

# National Financial Intelligence Processing Unit

## Republic of Senegal

One People – One Goal – One Faith

## MINISTRY OF ECONOMY AND FINANCE



## NATIONAL FINANCIAL INTELLIGENCE PROCESSING UNIT

Voie de Dégagement Nord x Route du Front de Terre

BP 25 554 Dakar Fann

Tél. : (221) 867 03 64 – Fax : (221) 867 03 62

Website: [www.centif.sn](http://www.centif.sn)

Email: [contact@centif.sn](mailto:contact@centif.sn)



<i>Postal Address</i>	<b>V.D.N. x Route du Front de Terre B.P. 25.554 Dakar-Fann République du Sénégal</b>
<i>Telephone</i>	<b>(+ 221)33 867 03 64</b>
<i>Fax</i>	<b>(+221) 33 867 03 62</b>
<i>Email</i>	<a href="mailto:contact@centif.sn"><b>contact@centif.sn</b></a>
<i>Website</i>	<a href="http://www.centif.sn"><b>www.centif.sn</b></a>
<i>President</i>	<b>Monsieur Ngouda Fall KANE</b>

## CONTENTS

<b>THE PRESIDENT’S MESSAGE .....</b>	<b>04</b>
<b>I. GENERAL PRESENTATION OF CENTIF .....</b>	<b>05</b>
The legal framework .....	05
- On the subregional plan .....	05
- On the national plan .....	05
Presentation of CENTIF .....	08
- Missions and prerogatives .....	08
- Functioning .....	08
- Code of good conduct .....	10
- Budget .....	11
- Main evolutions during 2007.....	11
Awareness and training activities .....	13
Processing suspicious activity report .....	18
<b>II. INTERNATIONAL COOPERATION .....</b>	<b>22</b>
<b>III. MONEY LAUNDERING TYPOLOGIES OBSERVED IN SENEGAL .....</b>	<b>26</b>
<b>IV. PROSPECTS AND CONCLUSIONS.....</b>	<b>33</b>
Reinforcing the judicial system to combat money laundering and the funding of terrorism .....	33
CENTIF Action plan for 2008 .....	33
Suggestions for reorganising the current system for combating money laundering .....	34
<b>ANNEX .....</b>	<b>36</b>

## THE PRESIDENT'S MESSAGE

During the year 2007, the Senegalese plan against money laundering and the funding of terrorism witnessed significant progress on account in the incrimination of terrorism and its funding, but also in the adoption of Directive 04/2007/CM/WAEMU relating to the fight against the funding of terrorism.

The directive's transposition planned for 2008 will upgrade Senegal to AML/CFT Standards acknowledged by the International Community.

It shall also help the National Financial Intelligence and Processing Unit "CENTIF", whose mission in the context of the West African Economic and Monetary Union (WAEMU) consists of fighting financial criminality through the collection and the processing of financial intelligence relating to money laundering and the funding of terrorism (AML/CFT), to claim its rightful place in the globalisation scheme.

Concerning CENTIF, we are happy to note that it won a larger membership in 2007 from reporting entities through continuous training and sensitisation efforts, appreciated from the angle of the number and quality of suspicious activity report sent.

Professional AML/CFT inquiries within CENTIF was equally expressed in the improved quality of reports made to the Prosecutor in application of the provisions of Article 29 of the anti-laundering uniform law.

However, success in this struggle against this form of criminality in Senegal depends mostly on the will of the judicial authority to process, within time-limits deemed acceptable, the files transmitted by CENTIF.

This, in Business Ethics the promotion of which is carried out on the world scene by the International Monetary Fund and the World Bank, could only be beneficial in the medium and long term for our country in terms of potential foreign investment.

Besides, after three years of application of the uniform law against money laundering, some recommendations were made by CENTIF through its various activity reports, in an attempt to get a more efficient system.

The WAEMU national authorities shall be responsible for assessing its relevance and for starting the reforms and other needed developments in the system.

This is the only way we can bring a real response to financial crime on the rise in our countries.

## I. GENERAL PRESENTATION OF CENTIF

### 1.1. The legal framework

The Senegalese plan against money laundering and the funding of terrorism is part of a set of legislative and regulatory texts of a regional and national character.

#### On the sub-regional plan

- In application of United Nations Resolutions 1267 (1999) and 1373 (2001):
  - General Rules n° 14/2002/CM/WAEMU of 19/9/2002 relating to the freezing of funds and other terrorism financial resources in the member-states of the West African Economic and Monetary Union, have been adopted (Annex 1)
  
- In conformity with the international standards and, in particular the Financial Action Task force on Money Laundering (FATF) Recommendations, the following have been adopted on September 19<sup>th</sup> 2002 and July 4<sup>th</sup> 2007 respectively:
  - Directive No. 07/2002/CM/WAEMU relative to the fight against money laundering in West African Economic and Monetary Union (WAEMU);
  - Directive No. 04/2007/CM/WAEMU relative to the fight against the funding of terrorism in West African Economic and Monetary Union (WAEMU) member-States.

These directives make of CENTIF the only receiver of the suspicious activity reports from reporting entities in the fight against money laundering and terrorism funding.

#### On the national plan

- Uniform Law No. 2004-09 of February 6<sup>th</sup> 2004 relating to the fight against money laundering is the legal base dealing with the definition, prevention, detection and repressive measures concerning money laundering in Senegal, as well as international cooperation in the field.

The Preliminary Title and Title 1 deal with the definition of the main terms used in money laundering: the agreement, the association, the attempted complicity are regarded therein as crime. The subject and field of application of the Law are also set therein.

In particular, in its Article 2, it defines money laundering “as infraction comprising one or several of the schemes listed hereafter committed intentionally, namely:

- The conversion, transfer or handling of goods whose author knows are from a crime or an offence or from participation in a crime or an offence in order to conceal or disguise the illegal origin of the said goods or to assist any person involved in committing this crime or offence to get away from the judiciary implications of such schemes;
- The concealment, disguise of the type, origin, location, arrangement, movement or actual property of assets or rights thereof whose author knows that they come from a crime or an offence or from participation in such a crime or such an offence;
- The procurement, detention or use of goods whose authors know, at the time of reception of the said goods, whether the latter are from a crime or an offence or from participation in such a crime or offence”.

It retains therefore a very wide definition of money laundering, understood as recycling into legal operations funds of illegal origin collected from any criminal or offensive activities.

Concerning the preventive system against money laundering described under Title II, it rests on a compulsory scheme of identification by the funding structures and the people liable to the Law of their clientele – both usual and occasional – as well as of conservation and communication of supporting documents relating to the performed operations.

The reporting entities liable to the said legislation involve any natural or legal entity who, within the framework of their job, implements, controls or gives advice in operations resulting in deposits, exchanges, investment, conversions or any other capital flow or movement of property, namely:

- The Treasury
- The Central Bank BCEAO

- Financial institutions
- Non-financial professions (lawyers, notaries, chartered accountants, court clerks, official receivers, when they represent or assist their clients outside any judicial proceedings);
- The business contributors to the financial institutions
- Auditors
- Real estate agents
- Merchants of precious stones, valuable materials, antiques and artworks
- Fund carriers
- Casinos and other games houses, including the national lottery
- Travel agents'
- Non- governmental organisations.

Title III deals with money laundering detection, with suspicion reports procedures relating to suspicious operations, with the responsibility scheme resting with people liable to the State and with the disclosing of professional secrecy under the inquiries associated with money laundering.

The Title provides for the setting up of a CENTIF whose mission consists in collecting, exploiting and processing the information sent by reporting entities. For that purpose, CENTIF has possibilities to oppose the making of the operation, to appeal to its correspondents for greater support for the report and for the non-invocability of professional secrecy.

- Decree 2004-1150 of August 18<sup>th</sup> 2004 relating to the creation, organisation and functioning of the National Financial and Processing Unit for Senegal's "CENTIF", promulgated in application of the abovementioned law.
- Law n°2007/01 of February 12<sup>th</sup> 2007 modifying the Criminal Code, which completes the institutional mechanism set up through the identification of acts partaking of terrorism.

It defines terrorist acts whose direct or indirect funding of a terrorist organisation like those "deliberately made in connection with an individual or collective enterprise, with the goal of seriously disturbing public order or the smooth running of national or international institutions, through intimidation or terror" (cf. Art 279-1; 279-2; 279-3). It is thus inspired by international legal instruments, notably the Algiers Convention for prevention and fight against terrorism (Annex 2).

- Law No. 2007/04 of February 12<sup>th</sup> 2007 modifying the Code of penal procedure relating to the fight against terrorist acts with “the establishment, at the prosecution stage, of a specialised section in the public prosecutor’s office, to information, of specialised investigation firms, to judgment, of a team made exclusively of judges with deep knowledge about the fight against terrorism” (annex 3).

With the new provisions of the code of penal procedure, limitation for crimes associated with terrorist acts has been brought to thirty (30) years and the sentences pronounced to forty (40) years.

Some important powers have equally been granted to the investigators who may, in the search for evidence, perform visits or make searches at any moment and without the consent of the people in whose houses they are done (only the written authorisation of the Judge the case is submitted to, or the Prosecutor’s is required).

## 1.2. Presentation of CENTIF

### *Missions and Prerogatives*

CENTIF is an administrative financial intelligence unit placed under the authority of the Minister of Economy and Finance and endowed with an autonomous power of decision.

Its missions consist in collecting and processing the financial information sent by reporting entities in the form of suspicious activity report, in expressing opinions on the implementation of the government’s policy in the fight against money laundering and in suggesting, for that purpose, any reform necessary for the reinforcement of the efficiency of the struggle against this phenomenon.

Consequently, it has at its disposal three essential prerogatives:

- An extensive communication right;
- Non invocability of “professional secrecy”;
- An opposition right to the performance of a suspicious operation within 48 hours.

### *Functioning*

The Head of CENTIF was appointed by Cabinet Meeting Executive Order No. 2005-58 of January 13<sup>th</sup> 2005. He took up his duties on March 1st 2005, CENTIF’s official opening day.



The other members of the unit are from the Magistracy, the Customs Office, the Criminal Investigation Department and the Central Bank BCEAO, appointed by Decree No. 2005-402 of May 9th 2005, started their duties between June 1<sup>st</sup> and September 19<sup>th</sup> 2005.

Three of the abovementioned members work as:

- DEPUTY DIRECTOR in charge of Legal Matters and International Relations;
- DEPUTY DIRECTOR in charge of Administrative and Financial Investigations;
- DEPUTY DIRECTOR in charge of Police Investigations.

