerning corruption, subject to the protection of privacy, honor, human dignity and national security requirements.

Article 31. - Any association that has been duly registered for at least five years at the date of the events, and whose

statutory purpose includes the fight against corruption and related offences, may exercise the rights granted to civil parties with respect to corruption offences provided for in this Law, the Penal Code, and the instruments referred to in Article 1 of this text.

Civil action shall be exercised in accordance with the provisions of Articles 8, 9, 10 and 11 of the Code of Criminal Procedure.

CHAPTER 3

Disclosure of Documents and Information to the Commission

Article 32. - In carrying out its mandate, the Commission may hear any person suspected of acts covered by this Law.

It may request administrations, institutions and public or private bodies, as well as any natural or legal person, to provide any document or information it deems useful for detecting acts of corruption, within the framework of its investigations.

Professional or banking secrecy may not be invoked to refuse to provide the information or documents requested in the context of an investigation relating to acts of corruption and related offences.

Article 33. - Where the facts are likely to constitute an offence, the President shall transmit a report, together with supporting documents and evidence, to the Public Prosecutor.

Article 34. - The Commission may be seized on the basis of a complaint, a denunciation, or on its own initiative regarding acts of corruption and related offences.

The referral procedures and applicable process shall be

defined by regulation.

Article 35. - A Coordination Committee on the Prevention and Fight against Corruption is hereby established.

The powers, functioning and composition of the Coordination Committee shall be defined by regulation.

TITLE IV

REPRESSION AND CRIMINALIZATION OF ACTS OF CORRUPTION AND RELATED OFFENCES

CHAPTER ONE

Repression of Acts of Corruption and Special Investigation Techniques

Article 36. - Magistrates from both the bench and the prosecution, specifically assigned to handle acts of corruption and other related offences, shall be appointed within each jurisdiction.

Article 37. - In order to obtain evidence of acts of corruption, the judicial authorities may order, for a specified period :

- a) the monitoring of bank accounts and accounts equivalent to bank accounts ;
- b) access to computer systems, networks and servers ;
- c) the surveillance or interception of telephone lines, fax lines or electronic transmission or communication devices ;
- d) the audio and video recording of actions, conduct and conversations ;
- e) the disclosure of authentic acts, private deeds and all documents, including banking, financial and commercial records.

They may also order the seizure of the aforementioned acts or documents, as well as of any accounts.

Such measures may only be carried out when serious indications give reason to suspect that these accounts, telephone lines, computer systems and networks, or documents are being used, or are likely to be used, by persons suspected of participating in the acts of corruption covered by this Law.

CHAPTER 2

Criminalization and Penalties for Active Corruption

Article 38. - Any person who promises, offers or grants an undue advantage to a public official, directly or indirectly, for themselves or for another person or entity, in order for that official to perform or refrain from performing an act in the exercise of their official duties, shall be punished with imprisonment of five to ten years and a fine ranging from five million (5,000,000 FDJ) to ten million (10,000,000 FDJ) Djiboutian francs.

Passive Corruption

Article 39. - Any public official who solicits or accepts, directly or indirectly, an undue advantage for themselves or for another person or entity, in order to perform or refrain from performing an act in the exercise of their official duties, shall be punished with imprisonment of five to ten years and a fine ranging from five million (5,000,000 FDJ) to ten million (10,000,000 FDJ) Djiboutian francs.

Misappropriation, Diversion or Other Illicit Use of Assets by a Public Official

Article 40. - Any public official who commits misappropriation, diversion or any other illicit use, for their own benefit or for the benefit of another person or entity, of any property, funds or public or private assets, or any other item of value entrusted to them by virtue of their duties, shall be punished with imprisonment of five to ten years and a fine ranging from five million (5,000,000 FDJ) to ten million (10,000,000 FDJ) Djiboutian francs.

Influence Peddling

Article 41. - Any person who promises, offers or grants an undue advantage to a public official or to any other person, directly or indirectly, so that the said official or person abuses their real or presumed influence in order to obtain from a public administration or authority an undue advantage for the initial instigator of the act or for any other person, shall be punished with imprisonment of five to ten years and a fine ranging from five million (5,000,000 FDJ) to ten million (10,000,000 FDJ) Djiboutian francs.

