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TITLE PRILIMINAIRE**

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Act 83-1 Establishing Code of Criminal Procedure

The National Assembly deliberated and adopted;

The President of the Republic promulgates the law which reads as follows:

Article I - There is hereby established a Code of Criminal Procedure consists of 564 items whose text follows this law.

Art. 2 - The Code of Criminal Procedure shall apply to any prosecution, any enforcement proceeding, the exercise of any remedy undertaken after its publication.

Art. 3 - Since the time of citation, notice of appeal or determined by the Code of Criminal Procedure are shorter than those determined by the earlier texts, interested parties may mean their actions on time earlier in all cases where these delays would not be found expired at the date of publication of the Code of Criminal Procedure.

Art. 4 - Investigating Judges may extend for five days from the publication of the Code of Criminal Procedure, detention of defendants who are in the category referred to in Article 113 and to receive a release by the application of that Article 113.

Art. 5 - Are repealed the Code of Criminal Procedure made applicable to Togo by the decree of May 22, 1924 as amended to date and all laws, ordinances, decrees, laws and decrees contrary to the previous provisions of this Code.

Art. 6 - This Act and the code attached will be published in the *Official Gazette* of the Republic of Togo and executed as a law of the state.

Done in Lome, March 2, 1983
General G. EYADEMA

**PRELIMINARY
OF PUBLIC POLICY AND CIVIL ACTION**

Article I - Public policy for the purposes of sentencing is set in motion and exercised by the judiciary or by officials whom it is entrusted by law.

This action can also be set in motion by the aggrieved party, under conditions determined by this Code.

Art. 2 - A civil action for damages caused by a crime, a crime or misdemeanor is up to all those who have personally suffered damage directly caused by the offense.

Waiver of civil action shall not stop or suspend the exercise of public action, subject to the cases referred to in paragraph 2 of Article 6.

Art. 3 - A civil action may be brought before the same judges and at the same time that public action.

It will be admissible to all heads of both material damage and physical or mental objects flowing from the facts of the prosecution.

The injured party is entitled to claim before the criminal court, in addition to compensation for injury or moral, that the material damage caused by the same act, even if no violation related generator of damage, has been retained by Title prosecution.

The criminal court hearing the civil action for homicide or unintentional injuries, damage or unintended property of others may, despite the acquittal of the accused, adjudicate civil interests, under the provisions of articles 1147 and 1384 paragraph 1 of the Code Civil.

Art. 4 - A civil action may also be brought separately from the policy. However, it is suspended the trial of this action brought before a civil court as it was not pronounced definitively on policy when it was set in motion.

Art. 5 - The party exercised its action before the competent civil court may bring before a criminal court. This does not apply if it was written by the public prosecutor before a trial on the merits was rendered by the civil courts.

Art. 6 - Public action for the penalty is extinguished by the death of the accused, prescription, amnesty, repeal of the penal law and res judicata.

However, if proceedings have resulted in conviction, have revealed the falsity of the ruling or decision which declared the limitation must be considered as suspended from the

day the court decision had become final until that of the condemnation of guilty of fake or forgery.

Art. 7 - The prosecution is barred if the offense has not been referred to the trial court with a subpoena or court order within days of starting where it was committed shall be:

- Ten years on crime,
- five years for a misdemeanor
- One year on offense.

This period is extended for one year for criminal and six months in misdemeanor if the investigation started before its expiration is completed.

This period is suspended by the exercise of remedies against the orders of the judge and the judgments of the indictment.

Art. 8 - The civil action is prescribed under the rules of the Civil Code. However, this action may be brought before a criminal court after the expiry of the period of limitation for prosecution.

When he was finally on the action and if a conviction was pronounced, the civil action set in motion within the time prescribed by the preceding article shall follow the rules of the Civil Code and Code of Civil Procedure.

Art. 9 - Where the liability of the accused or civil liability is covered by an insurance contract, the insurer is called to account at the request of prosecutors. It can also occur voluntarily, even in case of appeal.

Like other parties in the civil suit followed the criminal court, the insurer may exercise the right of appeal against decisions relating to this action. He gets to that effect service of any decision in the same form as the plaintiff.

The state and other legal persons of public law subrogated to the rights of their victims of crime officers may bring a civil action in any case where the offense has resulted in the support or care spending 'compensation as required by regulatory status applicable to the victim officer.

BOOK I The exercise of public policy and education

PART I Authorities responsible for public policy and education

Art. 10 - Except in cases where the law provides otherwise and without prejudice to the rights of defense, the proceedings during the investigation and the investigation is secret.