The Central Bank BCEAO representative shall work as CENTIF Secretary General

Besides, CENTIF uses technical staff including:

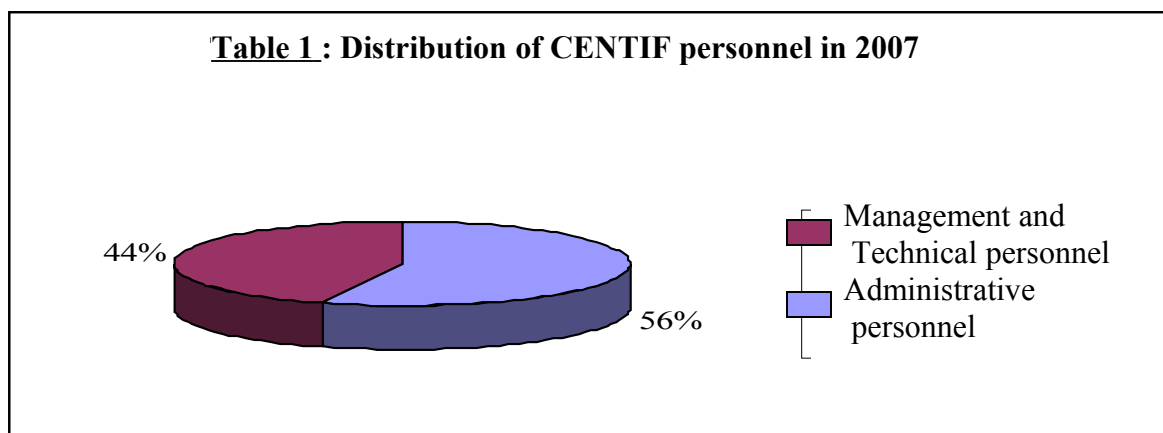
- A Police Inspector assigned to investigate (appointed by decree);
- A Financial Expert;
- Four analysts (a bank executive, an assurance engineer, a statistics engineer and a jurist);
- A high-level computer specialist;
- A computer archivist;
- Two investigation assistants

As well as administrative staff consisting of:

- A senior Treasury Comptroller;
- Three personal Assistants;
- An Accountant;
- Two Secretaries;
- A Clerk
- A Postman;
- Two drivers

The Unit's personnel has been brought from twenty-six (26) to twenty-seven (27) employees by the end of September 2007, consecutively to the recruitment of a Financial Expert and an analyst. This was possible with the Legal Advisor's retirement.

Such change helps boost the technical staffs who thus go from fourteen (14) to fifteen (15) members.



CENTIF has equally requested and been granted the appointment of eleven (11) correspondents in the Departments hereafter: the Ministry of Economy and Finance (6), the Ministry of Justice (1), the National Gendarmerie (1), the Ministry of Women, Household and Social Development (the Unit of Community Development in charge of NGOs) (1), the Ministry of Interior (1) and the Ministry of Tourism (1).

Concerning financial organisations, we must point out the appointment of collaborators for CENTIF who have the status of stakeholders in the fight against money laundering, by banks and financial institutions (27), insurance companies (16) and casinos (1).

### ***Code of Good Conduct***

Since 2005, to fulfil its mission, CENTIF has been enforcing a code of ethics or a deontology code which imposes on both the administrative and technical staff a firm and absolute obligation of compliance with professional secrecy in general and with the secrecy of the information received in particular.

It consists, more precisely, of a guide that spells out the rules to which any CENTIF member has to abide by, and whose objective is to stimulate probity and common sense in everyone, the actual tools for a responsible and honest conduct.

### ***Budget***

In relation to its budget, CENTIF's operation and equipment were, up to 2007, completely provided by the government. WAEMU institutions' contribution (Central Bank BCEAO and the West African Economic and Monetary Union's Commission) is still expected.

Some efforts must be made at this level. An effective fight against money laundering partly depends on the means implemented which the government alone, on account of its multiple commitments, cannot bear.

### ***Main Developments in 2007***

In 2007, the following have been achieved:

- ongoing negotiations with the French Cooperation Department for the design of a software package for processing the suspicious activity reports called ITRIF which shall help, if completed, to have a computerised management of suspicious activity reports (from the receipt of the of suspicious report to the closure of the examination of the file);
- CENTIF's participation on 20 July, 2007 in a meeting about identifying PAASP (Private Sector Adjustment Support Programme)'s second phase actions. The opportunity was seized to assert the Unit's role in the struggle against money laundering notably in the training of various actors and in the necessity to take into account its needs for fund within the framework of Good Governance.
- CENTIF has, in the name of the government coordinated Senegal's Mutual Evaluation exercise undertaken by the Intergovernmental Group for Action against Money Laundering and the Funding of Terrorism in West Africa (GIABA) from 23 July to 3 August 2007.

This exercise aims notably at guaranteeing the country's compliance with both the forty Recommendations and the nine Special Recommendations on the Funding of Terrorism from the Financial Action Task force on Money Laundering (FATF) through the FATF's 2004 AML/CFT Methodology. In this connection, some meetings have been held with CENTIF's banking correspondents on June 14<sup>th</sup> 2007 and with the institutional correspondents on June 28<sup>th</sup>, 2007 in view of informing them about the terms and conditions of evaluation and about the banks' prime role which are at

the heart of the process. CENTIF's 2006 activities have equally been presented to the correspondents.

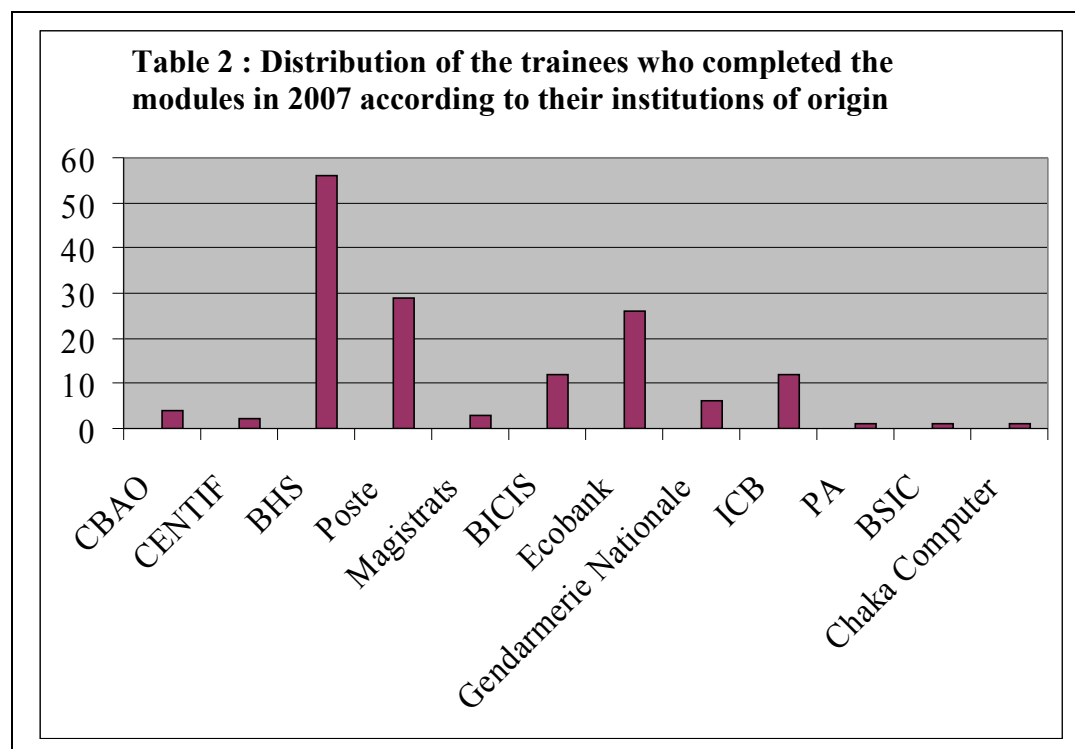
- Designing Memorandum No. 715/MEF/CENTIF of October 2<sup>nd</sup> 2007, which cancels and replaces the No. 000111/MEF/CENTIF of July 8<sup>th</sup>, 2005 about the definition of the processing of suspicion reports. The new decision takes into account, in particular, some attributions devolved, in this respect, to the Financial Expert, a newly-created position in the course of the year. It has, besides, been specified by Order No. 6 of November 16<sup>th</sup> 2007 about the implementation of the suspicion's report processing and notably the tasks assigned to the various interveners;
- Design and submission to the Senegalese Solicitors' Chamber for appreciation (mail No. 792/MEF/CENTIF of November 22<sup>nd</sup> 2007):
  - 1) of an anti-money laundering mechanism project in the Solicitors' offices,
  - 2) of a project of sensitisation documents for the Solicitors' offices.
- CENTIF has committed itself to the preparation of the Mutual Evaluation of the regional plan to fight money laundering and funding terrorism, undertaken by the World Bank from 28 January to the 1<sup>st</sup> of February 2008.

To that end, a preparatory meeting regrouping various administrative structures and other stakeholders involved in the fight against money laundering and the funding of terrorism was organised by CENTIF in December 2007.

Within the framework of its strategic mission specified in Article 17 of Uniform Law No. 2004-09 of February 6<sup>th</sup> 2004 relating to the fight against money laundering and in line with FATF Recommendation 31 aiming at reinforcing cooperation between the concerned professions, CENTIF has suggested to the Senegalese authorities the creation of a Permanent Commission for Dialogue which, in addition to formalising the periodical meetings between CENTIF, the Reporting entities, the supervisory and control agencies, the institutional correspondents and the other actors involved in the fight against money laundering, shall help improve the coordination of activities.

### 1.3. Awareness and Training Activities

The Training and Resource Centre created with UNODC's help, hosted during 2007 one hundred and fifty-three (153) trainees who completed the anti-money laundering interactive training software modules as compared to one hundred and four (104) in 2006, which shows a steady improvement in the centre's attendance pace.



Besides, CENTIF organised and took part in various awareness and training forums and seminars for the actors involved in the fight against money laundering:

- a seminar for Solicitors on 23 January 2007, which illustrates the commitment of these actors to the anti-money laundering struggle. It helped to explore the obligations resting on these reporting entities and their implementation difficulties as well as the anti-laundering mechanism to set up in the Solicitors' offices.
- an awareness forum for approved manual money changers struggling against money laundering on Thursday 01 March 2007 at Novotel Dakar which helped to sketch up an internal mechanism to be finalised by an Ad Hoc Committee comprising the Money and Credit Unit and CENTIF.

During that forum, some difficulties were noted such as unfair competition from the informal sector and none approved actors.

Besides, organising the professionals of the sector through an association capable of establishing a code of codes of ethics was strongly requested by the participants.

- A training seminar on the anti-money laundering struggle was held on 15 March 2007 for accountants in Solicitors' Offices, upon the Solicitors' Chamber's request.
- A seminar held on April 17<sup>th</sup> 2007 for brokerage insurance companies. The occasion was seized to recall these actors' obligations as reporting entities to the Law 2004-09, especially concerning suspicious activity reporting, even if they are the first to intervene. Besides, the emphasis was put on the need to struggle against non approved intermediaries within the framework of both a cleansing of the sector by the Regulatory Authority and compliance of the CIMA Code with the anti-money laundering law.

An internal mechanism shall equally be designed and would be notably built around identification, production register, and repurchase verification obligations...

- Organising in collaboration with the GIABA and the IMF a training seminar for francophone assessors from 21 to 25 May 2007 in Dakar. The objective pursued is to endow them with enough competence in the field of assessment processes and techniques of AML/CFT national systems based on the methodology of compliance with the 40 + 9 FATF Recommendations of 2004.

That session was followed from 18 to 22 of June 2007 by a trainers' training seminar on the fight against money laundering and the funding of terrorism jointly held in Dakar by the GIABA, the World Bank and Senegal's CENTIF. The training programme designed by the World Bank, in collaboration with the International Monetary Fund and other organisations, thus provides mastery of the tools indispensable to reinforce the AML/CFT institutional, legal and regulatory framework in francophone and Portuguese-speaking member countries of the GIABA.

- Head of the Analysis Bureau's participation as an Expert from 4 to 7 June 2007 in Libreville (GABON) to the training seminar organised by the World Bank for Gabon's ANIF (Financial Information National Agency) in order to share with the

various participants the successes and difficulties CENTIF Senegal had met in terms of its implementation, organisation and operation.