Article 42. - Any public official, or any other person, who solicits or accepts, directly or indirectly, an undue advantage for themselves or for another person in order to abuse their real or presumed influence with a view to obtaining an undue advantage from a public administration or authority, shall be punished with imprisonment of five to ten years and a fine ranging from five million (5,000,000 FDJ) to ten million (10,000,000 FDJ) Djiboutian francs.

Abuse of Functions

Article 43. - Any public official who abuses their functions or position—by performing or refraining from performing, in the exercise of their duties, an act in violation of the law in order to obtain an undue advantage for themselves or for another person—shall be punished with imprisonment of five to ten years and a fine ranging from five million (5,000,000 FDJ) to ten million (10,000,000 FDJ) Djiboutian francs.

Article 44. - Any member or staff of the Commission found guilty of disclosing, in any manner whatsoever, in whole or in part, information relating to ongoing investigations or asset declarations shall be punished with two (2) years' imprisonment and a fine ranging from five hundred thousand (500,000 FDJ) to three million (3,000,000 FDJ) Djiboutian francs.

Favoritism

Article 45. - Any public official who grants or attempts to grant an unjustified advantage to another person by means of an act contrary to legislative or regulatory provisions intended to ensure equal access and equal opportunity for candidates in public procurement and public employment shall be punished with five (5) years imprisonment and a fine of two million (2,000,000 FDJ) Djiboutian francs.

Conflict of Interest

Article 46. - Failure by a public official to comply with the provisions of Article 26 of this Law shall be punishable by six months to two years' imprisonment and a fine ranging from two

million (2,000,000 FDJ) to five million (5,000,000 FDJ) Djiboutian francs.

Obstruction of Justice

Article 47. - The following acts shall be punishable by imprisonment of two (2) to five (5) years and a fine ranging from two million (2,000,000 FDJ) to five million (5,000,000 FDJ) Djiboutian francs:

1. the use of physical force, threats or intimidation, or the promise, offer or granting of an undue advantage to obtain false testimony or to prevent testimony or the presentation of evidence in proceedings related to offences established under this Law ;
2. the use of physical force, threats or intimidation to obstruct investigations related to the commission of offences established under this Law ;
3. knowingly and unjustifiably refusing to provide the required documents and information.

Des avantages injustifiés dans la commande publique

Article 48. -The following shall be punished with imprisonment of five (5) to ten (10) years and a fine ranging from five million (5,000,000 FDJ) to ten million (10,000,000 FDJ) Djiboutian francs :

- Any public official who enters into, endorses or amends a contract, agreement, public order or addendum in violation of the legislative and regulatory provisions in force, with the intent of granting an unjustified advantage to another person ;

- Any trader, industrialist, artist or artisan, private-sector entrepreneur, or more generally any natural or legal person who enters, even occasionally, into a contract or public order with the State, local authorities, public institutions or public-law bodies, or State-owned enterprises, by exploiting the authority or influence of officials of these entities in order to inflate the prices they normally charge, or to alter, for their benefit, the quality of goods or services, or the delivery or supply timelines.

Corruption in Public Procurement

Article 49. - Any public official who, during the preparation, negotiation, conclusion or execution of a public order, contract or amendment concluded on behalf of the State, local authorities, State public institutions or public enterprises, receives or attempts to receive—directly or indirectly, for their own benefit or for the benefit of a third party—any remuneration or advantage of any kind from a private contractor, shall be punished with imprisonment of five to ten years and a fine equal to twice the amount or value of the advantage received or expected to be received.

Article 50. - Any natural or legal person contracting with the State, local authorities, State public institutions or public enterprises, who grants or offers—personally or through an intermediary—any remuneration or advantage to a public official for the purpose of obtaining a public order, shall be punished with:

- imprisonment of five to ten years,
- a fine equal to twice the value of the promised or granted undue advantages or items received or requested, and

- a two-year ban from bidding on public procurement contracts.

Article 51. - Any public official who abusively resorts to the negotiated procedure in a public procurement contract concluded on behalf of the State, local authorities, public establishments or State-owned enterprises shall be liable to a prison sentence of two to five years and a fine equal to three times the value of the agreed promises, undue advantages, items received or requested, or the value of the public contract.