Anyone participating in this process is bound by professional secrecy under the conditions and penalties under the Penal Code.

Chapter I - Judicial Police

Section 1 - General Provisions

Art. 11 - The police is exercised under the direction of the prosecutor and judges acting as public prosecutors, by the officers and agents of the Judicial Police and the officials and officers who are assigned by law certain functions of judicial police .

Art. 12 - It is under the supervision of the Attorney General and under the control of the Indictment in the training provided for in Article 163 paragraph ¹ of this Code.

Art. 13 - It is charged according to the distinctions made in this title, record violations of criminal law, gather evidence and to As the authors find that information is not open.

Art. 14 - Where information is opened, it executes the delegations of examining courts and defers to their requisitions.

Section 2 - Officers of the judicial police

Art. 15 - Have as judicial police officer:

- 1) The prosecutor and his deputies
- 2) The Judges in charge of prosecution
- 3) The Magistrates
- 4) The police officers, brigade commanders and heads of Police Post
- 5) The Director of National Security and his deputy
- 6) The Prefects and Sub-Prefects
- 7) The Mayors
- 8) The Commissioners of Police and Chiefs of Police Station
- 9 °) The Sub-Mounted Officers, Police Officers and Police Officers assistants.

Art. 16 - The judicial police officers shall have the powers defined in Articles 13 and 14. They receive complaints and denunciations, they carry out preliminary investigations as provided by this Code.

In cases of crimes and offenses, they exercise the powers conferred on them by Articles 43 to 60.

They have the right to directly request the assistance of the police to carry out their mission.

Art. 17 - The police officers have jurisdiction within the territorial limits which they perform their normal duties.

Toutefois, en cas d'urgence et pour poursuivre une enquête commencée dans leur ressort, les Officiers de police judiciaire de gendarmerie peuvent opérer dans les circonscription limitrophes de celles où ils exercent leurs fonctions.

Les Officiers de police judiciaire de la police urbaine jouissent des mêmes droits sur toute l'étendue de la circonscription urbaine lorsque la ville étant divisée en arrondissement, ils exercent leurs fonctions dans l'un de ces arrondissements.

En cas de crime ou délit flagrant, les Officiers de police judiciaire peuvent se transporter sur toute l'étendue du territoire national à l'effet de poursuivre leurs investigations et de procéder à des auditions, perquisitions et saisies.

Lorsque les Officiers de police judiciaire agissent hors de leur ressort, ils sont tenus, avant d'effectuer leurs opérations par les Officiers de police judiciaire hors des limites territoriales à l'intérieur desquelles ceux-ci exercent normalement leurs fonctions.

Art. 18 - Les Officiers de police judiciaire sont tenus d'informer sans délai le Procureur de la République ou le Juge chargé du Ministère public des crimes et délits dont ils ont connaissance. Dès la clôture de leurs opérations ils doivent lui faire parvenir directement l'original ainsi qu'une copie certifiée conforme des procès-verbaux qu'ils ont dressés ; les objets saisis sont mis à sa disposition.

SECTION 3 – DES AGENTS DE POLICE JUDICIAIRE

Art. 19 - Sont agents de police judiciaire : les gendarmes et les fonctionnaires du cadre de police n'ayant pas la qualité d'officier de police judiciaire et qui ont prêté serment.

Art. 20 - Les agents de police judiciaire ont pour mission :

- de seconder dans l'exercice de leurs fonctions les officiers de police judiciaire ;
- accountable to their superiors of all crimes, offenses and misdemeanors which they have knowledge;
- held in accordance with the orders of their chiefs of criminal law violations and gather all information in order to discover the perpetrators, all da, ns part and in the manner prescribed by the laws that are own.

SECTION 4 - OFFICIALS AND OFFICERS FOR CERTAIN DUTIES OF JUDICIAL POLICE

Art. 21 - Officials and employees of government and public services to which special laws grant certain powers of judicial police shall exercise such powers under the conditions and within the limits set by these laws.

CHAPTER II THE PROSECUTORS

SECTION 1 - GENERAL PROVISIONS

Art. 22 - The public prosecutor prosecutes and requires law enforcement.

Art. 23 - subject to special provisions in the courts where the prosecution is done by a judge, he attends debates trial courts and all decisions are pronounced in his presence, it ensures the execution of court decisions.

Art. 24 - The prosecution is required to make submissions in writing according to the instructions given to it in accordance with Articles 28 and 29 of this Code.

It develops freely oral argument he thinks proper for the good of justice.