- Head of the Analysis Bureau's participation, as an expert, in the 23 to 27 July 2007 seminar co-organised by the Mauritanian Central Bank and the French Cooperation Department aimed at some Mauritanian actors involved in AML/CFT around the theme "the fight against money laundering and the funding of terrorism".
- A seminar held on 17 July 2007 on the sensitisation of gambling houses and casinos on the legislative and regulatory measures to fight against money laundering. That meeting helped to revisit the powers devolved to the supervisory agencies by Decree No. 66-390 of April 13<sup>th</sup> 1967 setting the terms and conditions for enforcing Act No. 66-58 of June 30<sup>th</sup> 1966 about the organisation and regulation of gambling institutions. Besides, it was also found opportune to suggest the rearrangement of the said texts in view of taking into account the new provisions of Uniform Act No. 2004-09 of 6<sup>th</sup> February 2004 relating to the fight against money laundering.

Concerning the Senegalese National Lottery (LONASE), a few measures were mentioned which deter financial crime in their operations, notably:

- No validity allowed at several sales outlets;
- Identification at the time of payment from FCFA 1,000,000;
- The State-controlled Betting System (PMU) ban to play over 20 times.

As for casinos, they have issued a restriction on bets on the card tables as well as a ban on the issuance of cheques.

About setting up their internal programmes, it was agreed to appoint an anti-money laundering officer in each Set of Casinos and Gambling Institutions, to set up a special register for significant operations.

- CENTIF Deputy Director in charge of Police Investigations took part as an Expert in the seminar organised by the International Monetary Fund in Cotonou from 10 to 13 September 2007 aimed at the High Jurisdictions of twelve francophone African countries.

- The Deputy Director in charge of International Relations and Legal Matters took part in a sub-regional workshop from 25 to 27 September 2007 organised by the United Nations Office on Drugs and Crime (UNODC) in relation with the Government of Senegal and aimed at building the capacity of National Experts from Western and Central African countries in preparing the reports to the United Nations' Security Council committees on the implementation of the Security Council's pertinent resolutions relating to the fight against terrorism (1999's 1267; 2001's 1373; 2003's 1425; 2005's 1617; etc..).
- As part of capacity building, the Head of the Information and Documentation Office followed a training programme in France on database management, organised by Microsoft.
- A forum was devoted November 6<sup>th</sup> 2007 to the role of Money Transfer Agencies in the fight against money laundering and the funding of terrorism.

The exchanges helped to lay the emphasis on a few problems associated among other things, with the time-limit on the filing of documents over ten (10) years, which entails some significant costs. In addition, there was a controversy over the contents of Article 28 helping CENTIF to oppose the execution of an operation for forty-eight (48) hours. It was recalled that the reporting entities were exempted in this respect from any civil responsibility.

The discussions also focussed on a few signs helping to reinforce fund transfer companies' vigilance in relation to:

- Transactions with at-risk geographical areas and clientele (PTNC, Political Exposed Persons (PEP), Listed Natural Entities...);
- Atypical transactions without an obvious economic reason;
- Identification documents.

They recalled the obligation to set up an anti-money laundering mechanism helping to identify the clientele, in particular the giver's information that facilitates the tracking of payments, to preserve the documents, to appoint an anti-money laundering officer, to provide training for the personnel and monitoring for dubious operations. In this respect, the services should be equipped with automated systems of information management likely to detect convergences of transfer flows sent or received. They called for the involvement of Fund Transfer Companies that must be equipped with software also capable of taking into account



the management of bond lists in the struggle against money laundering and the funding of terrorism.

In their interventions, Money Transfer Agencies gave an account of their involvement in the fight against money laundering.

For Western Union, represented by its Regional Management based in Morocco, 5% of its staff is used in the fight against money laundering and significant investments have also been mobilised for that purpose.

Besides, to circumvent the risks, the following principles are observed:

- commitment to the financial system regulated by a convention with the financial institutions;
- fund and service user traceability;
- supervision of transactions through the analysis of big volumes determined from the thresholds and the detection of instalments, the results of which are shared with the agents;
- the protection of the financial system's integrity.

With the Authorities in charge of supervision, some willingness to collaborate was noted with the FIU within the framework of data sharing.

As for Money Express which is a subsidiary of a Financial Engineering Company, it is capable of computer surveillance that takes into account the fight against money laundering through:

- customer detection from databases;
- publishing of software-generated reports to be made available to partners.

Telegiros also gave an account of an anti-money laundering mechanism resting on the choice of both a formal network and efficient software for detecting dubious operations and carrying out some feedback.

Placid Express and Money Gram also have surveillance systems for in and out flows.

- A training workshop for Prosecutors and other judges in the field of fighting money laundering and the funding of terrorism was organised from 13 to 15 of November 2007 by the UNODC in collaboration with CENTIF. The workshop is part of capacity building for the benefit of these actors in investigations; legal prosecutions and confiscation of criminal products in relation to AML/CFT, mastery of the international legal environment as well legal mutual help request procedures.

These encounters shall be carried on so as to systematically train all the Reporting entities regarding Uniform Law No. 2004-09 of February 6<sup>th</sup> 2004 about the fight against money laundering

#### **1. 4. Processing Suspicious Activity Reports (SAR)**

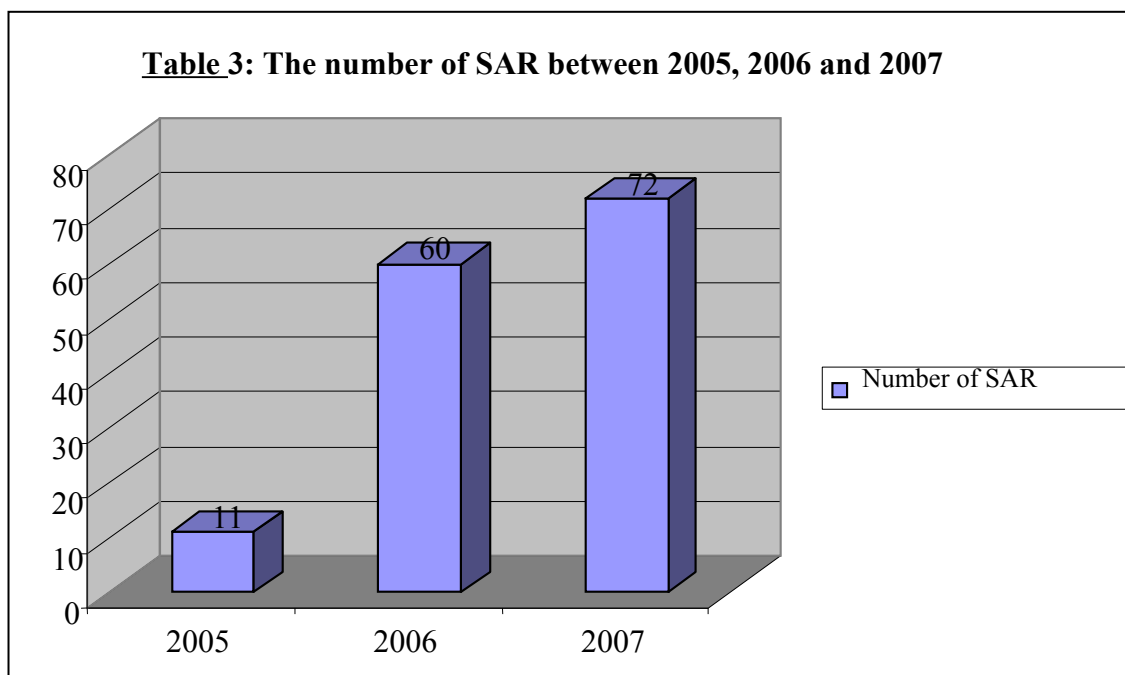
CENTIF still receive Suspicious Activity Reports; then they are processed and sent on as a report to court, as required.

CENTIF also adds to its data bank in order to refine the way the issue is perceived in Senegal, to maximise future investigations, and finally to work out various ways of laundering money.

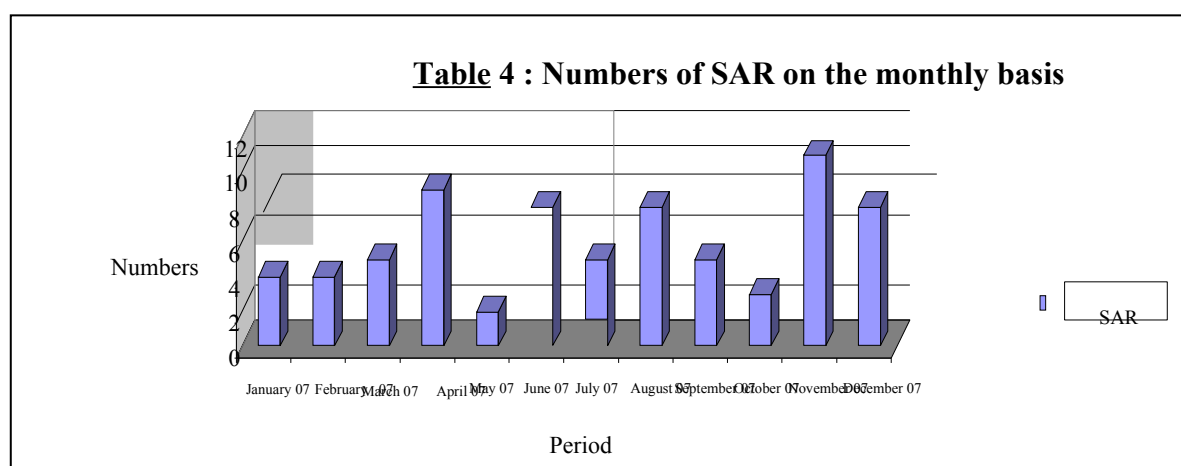
It should be stressed that the need to send on a Suspicious Activity Report is accompanied, concerning the reporting entities, with a ban to tell suspects and, regarding CENTIF, not to divulge the applicant's name.

Consequently, during the year 2007, CENTIF received 72 Suspicious Activity Reports ; or an increase in absolute terms of 20.0% compared to 2006. Those cases represent a total amount of CFA 31,113,871,667.

The increase is an indication of the gradual acceptance of the reporting entities, especially regarding the banking system, thanks to a campaign of awareness and training conducted by CENTIF.



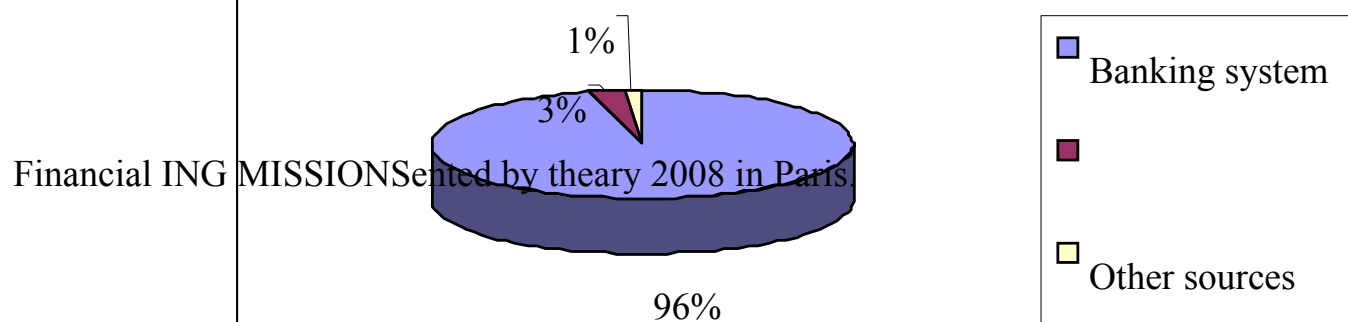
Monthly data help measure the level of collection of SAR in November 2007, with 11 SAR received during that month, against a yearly average of 6 Statements.