Failure to Declare or False Declaration of Assets

Article 52. - Any public official who is legally required to submit an asset declaration and who, within two (2) months of his or her appointment or election, or upon request of the Commission, knowingly fails to make such declaration, or submits an incomplete or inaccurate declaration, or knowingly provides false information, shall be subject to a fine ranging from 500,000 FDJ to 3,000,000 FDJ.

A penalty of 100,000 FDJ shall be imposed for each month of delay.

If the public official persists in refusing to submit the asset declaration six months after his or her appointment or election, or after the Commission's request, he or she shall be liable to a prison sentence ranging from six months to two years and a fine of 2,000,000 to 5,000,000 FDJ.

Gifts

Article 53. - Any public official who accepts from any person a gift or any undue advantage likely to influence the handling of a

procedure or transaction related to his or her duties shall be liable to a prison sentence of two to five years and a fine ranging from 2,000,000 FDJ to 5,000,000 FDJ.

The donor shall be subject to the same penalties provided in the preceding paragraph.

Article 54. - Article 53 shall not apply when the value of the gift does not exceed 20,000 FDJ.

Any gift exceeding this value received by a public official must be returned and kept by the administration to which he or she is assigned.

Threats and Intimidation Against Members of the Assembly, Commission Staff, Witnesses, Experts, Whistleblowers and Victims

Article 55. - Any person who resorts to retaliation, intimidation, or threats, in any form and by any means whatsoever, against members of the Assembly, staff of the Commission, witnesses, experts, whistleblowers, or victims, as well as their relatives or any persons close to them, shall be liable to a prison sentence of two to five years and a fine ranging from 500,000 to 2,000,000 FDJ.

Abusive Reporting

Article 56. - Any person who knowingly and by any means files an abusive report with the competent authorities concerning acts of corruption or related offences provided for under applicable laws, against one or several persons, shall be liable to a prison sentence of six months to two years and a fine ranging from 500,000 to 2,000,000 FDJ.

Failure to Report Offences

Article 57. - Any person who, by virtue of his or her position or profession, whether permanent or temporary, becomes aware of one or several acts of corruption or related offences provided for under applicable laws, and fails to inform the judicial authorities or other competent authorities, shall be liable to a prison sentence of two to five years and a fine ranging from 500,000 to 2,000,000 FDJ.

Instigation, Complicity and Attempt

Article 58. - Instigation or any other assistance in the commission of offences provided for under this law shall be punished in accordance with Article 25 of the Penal Code. Complicity in the offences provided for under this law shall be punished in accordance with Article 26 of the Penal Code. Attempt to commit the offences provided for under this law shall be punished in accordance with Article 24 of the Penal Code.

Limitation Period for Corruption Offences and Related Offences

Article 59. - The offences provided for under this law shall be subject to the limitation periods established by the Code of Criminal Procedure.

Liability of Legal Persons

Article 60. - Legal persons shall incur liability under the conditions set out in Article 21 of the Penal Code.

Consequences of Acts of Corruption

Article 61. - Any contract, transaction, licence, or concession entered into on behalf of the Administration, local authorities, or public institutions, and obtained through the commission of any act of corruption or related offence provided for under applicable laws, shall be declared null and void.

Mitigating Circumstances

Article 62. - The general regime of mitigating circumstances provided for under national legislation applies to the acts covered by this law.

Aggravating Circumstances

Article 63. - If the perpetrator of one or more offences provided for under this law is a magistrate, a senior State official, a public officer, a member of the National Independent Commission for the Prevention and Fight against Corruption (CNIPLC), a police officer, an agent of the judicial police or any person with judicial police powers, or a court clerk, he or she shall be liable to a sentence of fifteen (15) years' criminal imprisonment along with the same fine applicable to the offence committed.

Additional Penalties

Article 64. - In the event of conviction for one or several acts of corruption or related offences provided for under applicable laws, the court may impose one or more of the following additional penalties:

- Disqualification from exercising civil rights for a period not

exceeding five years

- Disqualification from holding public office or public employment for a period not exceeding five years
- Disqualification from receiving any distinction or decoration awarded by the State or its entities

TITLE V

INTERNATIONAL COOPERATION AND THE RECOVERY OF ILLICIT ASSETS

CHAPTER ONE

Mutual Legal Assistance

Article 65. - Subject to reciprocity in the implementation of agreements, treaties, conventions or other relevant arrangements relating to judicial cooperation, the widest possible mutual legal assistance shall be granted, particularly to the States Parties to the Convention, in connection with investigations, prosecutions and judicial proceedings concerning corruption offences and related offences provided for under national legislation.