Art. 25. - The public prosecutors have in exercising their functions right to directly request the police.

SECTION 2 - FUNCTIONS OF THE ATTORNEY GENERAL AT THE COURT OF APPEAL

Art. 26 - The Attorney General is in person or by his deputies the Public Prosecutor at the Court of Appeal and to the Court of Assizes. It can also send one or more members of the prosecutor's office at the Court of Assizes.

Art. 27 - The Prosecutor General is responsible for ensuring the application of the law throughout the territorial jurisdiction of the Court of Appeals.

To this end, he is sent every month by the prosecutor on the one hand, by the Judges in charge of prosecution, on the other hand, a state of affairs within their jurisdiction.

Art. 28 - The Attorney General, Minister of Justice Minister is the head of the public. He may ask the Attorney General any reports on pending cases and give them any instructions regarding the exercise of the action public.

Art. 29 - Attorney General has authority over all public prosecutors within the purview of the Court of Appeals.

It has, in respect of these magistrates the same powers as those enjoyed by the Minister of Justice by the preceding article.

The Attorney General is informed of the status of cases being investigated by magistrates that he send in the first eight days of each month copies of a leaflet on which are recorded for each case the acts done during the months and the inputs and outputs. The Attorney General may ask the President of the Indictment Division of the causes of delays in investigating cases and draw attention to the importance of their regulation, or the extension of preventive detention.

Art. 30 - All officers and agents of the judicial police are under the supervision of the Attorney General. It can load them to gather any information they considered relevant to the proper administration of justice.

SECTION 3 - attributions OF THE PROSECUTOR OF THE REPUBLIC

Art. 31 - The prosecutor is in person or by his deputies the prosecutor at the Court of First Instance.

Art. 32 - The prosecutor receives complaints and denunciations and appreciates the action on them. If no further action, it shall notify the complainant and made known the reason for this ranking.

Art. 33 - Any constituted authority, any public officer or employee who, in exercising his duties, has knowledge of a felony or a crime is required to give notice without delay the prosecutor and the magistrate to pass on all information, records and proceedings relating thereto.

Art. 34 - The prosecutor launches or procures all acts necessary for the research and prosecute violations of criminal law.

To this end, he directed the activities of officers and the police officer's jurisdiction.

In case of flagrant offenses, he shall exercise the powers assigned to it by Article 56 of this Code.

SECTION 4 - DUTIES OF THE JUDGES OF THE PROSECUTORS

Art. 35 - The judge instructed the prosecution to a Court of First Instance small staff to exercise the same powers a prosecutor.

Art. 36 - The Attorney General may delegate any of his deputies or a prosecutor of a court nearby to fill the post of public prosecutor at the hearing to a Court of First Instance with limited membership.

SECTION 5 - JURISDICTION OF THE

Art. 37 - Is competent to perform the further prosecution of the place of the offense, the domicile or residence of the accused, that of arresting the accused even if the arrest is made for other reasons.

Art. 38 - The local jurisdiction shall be extended for further related offenses.

The law may establish special rules of jurisdiction in favor of the plaintiff.

Any conflict to lay down rules of jurisdiction, failing agreement between the floors before concurrently, is set by the Attorney General in the interest of better administration of justice.

CHAPTER III JUDGE OF INSTRUCTION

Art. 39 - The judge is responsible for conducting information and stated in Chapter 1 of Title III of this book.

Its jurisdiction is the same as defined in Articles 37 and 38. It may relinquish jurisdiction in favor of a judge also has jurisdiction with the consent of the latter or at the request of the prosecution. Ce dessaisissement peut se limiter à une partie des infractions ou une partie des prévenus si l'intérêt d'une bonne administration de la justice commande cette disjonction des pièces de la procédure.

Le juge ayant instruit une affaire peut se récuser ou être récusé pour participer à son jugement, selon la procédure fixée par les articles 433 et suivants du présent Code.

Art. 40 - Le juge d'instruction, lorsqu'il n'est pas titulaire de la fonction, est un juge désigné par délibération de la Cour d'Appel sur proposition du Procureur Général.

En cas de nécessité, un autre juge peut être temporairement chargé des fonctions de juge d'instruction concurremment avec le premier.

Sa désignation intervient dans les mêmes formes.

En cas d'empêchement temporaire d'un juge d'instruction, le Président du Tribunal désigne par ordonnance le magistrat du siège du Tribunal appelé à le remplacer. Cette désignation est faite pour une durée de trois mois non renouvelable.