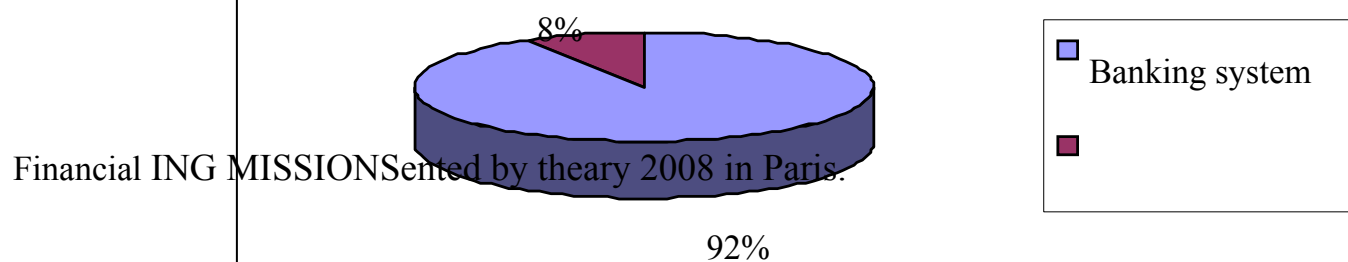
The SARs received by CENTIF are broken down as follows:

- 95.8% financial resources the baking system;
- 02.8% financial resources financial services;
- 01.4% financial resources other sources including microfinance institutions.

**Table 5 (1) : Distribution of SAR according to 2007 sources**

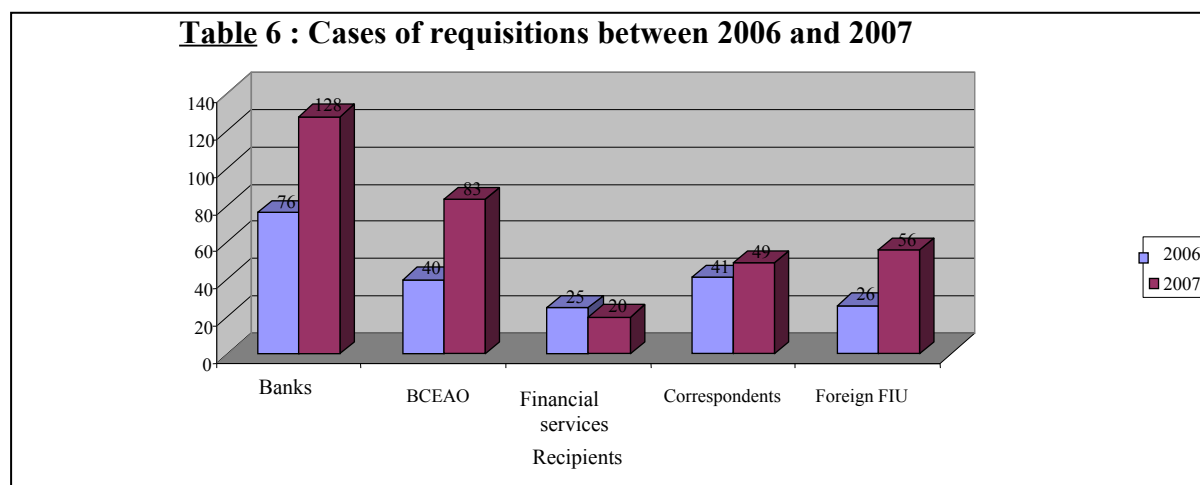


**Table 5 (2) : Distribution of SAR according to 2007 sources**



As in 2006, in 2007 banks are the main applicants, with actions undertaken with financial services and a breakthrough in relation to microfinance institutions.

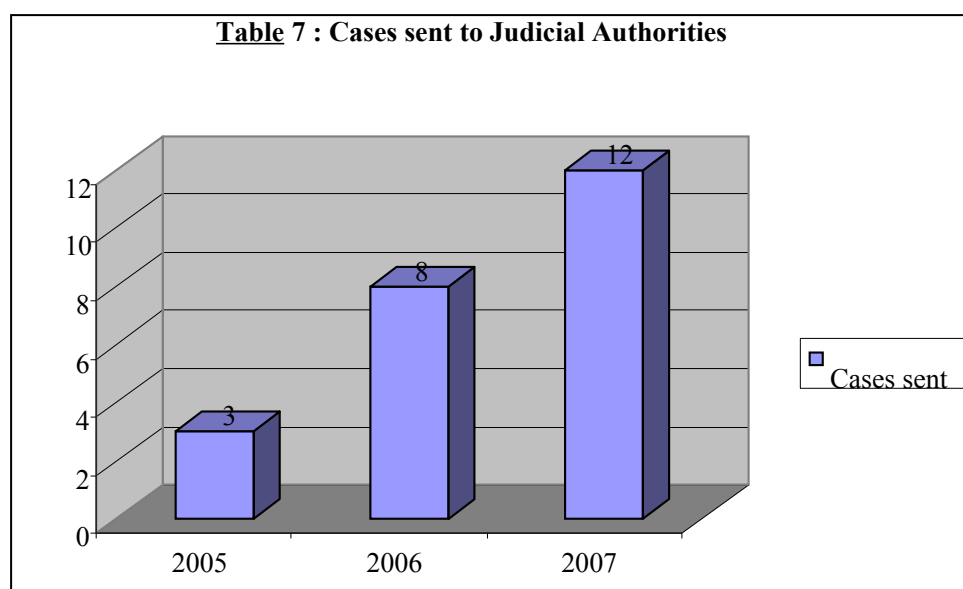
On the other hand, 336 cases of requisitioning were sent on by CENTIF (56 of which to foreign Financial Intelligence Units) against 208 in 2006 and 33 in 2005; this, in order to collect additional information for the processing and substantiating of cases.



CENTIF also received from foreign Financial Information Units information requests for information which have all been met.

Out of a total of 27 cases studied in 2007 (2 of which concerned only one person):

- 12 were sent on to Judicial Authorities (against 3 in 2005 and 8 in 2006);
- 11 have been filed away (3 provisionally);
- 03 were further investigated.



## II. INTERNATIONAL COOPERATION

Since money laundering and the funding of terrorism are cross- protection border phenomena, CENTIF pays particular attention to international relations.

The following actions were thus undertaken in 2007:

- Working visit to Paris by a CENTIF delegation led by their President from 16 to 24 March 2007 with the following purpose:
  - a work session with TRACFIN on CENTIF's application to the EGMONT Group in 2007 and on the situation of information exchanges between the two Financial Intelligence Units (FIUs);

The EGMONT Group is an informal forum that has got its name from the first meeting held at Brussels' Egmont Palace in June 1995. Its main objective consists in reinforcing international cooperation between the various financial intelligence units (FIUs) notably by improving information exchange between its members and by pooling their expertise.

- a meeting with Counter-Crime Consulting and Communication Firm (3C COM) on the practical modalities of the struggle against the funding of terrorism;
  - a working session with Lefebvre-Pelletier and Associates Firm of specialised Attorneys in the presence of the Paris Chamber of Solicitors' Secretary General and the 3C COM Managing Director on the fight against money laundering in the real estate sector;
  - a working session organised by 3C COM Firm with Professor Xavier Raufer from the Department of Research on Contemporaneous Criminal Threats of Paris II Pantheon-Assas University about the stakes in international terrorism;
  - participation in an international colloquium at Paris II Pantheon-Assas University on the theme "Early detection in response to chaos".
- CENTIF took part as an observer in the Egmont Group's plenary session in the Bermudas from 28 May to 1<sup>st</sup> June 2007.

On this occasion, six Financial Intelligence Units were admitted as members. They are:

- 1) Armenia's Financial Monitoring Centre (FMC),
- 2) India's FIU IND,
- 3) Nigeria's NFIU,
- 4) NIUE's FIU,
- 5) Syria's Combating Money Laundering and Terrorism Financing Commission (CMLC).

Concerning CENTIF Senegal, it withdrew its application before the EGMONT plenary in the Bermudas and this, on account of the unavailability of a national legislation on the fight against the financing of terrorism, which is one of the fundamental conditions for entering EGMONT.

- A working visit by a delegation from CENTIF led by its President was made to the Kingdom of Saudi Arabia from 8 to 15 September following an invitation by the authorities of the SAUDI ARABIA FINANCIAL INTELLIGENCE UNIT (SAFIU), Saudi Arabia's Financial Intelligence Unit.  
It helped to lay the foundations of a future cooperation between the two entities, likely to bring about, beyond the exchange of information, SAFIU's technical assistance in training CENTIF personnel in information and communication technology and in techniques for analysing suspicious activity reports.
- Participation by a CENTIF delegation in the 9<sup>th</sup> international summit on transnational crime held in Monaco from 24 to 27 October 2007 during which the President was invited to make two presentations on the following topics:
  - o Corruption's impact on private investment;
  - o Africa, Governance and Globalisation.
- Participation by a CENTIF delegation led by the Deputy Director in charge of Police Investigations in the "Middle East Homeland and Global Security" forum in Manama, Bahrain from 19 to 22 November 2007.  
The forum workshop was about the States' internal and external security.

- CENTIF has equally hosted a team of American Experts on November 5<sup>th</sup>, 2007 within the framework of the evaluation and reinforcement of cooperation between Senegal and the USA in the fight against corruption, money laundering and terrorism.
- CENTIF received in early December 2007 an invitation to participate in FATF's plenary session which would take place in January 2008 in Paris. CENTIF will be represented by the General Secretary.

At the sub-regional level, the Intergovernmental Action Group combating Money laundering and the Funding of Terrorism in West Africa (GIABA) organised, from 11 to 12 June 2007, its technical commission's 7<sup>th</sup> meeting in Banjul (The Gambia).

The work consisted, among other things, in examining and adopting the reports from the GIABA Managing Director, the Work Group on Mutual Evaluation (WGME), the Work Group on Typology and from the legal report project within the framework of the fight against the funding of terrorism.

GIABA is an ECOWAS (Economic Community of West African States) institution founded on 10 December 1999 to carry out three big missions:

- i. Protecting financial and banking systems of member-states' national economies from the penetration of dirty money ;
- ii. Improving and intensifying the fight against the laundering of goods from crime; and
- iii. Reinforcing international cooperation between its members through the adoption of normative and institutional standards to combat money laundering and the funding of terrorism.

- GIABA undertook, from 23 July to 3 August 2007, the Mutual Evaluation of the Senegalese mechanism for combating capital laundering and the funding of terrorism. The evaluation team includes, besides GIABA representatives, some Experts from the member-States and Experts from both France and FATF.
- BCEAO (West African States' Central Bank) designed Investigation No. 01/2007/RB as of 2 July 2005 relating to combating capital laundering within financial organisations aiming at specifying the terms and conditions for



enforcing the anti-money laundering Uniform Law, as well as the provisions relating to the internal programme to be set up.

- CENTIF took part in the GIABA technical commission's 8<sup>th</sup> meeting held in Ouagadougou in Burkina Faso on 5 and 6 November 2007.