Article 66. - A request for mutual legal assistance must contain the following information:

- a) The request and all accompanying documents must be written in one of the two official languages (Arabic or French) of the Republic of Djibouti ;
- b) Identification of the authority issuing the request ;
- c) The purpose and nature of the investigation, prosecution, or judicial proceeding to which the request relates, as well as the name and position of the authority responsible for it ;
- d) A summary of the relevant facts, except for requests

made solely for the service of judicial documents ;

e) A description of the assistance sought and details of any specific procedure the requesting State wishes to have applied ;

f) The identity, address and nationality of any person concerned ;

g) The purpose for which the testimony, information or measures are requested.

Article 67. - Mutual legal assistance may be refused in the following circumstances:

a) If the request does not comply with the provisions of Article 66 of this law ;

b) If the requested State considers that executing the request may undermine its sovereignty, security, public order or other essential interests ;

c) If the alleged acts do not constitute an offence under Djiboutian law ;

d) If the alleged acts are already subject to an investigation, prosecution or judicial proceeding within its own jurisdiction ;

e) If the request is contrary to the legal system of the requested State with respect to mutual legal assistance ;

f) If the offence is considered by the requested State to be of a political nature ;

g) If there are serious grounds to believe that the request for mutual legal assistance was submitted with the intention of prosecuting a person on the basis of race, sex, religion, nationality, ethnic origin or political opinions.

CHAPTER 2

Prevention, Detection and Transfer of the Proceeds of Crime

Article 68. - In order to detect financial operations linked to acts of corruption, and without prejudice to the legal provisions relating to money laundering and the financing of terrorism, banks, financial institutions and the persons listed under Law No. 112/AN/11/6th L of 25 May 2011 shall :

1. comply with the information relating to natural or legal persons whose accounts must be subject to enhanced monitoring, the types of accounts and transactions requiring particular attention, and the measures to be taken concerning the opening and management of such accounts, as well as the recording of transactions ;
2. take into consideration information provided to them within the framework of their cooperation with foreign authorities, particularly regarding the identity of natural or legal persons whose accounts must be strictly monitored ;
3. keep appropriate records of accounts and transactions involving the persons mentioned in the first and second paragraphs of this article, for a minimum period of five (5) years from the date of the last recorded transaction. These records must include, in particular, information on the identity of the client and, where possible, the beneficial owner..

Freezing, Seizure and Confiscation

Article 69. - Illicit income and assets derived from one or more acts of corruption or related offences provided for under

applicable legislation may be seized or frozen by court order or by instruction of the competent authority.

In the event of a conviction for corruption offences provided for under applicable legislation, the court shall order, subject to the cases of restitution provided for by law or the rights of bona fide third parties, the confiscation of illicit income and assets.

The court shall also order the restitution of misappropriated property or of the value of the interest or gain obtained, even where such property has been transferred to the convicted person's ascendants, descendants, collateral relatives, spouse or relatives by marriage, whether the property has remained in its original state or has been converted into any other form.

TITLE VI BUDGET OF THE COMMISSION

Article 70. - The budget of the Commission is composed of:

- the State budget allocation ;
- contributions, donations, bequests or any other subsidies provided by bilateral or multilateral cooperation partners, in accordance with the laws in force in the Republic of Djibouti.

Article 71. - The Commission receives 5% of the fines recovered in relation to acts of corruption and related offences.

TITLE VII MISCELLANEOUS AND FINAL PROVISIONS

Article 72. - Implementation measures for this law shall be determined by decrees issued by the Council of Ministers upon proposal from the Presidency.

Article 73. - All prior provisions contrary to this law are hereby repealed.

Article 74. - his law shall be published in the Official Gazette of the Republic of Djibouti upon promulgation.

Done in Djibouti, on 06 March 2024

The President of the Republic,
Head of Government
ISMAÏL OMAR GUELLEH



NATIONAL ANTI-CORRUPTION COMMISSION

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