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Multilateral

Convention on Mutual Assistance in Criminal Matters. Dakar, 29 July 1992

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Multilatéral

Convention sur l'entraide judiciaire en matière pénale. Dakar, 29 juillet 1992

Entrée en vigueur : *provisoirement le 29 juillet 1992 et définitivement le 28 octobre 1998, conformément à l'article 38*

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Participant

Ratification

Burkina Faso	12 May	1998
Gambia	20 Apr	1994
Ghana	7 Dec	1992
Guinea	1 Jul	1993
Mali	27 Mar	1995
Nigeria	1 Jul	1994
Togo	28 Oct	1998

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Ratification

Burkina Faso	12 mai	1998
Gambie	20 avr	1994
Ghana	7 déc	1992
Guinée	1er juil	1993
Mali	27 mars	1995
Nigéria	1er juil	1994
Togo	28 oct	1998

[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The Governments of the Member States of the Economic Community of West African States,

Considering that the main objective of the Community is to achieve integration in all fields of activity of its Member States;

Believing that the adoption of common rules in the field of mutual assistance in criminal matters will contribute to this aim by furthering the development of integration;

Desirous of extending to each other the widest mutual legal assistance to combat offences of all kinds particularly of serious crimes, as an effective way of dealing with the complex aspects and serious consequences of criminality in all its forms and new dimensions;

Aware of the interest in the proper administration of justice while conscious of the need to respect human dignity and to assure the orderly pursuit of criminal proceedings among the Member States, thus reinforcing mutual assistance in criminal matters;

Have agreed as follows:

CHAPTER I. DEFINITIONS

Article 1

For the purpose of this Convention, the following definitions shall apply:

"Treaty" means the Treaty of the Economic Community of West African States;

"Community" means the Economic Community of West African States, created by Article 1 of the Treaty;

"Member State" or "Member States" means a Member State or Member States of the Community;

"Requesting Member State" means a Member State which has made a request for assistance under this Convention;

"Requested Member State" means a Member State to which a request for assistance under this Convention has been made;

"Authority" means the Authority of Heads of State and Government of the Community, created by Article 5 of the Treaty;

"Council" means the Council of Ministers of the Community created by Article 6 of the Treaty;

"Competent Authority" means the Minister of Justice of a Member State;

"Executive Secretariat" means the Executive Secretariat of the Community created by Article 8, paragraph 1 of the Treaty;

"Executive Secretary" means the Executive Secretary of the Community, appointed by virtue of Article 8, paragraph 2 of the Treaty;

"Offence" or "Offences" means the fact or facts which constitute a criminal offence or criminal offences under the laws of the Member State;

"Sanctions" means all penalties or measures incurred or pronounced as a result of a criminal offence;

"Proceeds of crime" means any property suspected, or found by a court, to be property directly or indirectly derived or realized as a result of the commission of an offence or to represent the value of property and other benefits from the commission of an offence.

CHAPTER II. MUTUAL ASSISTANCE

Article 2. Scope of Application

1. Member States undertake to afford to each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings or investigations in respect of offences the punishments of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Member State.

2. Mutual assistance in the provisions of this Convention applies to:

- (a) taking evidence or statements from persons;
- (b) assisting in assuring the availability of detained persons or others to give evidence or assist in investigations;
- (c) effecting service of judicial documents;
- (d) executing searches and seizures;
- (e) forfeitures and confiscations of the proceeds of crime;
- (f) examining objects and sites;
- (g) providing information and evidentiary items;
- (h) providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records.

3. The Convention does not apply to:

- (a) the arrest or detention of any person with a view to the extradition of that person;
- (b) the enforcement in the requested Member State of criminal judgments imposed in the requesting Member State except to the extent permitted by the laws of the requested Member State;
- (c) the transfer of persons in custody to serve sentences.

Article 3. Competent Authority

Request for mutual assistance shall be made or received by the competent authority in a Member State.

Article 4. Refusal of Assistance

1. Assistance may be refused if:

(a) the requesting Member State is of the opinion that the request, if granted, would prejudice its sovereignty, security and public order;

(b) the offence is regarded by the requested Member State as being of a political nature;

(c) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that that person's position may be prejudiced for any of those reasons;

(d) the request relates to an offence that is subject to investigation or prosecution in the requested Member State or the prosecution of which in the requesting Member State would be incompatible with the requested Member State's law on double jeopardy;

(e) the assistance requested requires the requested Member State to carry out compulsory measures that would be contrary to its laws and practice had the offence been the subject of investigation or prosecution under its own jurisdiction;

(f) the request is in respect of offences related to military law which do not constitute offences under ordinary criminal law.

2. Assistance shall not be refused solely on the grounds of secrecy of banks and of similar financial institutions.

3. The requested Member State may postpone the execution of the request if its immediate execution would interfere with an ongoing investigation or prosecution in the territory of the requested Member State.

4. Before refusing a request or postponing its execution, the requested Member State shall consider whether assistance may be granted subject to certain conditions. If the requested Member State accepts assistance subject to these conditions, it shall comply with them.

5. Reasons shall be given for any refusal or postponement of mutual assistance.

Article 5. Contents of Requests

1. Request for assistance shall be made in writing and shall include:

(a) the name of the competent authority coordinating the investigation or court proceedings to which the request relates;

(b) the purpose of the request and a brief description of the assistance sought;

(c) a description of the facts alleged to constitute the offence and a statement or text of the relevant laws, except in cases of a request for service of documents;

(d) the identity, nationality and address of the person to be served, where necessary;

(e) the reasons for and details of any particular procedure or requirements that the requesting Member State wishes to be followed, including a statement as to whether sworn or affirmed evidence or statements are required;