The works were focused on the scope and impact of money laundering in West Africa, the link between corruption and money laundering, examining Cape Verde's Evaluation report and defining priorities in terms of technical assistance in 2008.

At the international level, the transposition in progress in the European Union of the 3<sup>rd</sup> European Directive as of 26 October 2005 completed by European Directive as of 1<sup>st</sup> August 2006 will no doubt have a qualitative impact on the fight against capital laundering and the funding of terrorism in the rest of the world.

A reminder that this directive, which cancels and replaces all the previous directives, involves two major changes or main ideas, namely:

- Adjusting the level of alertness to the extent of risk;
- Extending the statement of suspicion's scope to all offences carrying a sentence of more than one year's imprisonment.

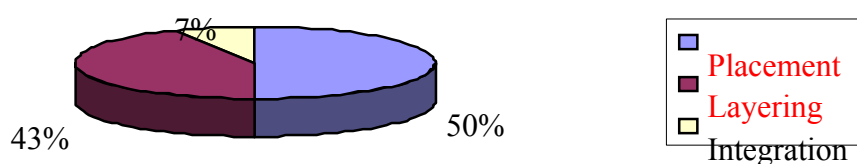
### III. MONEY- LAUNDERING TYPOLOGIES OBSERVED IN SENEGAL

An analysis of the files processed following the suspicious activity reports has helped to carry out a typological exercise.

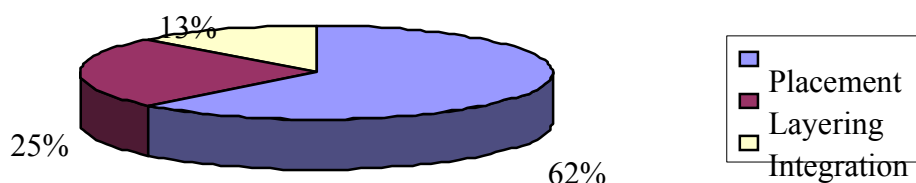
The money laundering characteristics so spelled out include, among other things, laundering items from embezzlement, offences relating to overseas transactions, drug money laundering and various forms of fraud.

In terms of stages in money-laundering (see box below), in 2005, 2006 and 2007, a definite preponderance of the files open during the investment phase, was noticed.

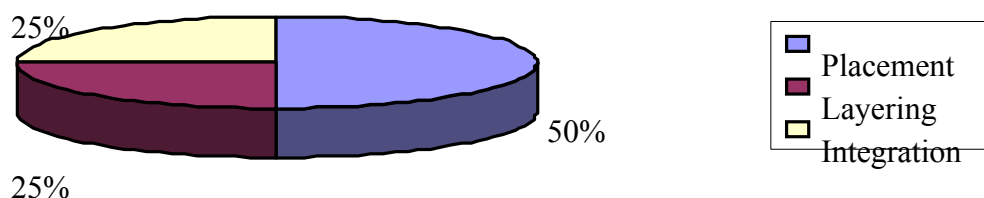
**Table 8 (1): Case distribution according to stage of laundering in 2007**



**Table 8 (2): Distribution of cases according to the stage in laundering process in 2006**



**Table 8 (3): Distributions of cases according to the stage in the laundering process in 2005**



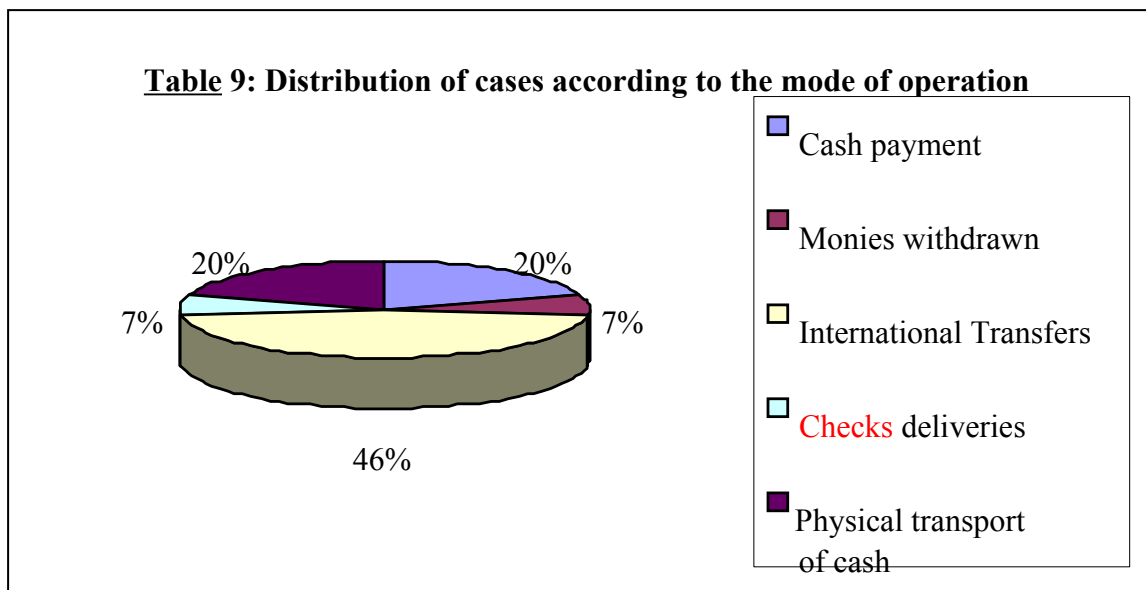
The cycle of money laundering includes 3 stages.

The initial stage corresponds to **Placement** with the introduction of income from illegal activities into the financial system.

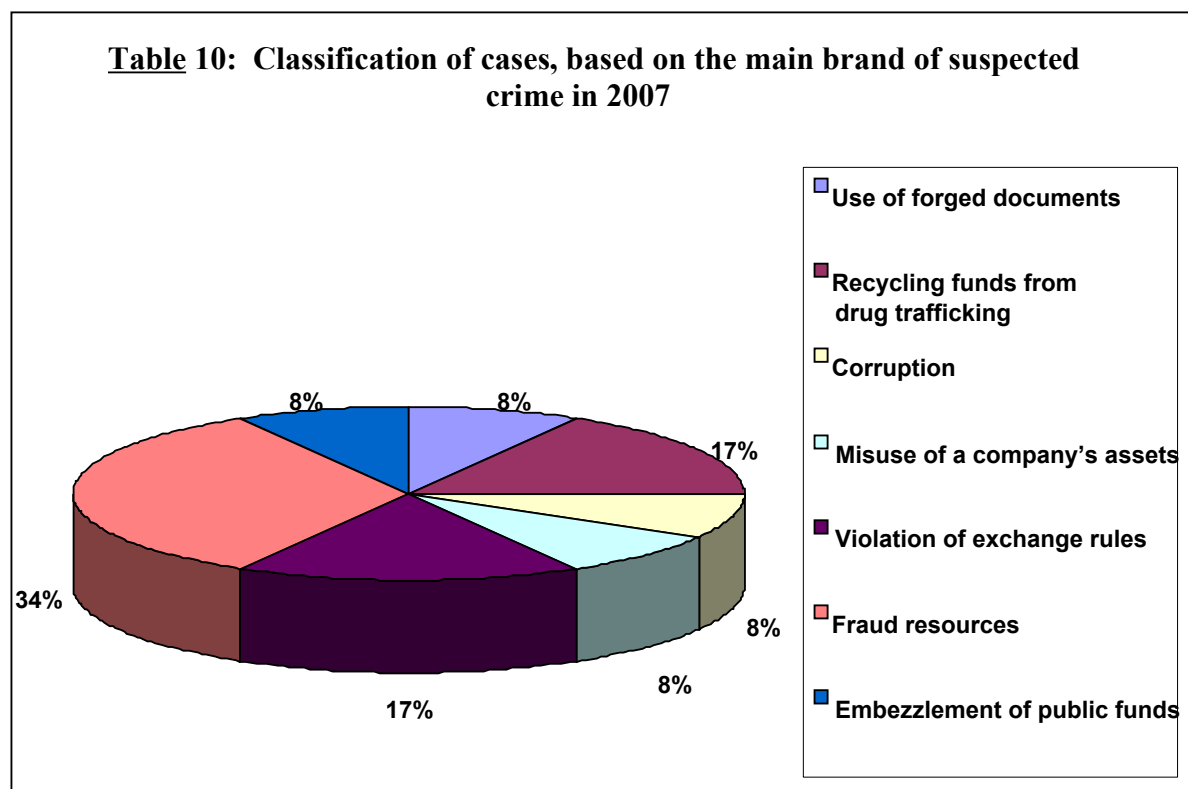
The second stage called “**Layering**” is characterized by conversions or transfers of funds of illegal origins to remove them from their sources.

The third stage consists for the launderer, in **integrating** the funds into legal economic activities.

The distribution of cases treated in 2007 according to the mode of operation used as follows:

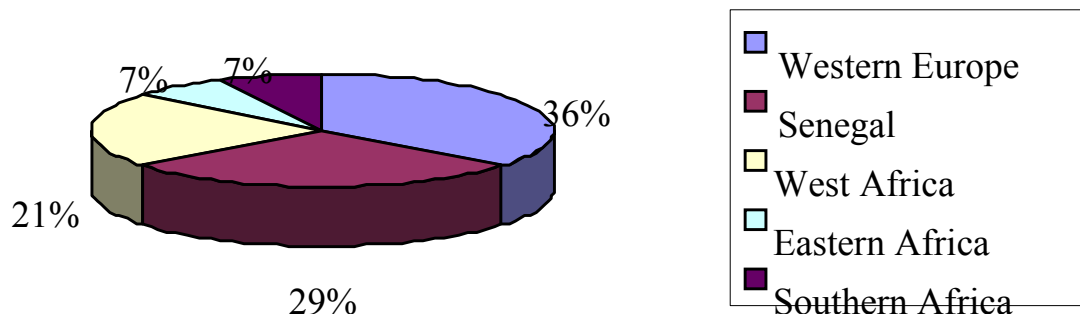


Based on the main brand of suspected crime, cases are classified as follows:



The distribution of cases on the basis of the main intervening party's nationality is as follows:

**Table 11: Distribution of cases according to the nationality of main author in 2007**



## **TYPOLOGIES 2007**

### **Typology N° 1 : Using fake documents**

Any attempts via the financial circuit to recover funds of suspicious sources by using fake, unauthentic documents and fictitious institutions located abroad.

### **Typology N° 2: Corruption of a Civil Servant**

A substantial amount of cash as payments has been transferred by a civil servant working for a supervision body to his/her bank account. In order to justify the origins of the assets he or she has put forward a real estate transaction without the support of any authentic evidence.

### **Typology N° 3: International Fraud on the Net : Misuse of Identity**

#### **First Case:**

Mr. X is an Africa national, a worker by trade and lives in Senegal. He opens a bank account which records, after operating for a year, international funds which apparently have no link with the holder's profession, and which can hardly be justified.

In addition, Mr Y who comes from a country in Asia has transferred funds in favour of Mr X before declaring himself a victim of fraud and accusing the latter of using a false Senegalese identity and pretending to be a businessman to convince him to transfer the funds in question. Moreover these doubts are reinforced by the number of addresses on the documents related to the operations done between Mr X's bank and those of the principals located abroad. It results from these clues that through the Internet, Mr X has conned people living in several foreign countries by means of various illegal deeds by passing off as a Senegalese businessman.

### **Second case**

A Senegalese businessman has agreed to execute a contract via the Net (through an E-mail that is almost anonymous) with a would-be textile corporation based in a Baltic country registered in a country in America where they (the corporation) might have built their head office.

Following the terms and conditions of the contract, the businessman is asked to look after the transfer, in favour of his partners, using the companies of quick money transfers, of the balance of payments. He does so after retrieving his payment in the form of commissions along with the forwarding charges.

Their aim in this agreement would certainly be to dodge taxes in America where they would exercise their professional activities.

Once the contract is executed, the first cheque is issued from a bank in North America forwarded through a European bank with an amount slightly under € 3,000 presented by the Senegalese man at his bank has proven unauthentic, something established by the European bank, to whom the check returned by the Senegalese bank for payments, has initially been sent.

### **Typology N° 4: Illegal funds transferred abroad by a Political Exposed Person (P.E.P)**

Mr. C, **Political Exposed Person (P.E.P)** has presumably committed embezzlements of large amounts thanks to checks and cash transfers executed on his behalf by a third party. These operations are then followed by substantial cash transfers abroad to bank accounts he has opened to meet his own needs and to satisfy his standard-of-living and his other extraprofessional activities.

### **Typology N° 5: Misuse of company property**

Mr. B, a POLITICALLY EXPOSED PERSON (PEP), runs a corporation located in an African country.

As part of the commercial links existing between his own company and a partner based in Europe, he has requested that the income emanating from a financial transaction to his company be sent to a private bank account opened at a bank in Senegal which belongs to a third party. The latter holds a power of attorney for the above-mentioned funds destined for purchasing a real estate property in Senegal in favour of the businessman's younger son.

The recycled funds will later enable him to maintain his standard of living both abroad and at home in Senegal.

#### **Typology N° 6: Precious stones used as means of money laundering**

A Senegalese 'businessman' operates a very important transfer of cash to his account opened in a local bank. He immediately attempts a transfer to the advantage of a cooperative made up of members of another group of a different profession so as to benefit alone from a considerable number of houses.

The obvious purpose is to hide funds of dubious origins through the real estate business with the help / support of people hired by the bank who have benefited from transfers made by the money launderer.

#### **Typology N° 7: Cash couriers**

The 'cash courier' or 'water carrier' is a physical conveyor of cash funds or otherwise with commissions in return paid by the payee and / or the beneficiary. His mayor duty is then to convey suitcases full of cash in foreign currencies hidden in special places from one country to another. Once he has crossed the borders, he is to give them To Whom It May Concern following one code defined by his principal.

In this respect, the check ups at the borders have allowed to make two (2) suspicious activity report to the CRF after noticing the crime of attempting to smuggle funds without declaring the amount of funds carried by the travellers to the officers in charge.

#### **First case**

The cash courier in question comes from East Africa and the potential payee is from West Africa. Without being told, the latter turned up to claim the funds by the time the courier was arrested and questioned, before running away.

The information provided by the database at the CRF have helped to find out that he was a dangerous drug trafficker involved in several pending drug cases in Senegal.

### **Second case**

The conveying of cash is handled by a woman from Southern Africa who passed off as a trader in transit in Senegal.

### **Typology N° 8: Use of a bogus company**

Mr. X is an influential personality (IP). He set up a business that comes under Senegalese law with a legal status of an impersonal limited liability company (I.L.L.C). Then he opened, in two (2) local banks, an account on behalf of the above-mentioned company. Mr. X also made sure that he had taken all the necessary precautions that allow him to be the only person likely to handle the bank accounts referred to earlier.

Next, he received in each of the bank accounts of the company large and almost equal amounts coming from the same principal, a citizen from a country in Asia.

According to the reason given, the funds were to be used to purchase real estate property by the company with an identified partner.

Eventually, Mr. X executed large and successive transfers from the sums obtained in the company's two bank accounts to his personal bank account opened in one of the two financial entities. Besides, he has also withdrawn large amounts of money for his own benefit.

### **Typology N° 9: Repatriation of funds by an immigrant whose professional activities are unclear**

A Senegalese citizen living in a country in North America has made some transfers, using international systems, of important funds within a short time (6 months) to his bank account opened in Senegal.

The type of activity declared (marabout, businessman) reveals that his real income is by far under the amounts transferred, even though he says that he also benefits from commissions from a powerful African community after he has done some services on their behalf with the local authorities.



The total amount at stake reaches a bit less than 300,000 dollars or on average \$ 50 000 of income per month, which is considered to be unbelievable, given the average incomes of the Senegalese workers.

Everything then seems to suggest that that accused person is indulging in activities likely get him such income within so short a time.

**Typology N° 10: Attempt to recycle funds of suspicious origins from abroad**

A Senegalese citizen living in another country has operated an important transfer to his account open in Senegal, from a financial institution almost unknown based in an offshore country reputed for keeping any confidential banking information.

He does not perform any professional activities known in Senegal or abroad. Moreover he gave no explanations or presented any documents related to the economic sources of the operation.

The investigations conducted helped to confirm that the dubious source of the funds and the attempt to recycle them in Senegal in real.

## IV. PROSPECTS AND CONCLUSIONS

### **4.1. Reinforcing the juridical system to combat money laundering and the funding of terrorism**

- A draft uniform bill related to the fight against the financing of terrorism is being proposed with by the West African States Central Bank (BCEAO). It should be adopted by the Council of Ministers of the West African Economic and Monetary Union (WAEMU) in the form of uniform bill after the bill's validation by the Experts of the Union's States.

The swift adoption of this uniform bill and its adaptation without delay to Senegalese internal law would certainly allow the CENTIF (National Financial Intelligence and Processing) to re-introduce their application to the EGMONT Group under the sponsorship of France and TRACFIN;

- To be in conformity with the FATF recommendations, the creation of a Permanent Dialogue Commission for combating fund laundering and the financing of terrorism which is perceived as a body for dialogue and coordination of the actions of the key economic players concerned, and this, while awaiting the reorganisation, in this direction of the guideline suggested by WAEMU under No. 07/2002/CM/WAEMU and the uniform law against money laundering.

#### **4.2. 2008 CENTIF Action Plan (National Financial Intelligence and Processing)**

Some additional measures to develop a higher level of operationality for CENTIF have been considered in the short term. (Schedule 4)

Among these measures contained in the 2008 Action Plan, we can name:

- capacity building of the technical staff ;
- translation of the Website in English ;

the organisation of awareness campaigns for people liable for taxation or institutions not yet contacted (real estate agencies; chartered accountants, auditors, tax and legal experts, the Post Office, traders in valuables; NGOs, authorities and actors of financial market);

decentralization of training and awareness activities (in regions); the organisation of workshops on:

- financial investigation techniques in AML/CFT;
- terrorism and the funding of terrorism;
- the AML/CFT mechanism within notary offices;
- the AML/CFT mechanism within lawyer firms;
- participation in GIABA's technical commissions and in the meetings of the Typology Committee, etc.
- the organisation of a forum with the regulatory authorities of people/institutions liable, towards the creation, between such authorities and CENTIF, of a real partnership as part of the AML/CFT.
- the strengthening of international cooperation, specially with the Financial Intelligence Units (FIU) of countries with a large community of Senegalese people.

#### **4.3. SUGGESTIONS FOR AMENDMENTS OF THE CURRENT AML/CFT MECHANISM**

After three years spent on the implementation of the law No.2004-09 of February 6<sup>th</sup> 2004, CENTIF hereby makes a few recommendations in order to contribute to the improvement of the legal and regulatory framework of the fight against financial crime in Senegal in particular, and within WAEMU member-States in general.

The objectives are as follows:

- to empower CENTIF to monitor the AML/ CFT mechanism regarding people/institutions liable with no control mechanism ( jewellers, traders in valuables, casinos,...)
- to make more forceful article 11 of the uniform law on the funding of CENTIFs, regarding the contributions of WAEMU ‘s Institutions.
- to integrate into the information process of the CENTIFs the obligations for notaries and lawyers to go through their supervisory agency ( President of the Bar and Notaries association) in order to inform CENTIF. This will help keep the applicant anonymous;
- to introduce into uniform law No. 2004-09, a restriction on cash payments in the case of a property purchase ( mandatory checks or transfers concerning amounts equal to/exceeding f CFA 5,000,000 ) .

For the sake of efficiency, this proposal should be accompanied with two regulatory measures.

- (a) to indicate in the bill of sale the purchaser’s account number or the number of the account used for the payment ; and
- (b) to exclude the off-balance-sheet procedures.
- to demand that judiciary authorities communicate rulings in order to allow CENTIF to better fulfil its obligation regarding a “ return to info” to reporting entities ;
- to focus on the implementation of the automatic Statement of suspicious operations related to cash transactions exceeding a set threshold (F CFA 5,000,000 for example) in pursuance of FATF recommendation No.19.
- to study the possibility of reducing the time spent on keeping the documents to 5 years, taking related costs into account;
- to envisage, in relation to the uniform law against money laundering in conformity with FATF Recommendation No.31, the creation and planning of a Coordination Committee or Inter-ministerial Committee concerning AML/CFT, drawing on the best international practices ( the French Committee, in particular ) .

## ANNEX

**Annex 1:** Regulation N°. 14 /2002/ CM / WAEMU relating to the freezing of the funds and other financial resources as part of the fight against the financing of terrorism within the Member States of the West African Economic and Monetary Union (WAEMU).

**Annex 2 :** Act N°. 2007 /01/ of 12 February 2007 amending the Penal Code.

**Annex 3:** Act N°. 2007 /04/ of 12 February 2007 amending the Penal Code of Procedure.

**Annex 4 :** 2008 Action Plan.

### **Regulations N° 14/2002/CM/WAEMU**

**In relation to the freezing of the funds and other financial resources as part of the fight against the financing of terrorism within the Member States of the West African Economic and Monetary Union (WAEMU),**

**THE COUNCIL OF MINISTERS OF THE WEST AFRICAN ECONOMIC AND MONETARY UNION (WAEMU),**

**Considering** the Treaty of 10 January 1994 forming the West African Economic and Monetary Union (WAEMU), notably in its articles 6, 7, 16, 21, 42, 43, 97, 98 and 113:

**Considering** the Treaty of 14 November 1973 establishing the West African and Monetary Union (WAEMU), notably in its article 22 ;

**On** a joint proposal of the WAEMU Commission and the BCEAO ;

**After** the judgement of the Statutory Committee of the Experts dated 13 September 2002;

**Considering** the resolutions N°. 1267 (1999) and N°. 1373 (2001) of the Security Council of the United Nations Organisation (UNO)

## **ENACT THE REGULATION THAT RUNS AS FOLLOWS:**

### **Article 1: Terminology**

By this Regulation, we hear by:

**Council of Ministers:** The Council of the Ministers of the West African Economic and Monetary Union “WAEMU”

**Banking Committee:** The WAEMU Banking Committee.

**BCEAO or the Central Bank:** The West African States’ Central Bank.

14 /2002 / WAEMU

12/04/2007

**The Disciplinary Committee:** The Committee Established by Resolution N° 12 67 (1999) of the Security Council of the United Nations.

**The Security Council:** The United Nations Security Council.

**Member-State:** The State-party to the West African Economic and Monetary Union Treaty.

**Funds and other financial resources:** all the financial assets and economic and financial gains including, among others, cash payments, checks, debt in cash drafts, payment orders and other modes of payment; deposits with banks and financial institutions, cash balances, debt and loan notes, negotiated securities and debt instruments, especially shares and other equity loans, share certificates, liabilities, promissory notes, warrants or other capital gains from assets, credit, credits, the right to compensation, guaranties, bills of lading, sales contracts, and any document attesting to the possession of shares of a funds or financial resources and any other funding instrument to exportation.

**Freezing of funds:** Any activity aimed at preventing any movement, transfer, alteration, use or manipulation of funds which could result in a change to their volume, amount, location, ownership, possession, characteristics, destination, or any other modification which might help to use it, especially the management of securities.

**Banking Regulation Act:** Enforcement law on Banking Regulation, applicable in the member States of WAEMU.

**WAEMU:** The West African Economic and Monetary Union.

**WAMU:** The West African Monetary Union.

**Union:** The West African Economic and Monetary Union.

## **Article 2: Aim of the Regulations**

This Regulations aim at setting the rules relating to the freezing of funds and other financial resources in member States, by the people mentioned under Article 3, in pursuance of **Resolution 1267 (1999)** of the UNSC, so as to prevent the use of banking and financial channels and the Union towards the funding of terrorism.

**Article 3: Scope of the Regulations:** The provisions of this Regulation are applicable to banks and financial institutions, under the law on banking regulations, in doing business in the area of terrorism in WAEMU member States, whatever their legal status, the location of their head office or main branch, and the nationality of the owners of their share capital, or of their managers.

## **Article 4: Conditions for the freezing of funds and other financial resources.**

All the funds and other financial resources that belong to a natural or legal entity, or to any entity or body appointed by the Disciplinary Committee, shall be frozen.

Consequently, the Council of Ministers shall produce a short list of the people, entities and bodies whose funds are to be frozen.

For the whole duration of the suspension, such funds or other financial resources should not be, directly or not, made available, or used for the benefit of the people, entities or bodies considered under the first paragraph. Paragraph 1 and 2 do not apply to funds and resources for

which an exemption has been granted financial by the Disciplinary Committee. Such exemptions can be secured through the Central Bank.

#### **Article 5: Obligation to inform and cooperate**

Banks and financial institutions considered under Article 3 above are obliged, on knowing about it, to send without delay to the Central Bank and Banking Commission, any information conducive to the observance of this Regulation, especially, regarding the funds and financial resources in pursuance of Article 4.

Such banks and institutions shall collaborate with the Central Bank and the Banking Commission to check the information, if need be.

No information supplied or received under this article, can be used for purposes other than those under this Regulation.

#### **Article 6: Lifting Professional Secrecy**

Despite any legal provision or contrary regulations, professional secrecy can be invoked by banks if to refuse to supply the Central Bank and the Banking Commission with the information provided for under Article 5 of this Regulation.

#### **Article 7: Sanctions**

Breaching the provisions of this Regulation shall entail, among other things, the implementation of the sanctions under Article 52 of the Bank Regulation Act, especially those sanctions relating to the non-observance of the provisions of Article 42 and 45 of the said Act; this, without prejudice to the administrative / disciplinary sanctions provided for by the Convention relating to the creation of the Bank Commission on 24 April, 1990.

#### **Article 8: Monitoring the implementation of the Regulation**

This regulation shall apply, despite the existence of rights granted or of obligations imposed in pursuance of any international agreement; to any signed contract or any authorization or permit granted before its enforcement

The West African States' Central Bank (BCEAO) and the Banking Commission shall see to the monitoring of the implementation of this Regulation.

#### **Article 9: Amendments to the Regulation**

This Regulation can be amended by WAEMU's Council of Ministers, on the recommendation of the BCEAO, upon a joint proposal by the WAEMU Commission and the BCEAO.

Between 2 sessions of the Council of Ministers, the Chairman of the Council is entitled, upon a proposal by the BCEAO Governor, to amend or complete the list of individuals, entities and bodies whose funds should be frozen, by virtue of the decisions of the UNSC or of the



Disciplinary Commission. The measures taken by the Chairman of the Council of Ministers are to be submitted to the approval of the next Ministers' Meeting.

**Article 10: Enforcement of the Regulation**

This Regulation, which will come into force, from the date of its execution, shall be published in the Union's Official Newsletter.

**Ouagadougou, 19 September 2002**

**For the Council of Ministers, the Chairman**

**Kossi ASSIMAIDOU**

Source: WAEMU Commission, September 2002

**REPUBLIC OF SENEGAL**

One People – One Goal – One Faith

---

# ACT No. 2007-01 of 12 February 2007

## AMENDING THE CRIMINAL CODE



### **Preamble**

The high number and financial frequency of terrorist attacks perpetrated by groups better structured than never before and using sophisticated means, have made all States vulnerable.

The fight conducted by the internal community against terrorism calls for changes to national legislations. In this connection, Senegal has amended its criminal code.

The new strategy in the fight against terrorism introduced into the criminal code also calls for changes to the penal procedure so as to ensure maximum effectiveness regarding the legal means used.

The lack of a universal definition of terrorism cannot, however, relieve African legislators of the need to perfect the current institutional mechanism through the identification of acts which, undoubtedly, relate to terrorism.

On the other hand, the body of conventions, resolutions, Statements made before and after the terrorist attacks in America in 2001 represents a worldwide legal framework which needs to be integrated into the Senegal Legal system, following the execution of the Ratification (membership formalities)

The definition of acts terrorism under this law is inspired by such international legal instruments like the Algiers Convention for the prevention and the fight against terrorism. It also includes environmental degradation and the funding of terrorism. If those are, by

definition, criminal acts, it is not the same with the defence of terrorism which is to be death by the criminal court.

Elsewhere, this project draws the legal implications of Article N° 2004-38 of 28 December 2004 relating to the abolition of the death penalty. Indeed, along with this major turning point of our legal history, the need has emerged to revisit the body of penal sanctions. For the time being, the aim is to trade off capital punishment for life imprisonment, where only the death penalty was considered.

This is, in a nutshell, what this bill is all about.

During its session of Wednesday 31 January 2007 the National Assembly passed the following;

The President of the Republic hereby promulgates the law stipulating the following:

**Article 1.** After Article 279 of the criminal code, a new section VII, is added to chapter IV of Title I of the 3<sup>rd</sup> book; the section is entitled: “Act of terrorism”, with the following provisions:

*Article 279-1:* If deliberately perpetrated in relation to a private or corporate enterprise in order to disturb the peace or the normal operation of national or international institutions, through intimidation or terror, the following shall be regarded as acts of terrorism:

- 1 -Attacks and plots affected by Articles 72 to 76 and 84 of this code
- 2- Crimes committed through participation in a rebellious movement, affected by Articles 85, 86 and 87 of this code;
- 3- Acts of violence or assaults perpetrated against people or institutions; or damage done during gatherings affected by Article 98 of this code;
- 4- Kidnappings and sequestrations mentioned under Articles 334 to 337 of this code;
- 5 - Destruction, damage, degradation affected by Articles 406 to 409 of this code

6- Degradation of goods belonging to the State or to the general public, affected by Article 225 of this code;

7-Conspiracies affected by under Article .238 to 240 of this code

8-Attacks affected by Articles 280, 281, 284,285 et 286 of this code

9-Threats affected by Articles 290 to 293 of this code ;

10-Assault and battery affected by Articles 294, 295, 296,297,297 (2) and 298 of this code

11-The manufacture or keeping of weapons banned under, Article 302 of the criminal code and by Article No 66-03 of 18 January 1966

12-Thefts and extortions affected by Articles 364 and 372 of this code

*Article 279 -2:* Introducing into the atmosphere, on the ground, into the sub-soil or into waters, any substance likely to imperil man's or animals' health or the environment, shall be regarded as an act of terrorism if deliberately perpetrated in relation to a private or corporate enterprise in order to disturb the peace or the normal operation of institutions through intimidation or terror.

*Article 279-3:* the direct or indirect funding of a terrorist organisation by supplying, mobilizing or managing funds, valuables or any goods, or by giving advice to that effect, with an aim to use them or knowing that they are to be used, partially or totally in order to commit a terrorist act.

*Article 279-4:* anybody guilty of terrorist acts as affected by Articles 279-1, 279-2 and 279-3 of this code, is liable for life imprisonment.

If the culprit presides over or manages a legal entity and acts in that capacity, the licence, permission or authorization of that legal entity shall be withdrawn for good .

*Article 279-5:* anybody who has defended those crimes affected by Articles 279-1, 279-2, 279-3 of this code , through the means mentioned under Article 284 of this code, shall be sentenced to 1 to 5 years imprisonment, plus a fine of 100,000 to 1,000,000 francs.

Any legal entity whose manager has been found guilty of the crimes affected by the above paragraph shall be liable for the same sentence mentioned under paragraph 2 of Article 279-4

**Article 2:** “Under all the provisions preceding Act N°.2004-38 where the death penalty is provided for, a verdict of life imprisonment shall be passed instead”.

**This law shall be executed as a State law.**

**Dakar, 12 February 2007**

**Abdoulaye Wade**

**By the President of the Republic**

**The Prime Minister**

**Macky Sall**

**REPUBLIC OF SENEGAL**

One People – One Goal – One Faith

# ACT No. 2007-04 of 12 February 2007 AMENDING THE CODE OF PENAL PROCEDURE RELATIVE TO THE FIGHT AGAINST ACTS OF TERRORISM



## **Preamble**

The high number and financial frequency of terrorist attacks perpetrated by groups better structured than never before and using sophisticated means, have made all States vulnerable.

The fight conducted by the internal community against terrorism calls for changes to national legislations. In this connection, Senegal has amended its criminal code.

The new strategy in the fight against terrorism introduced into the criminal code also calls for changes to the penal procedure so as to ensure maximum effectiveness regarding the legal means used.

While sticking to the case of a State committed to the highest principles of protection of freedom; of safeguarding the rights of the defence and of promotion of human rights, the need has been felt to define new rules derogatory to common law.

The inclusion of a new title XV to the fourth book of the code of criminal procedure adds to national legislation in order to reach the objective pursued in relation to the fight against terrorism which has increased over the last few years.

The links between terrorism and financial crime, money laundering, corruption, the trafficking of weapons and harmful materials have resulted in the creation, in relation to persecution, of a specialised section in public prosecutor's office; regarding information, of

specialised investigation firms; concerning sentences, of a body made up only of magistrates highly knowledgeable about the fight against terrorism.

In this connection, Dakar's Court of Appeal and Regional Tribunal have jurisdiction over the whole of the national territory.

The preliminary investigation procedure, also left to specialists, has therefore been adjusted to better address the particularity of the subject by strengthening the section concerning the fight against terrorism, whose main members should have the status of officers from the Criminal Investigation Department.

Investigators have got large powers to secure a maximum body of evidence. Consequently, visits and searches can take place any time, and it is not necessary whether the people under suspicion agree or not. Periods of police custody are the same as those provided for in relation to investigations relating to breaches of State security. However, such operations are conducted under the control of the public prosecutor or examining magistrate.

The new provisions also allow to extend the prescription of legal action, regarding the kinds of crime referred to under Article 279-1 to 279-3 of the criminal code, to thirty years, against 40 regarding the sentence handed down, starting from the date when the ruling has become definitive.

This is, in a nutshell, what this bill is all about.

On 31 January 2007, the National Assembly passed the following law:

The President of the Republic promulgates the law which includes the following:

**Single article:** - The following title has been added to the fourth book of the Code of Criminal Procedure: "The Fight against Terrorism: Investigation, Prosecution, Examination and Trial".

*Article 677-24.* - The crimes concerned under Section 7 of Chapter IV of Title 1 of the third book on the Criminal Code, shall be prosecuted, examined and judged according to the rules of the criminal code procedure, subject to the following provisions.

*Article 677-25.* - Public prosecution for the crimes mentioned under the section affected by the preceding Article is barred at the end of 30 years.

The sentences passed for the above mentioned crimes are barred at the end of 40 years starting from the date when the decision has become final.

*Article 677-26.* - Visits and searches can be done any time by day or night, on a written permission issued by the judge or public prosecutor even without the consent of the host:

- 1) In case of a definite crime;
- 2) When there is a real possibility of the evidence disappearing;
- 3) When it is suspected that one or more people in the place where the search is to be conducted, are planning to commit acts of terrorism.

When the operation is carried out under the authority of a regional court other than that of Dakar, the magistrate in charge of the case shall immediately notify the public prosecutor in Dakar. The latter can take the police officer off the case in favour of an official specialized in the fight against acts of terrorism.

*Article 677-27.* - The provisions of article 55 of this Code regarding police custody for crimes, and offences against State security are applicable in relation to the fight against acts of terrorism.

*Article 677-28.* - Regarding the prosecution and examination of crimes mentioned under the section of the criminal Code reported under Article 677-24 of this Code, an anti-terrorism unit has been created at Dakar's Regional Tribunal; it is made up of:

- One specialised section in the public prosecutor's office
- Specialised investigating officials

*Article 677-29.* - As an exception to the provisions in the first paragraph of Article 35 of this Code, the Public Prosecutor of Dakar's Regional Tribunal alone is empowered to take action when the offence falls under one of the categories considered under Article 279-1 to 279-3 of the Criminal Code.

Any Public Prosecutor to whom are referred events which may constitute one of the breaches falling under the above-mentioned categories shall, within 72 hours of the referral, send the case to the Public Prosecutor of Dakar's Regional Tribunal.

*Article 677-30.* - As an exception to the Provisions of Article 43 of this code, the specialised preliminary investigation office of Dakar's Regional Tribunal alone is empowered to conduct the legal proceedings begun against authors of the breaches referred to under Article 279-1 to 279-3 of the Criminal Code.

When, during an inquiry, the examining judge of a tribunal, other than that of Dakar, realises that the case referred to him can be one of the breaches falling under one of the categories referred to under Article 279-1 to 279-3 of the Criminal Code, he shall, either automatically after consulting the Public Prosecutor, or on the latter's demand, order the referral of the case to the competent preliminary investigation office of Dakar's Regional Tribunal.

At any rate, he shall first notify, either by registered mail with acknowledgement of receipt or by notification with his signature on the file of the procedure, the defendant and the



prosecutor or their legal adviser who may make some comments within five days, starting from the date of receipt of the letter or notice.

The order included in Paragraph 2 of this article, which cannot lead to any appeal, is handed over, together with the case, to the Public Prosecutor. Then the latter should, within 72 hours, send the case on to the Public Prosecutor of Dakar's Regional Tribunal.

*Article 677-31.* - The court of criminal appeal of Dakar's Court of Appeal is the only body empowered regarding breaches falling under one of the categories referred to under Article 279-1 to 279-3 of the Criminal Code.

When a court of criminal appeal other than that of Dakar's Court of Appeal decides that the case referred to it can constitute one of the breaches referred to under the preceding paragraph, it shall, either automatically after consulting the Public Prosecutor or on the latter's demand, rule that the case be referred to the court of criminal appeal of Dakar's Court of Appeal.

*Article 677-32.* – The Dakar's Assize Court, sitting as special group, is the only body empowered to judge categories of crimes referred to under articles 279-1 to 279-3 of the Criminal Code and the offences which are linked.

When it is referred to the breaches under the preceding paragraph, it is made up by a President and four assessors, magistrates appointed by order of the Dakar's Court Appeal's President. As an exception to the provision of article 336 of this code, any decision is taken by the majority of three voices at least.

*Article 677-33.* – The Dakar's Assize Court, sitting as special group referred in application of the provision of this title, stay empowered if from debates, facts don't fall under one of the categories considered under articles 279-1 to 279-3 of Criminal Code

This law shall be executed as a State law.

**Dakar, 12 February 2007**

**Abdoulaye Wade**

**By the President of the Republic**

**The Prime Minister**

**Macky Sall**

**NATIONAL FINANCIAL INTELLIGENCE  
PROCESSING UNIT**

**ACTION PLAN**

**2008**

Website: [www.centif.sn](http://www.centif.sn)

E-mail: [contact@centif.sn](mailto:contact@centif.sn)

## CONTENTS

	Pages
I. CENTIF STANDING DUTIES .....	52
II. MAJOR GUIDELINES .....	52
III. OTHER CENTIF DUTIES .....	53

## **I. CENTIF'S STANDING DUTIES**

- To receive and process SAR ( within a reasonable time-frame) ;
- To send reports to the territorial Prosecutor in case of hard evidence of money laundering;
- To send reports ( quarterly and annually) to the Minister of Economy and Finance, and to the Central Bank BCEAO;
- To exchange information with the other CENTIFs of WAEMV member-States, and with the Financial Intelligence Units of third- party states;
- To propose to State authorities any reform aimed at improving the system of fighting against money laundering and the funding of terrorism
- CENTIF's reports in discharging its duties ;
- Suggestions made to reporting entities during conferences;

- Suggestions by CENTIF representatives and monitoring bodies.

## II MAJOR GUIDELINES

- To appropriate the WAEMU directive regarding the funding of terrorism;
- To set the Standing Committee for Consultation on the fight against money laundering and the funding of terrorism (AML/CFT) ;
- To build the capacities of technical staff:
  - Bank techniques and accounting
  - Stock Exchange transactions
  - Knowledge of State, financial transactions ( to be presided by a specialist) ;
  - Financial investigations ( a request made by the World Bank)
  - Computing,
  - Financial analysis,
  - Customs-specific operations, and customs-related & exchange offences;
  - Tax and tax evasion
  - Balance of payments and exchange regulations
  - Training in hardware maintenance and configuration
  - Participating in INTERPOL workshops on transnational crime.
  - Translating the web-site into English
  - Sensitizing and training reporting entities and the other stockholders of the fight against money laundering and the funding of terrorism.
  - Interactive training in AML/CFT modules of the UNODC: targeting approach ;
  - Consolidating anti-laundering interactive training with the use of software prepared by the World Bank: “A new approach to training in the fight against money laundering and the funding of terrorism” .
- Holding conferences with the following :
  - Real estate companies
  - Chartered accountants , auditors, tax and legal experts ( ONECCA-ONEAS)
  - The Post Office
  - Valuables articles dealers
  - Non-governmental organisations ( NGOs )
  - The BRVM, SGIs and other actors from the financial market.

- Decentralizing training activities and awareness campaigns in the regions.
- Organizing workshops on the following ;
- Financial investigations (in collaboration with the US Government and the UNODC) regarding the AML/CFT system in the area of microfinance in collaboration with DMF, the AT/CPEC Cell and APIMEC (possibility with the help of the French Cooperation Department).
- Terrorism and the funding of terrorism ( by a foreign expert)
- The AML/CFT system within notary offices (with foreign expert).
- The AML/CFT system within legal firms ( with foreign experts)

### III. OTHER CENTIF DUTIES

- Preparation and mutual evaluation of the AML/CFT system of WAEMU by the World Bank ( Senegal)
- Reception and restitution of the results of the Mutual Evaluation of the AML/CFT system
- Reception and restitution of the results of the AML/CFT system in Senegal 2007 : GIABA/FATF
- Improving information sources ( consolidating data base)
- Integration of the fight against the funding of terrorism.

### TIMETABLE FOR THE TRAINING AND AWARENESS PROGRAMMES OF CENTIF/SN 2008

**Building the UNIT's capacities for analysis and the intensification of the activities undertaken as part of the fight against money laundering.**

TYPES OF TRAINING	TARGET POPULATION	FUNDING	POTENTIAL ALTERNATIVE FUNDS	PERIODS	VENUES
Workshop on State financial transaction	CENTIF staff	CENTIF (5days)		February 2008	CENTIF
Courses on capacity-building for secretaries	- Mailman - Secretaries	CENTIF		March 2008	CENTIF (In collaboration with training centres)
Workshop internal procedures for AML/CFT in line with the obligations issued under the 2004-09 Act	Microfinance Institutions	CENTIF/ Microfinance Section		26-27 March 2008	CENTIF (In collaboration with Consultant)
Stock Exchange operations	CENTIF technical staff	CENTIF (5days)		April 2008	CENTIF

Forum on Real Estate Agencies and AML/CFT Extended to the professionals of the sector: Notaries....	Real Estate Agencies Notaries Banks	CENTIF	French cooperation	May 2008	
Forum on the financial market and AML	Financial market Agencies	CENTIF		May 2008	
AML/CFT workshop for civil servants responsible for the financial sector ( AML-CFT) Course No JA 08.09 <b>(In English by invitation)</b>	Civil servants from criminal justice		MIA / MFI (Legal Department)	6/16/2008 6/20/2008	Multilateral Institution for Africa Tunis
Forum on carriers of funds and AML	Funds carriers	CENTIF		June 2008	
Forum on markets for traders in valuable items and AML	Traders in valuable items	CENTIF		June 2008	
Course on capacity building in computing	Managers/Technical staff	CENTIF		July 2008	
Course on capacity building in bank accounting		CENTIF		June 2008	
Forum on NGOs and AML Banking	NGOs CENTIF/Staff	CENTIF CENTIF (5 days)		June 2008 September 2008	CENTIF
Financial analysis	CENTIF/Staff	CENTIF		October 2008	CENTIF
AML/FT workshop for financial intelligence units (AML) Course No JA 08.11 <b>(In English by invitation)</b>	Law-enforcement agents		MIA / MFI	10/13/2008 - 10/17/2008	Multilateral Institution for Africa Tunis
Training workshop on financial investigations	CENTIF – police - Country-police		American Department	October 2008	Residential workshop
AML training software	People involved in AML/CFT	CENTIF	UNODC	2006-2008	CENTIF
AML training software	People involved in AML/CFT	CENTIF	World Bank	2008	CENTIF
Seminar on the Fight against the Funding of terrorism	CENTIF and other actors involved in AML/CFT	CENTIF	IMF	2008	

- Finalizing the study on alternative systems of funds transfers
- Periodical meetings with CENTIF Representatives:
  - Institutional Representatives
  - Bank Representatives
  - Insurance representatives
  - Other representatives
- Meetings with :

- Civil society
- Agencies for the monitoring of taxable people.
- Judicial authorities
- Acceptance equipping the CENTIF head office
- International cooperation
- Bilateral cooperation :
- Potential cooperation agreement with Gabon ; ANIF and Mauritania's CANIF ;
- Cooperation agreement with countries with a large community of Senegalese immigrants (Spain, Italy, USA, South Africa, The Netherlands,...)
- Working visit by a CENTIF delegation to Algeria's CTRF.
- Multilateral cooperation:
  - Participation in GIABA's technical commission
  - CENTIF's participation in FATF's plenary session in Paris.
  - Preparing the candidacy of the EGMONT Group : CENTIF's participation in plenary session in Korea
  - Participation in the 19<sup>th</sup> annual session of Crans Montana Forum, Monaco, The Principality of Monaco.
  - Participation in the 2<sup>nd</sup> session of the "Middle East and Global Security Forum" ; Manama-Bahrain.