Art. 41 - Le juge d'instruction ne peut informer qu'après avoir été saisi par un réquisitoire du Procureur de la République ou par une plainte avec constitution de partie civile. Dans les Tribunaux à effectif restreint le juge chargé du Ministère public se saisit par une ordonnance de soit informé.

En cas de crime ou délit flagrant, le juge d'instruction exerce les pouvoirs qui lui sont attribués au chapitre 1, Titre II du présent livre.

The investigating judge, in exercising its functions the right to directly request the police.

Art. 42 - The Judges may, in exceptional circumstances and in a particular case, be loaded at the request of the Attorney General to inform outside their jurisdiction.

TITLE II - SURVEYS

CHAPTER I CRIMES AND OFFENSES FLAGRANTS

Art. 43 - a felony or misdemeanor crime or gross misdemeanor who is currently committing or has just committed. There is also a felony or misdemeanor if caught in a time very close to the action of the suspect is prosecuted by the public outcry, is found in possession of items so this trace or clues boring think she was involved in crime or misdemeanor.

Is related to crime or any felony or misdemeanor flagrante delicto that even without meeting the conditions listed in the preceding paragraph was committed in a house whose chief is a police officer to see that.

Art. 44 - In cases of flagrante delicto, the police officer who is notified immediately inform the prosecutor or judge in charge of prosecution, shall without delay on the scene and to make all relevant findings.

It ensures the preservation of evidence may disappear and all that can help to reveal the truth. He seized the weapons and instruments that were used to commit the crime and everything seems to have been the product of that crime.

It is the thing, for recognition, for people who appear to have participated in the crime, if present.

Anyone who has changed the status of where a crime has been committed or removes traces or clues to impede the administration of justice shall be punished with imprisonment from three months to three years and a fine from 18 000 to 300 000 francs.

Art. 45 - Where the exigencies of the investigation so require, the police officer is transported without stopping at the homes of people who appear to have participated in the crime in order to conduct a search which he shall make a report

All objects and documents seized are immediately inventoried and placed under seal. However if their inventory on the spot trouble, they are being trained sealed provisional until their inventory or put under seal final and in the presence of people who attended the search in the manner provided for Article 46.

Art. 46 - The operation described in the preceding article are made in the presence of the person's home when the search took place.

If possible, the police officer has the obligation to ask that person to designate a representative of his choice if he chooses two witnesses required for this purpose by him, outside of those within his authority administration.

Mention is made in the report which is signed by the persons referred to in this section, in case of refusal or inability to sign, he is also mentioned in the minutes.

Art. 47 - The formalities provided for in Articles 45 and 46 are prescribed on pain of nullity.

Art. 48 - Except for the claims made inside the house or exceptions provided by law, search and home visits can not be started before 6:00 and after 20 hours.

However visits, searches and seizures may be made at any time of day and night with a view to establishing the violations against the security of the state or offenses relating to the operation of debauchery, the use or drug trafficking. Hotels, restaurants, pubs, theaters, cinemas, dance halls and other public places can be visited at night to the finding of any offenses relating to their use for research or criminals. 8

Art. 49 - If necessary to make findings which can not be deferred, the police officer has recourse to all qualified persons.

Persons called lend in writing, sworn to give their opinion in their honor and conscience, if they are not on the lists of experts drawn up by the Court of Appeals.

Art. 50 - The police officer may forbid any person to leave the place of the offense until the close of its operations.

Any person who appears necessary in the legal research, to establish or verify identity, shall, at the request of the police officer, is available for that measure.

Any person contravening the provisions of the preceding paragraphs is punishable by not exceeding ten days' imprisonment and a fine of 20,000 francs.

Art. 51 - The police officer can call and hear all persons likely to provide information on the facts or objects and documents seized.

Those selected by him are required to appear and testify. If they do not meet this requirement, notice is given to the prosecutor can compel them to appear by the police.

It provides a record their statements read them on their translations, requires them to sign, mention their refusal or because they are illiterate.

Art. 52 - If, for the purposes of the investigation, the police officer is required to keep on hand one or more persons against whom there is strong corroborative evidence such as to justify their charges, he can not remember more than 48 hours.

The time limit specified in the preceding paragraph may be extended for a further period of 48 hours leave of prosecutor or judge in charge of prosecution.

If the arrest takes place outside the headquarters of the Public Ministry, the period is increased by twenty four hours, time necessary for the conduct of the detainee before a competent court.

Art. 53 - In any local police may receive a detainee will be taken on a special register which will include the full name of any person in custody, the date and time of entry, day and time of its release. These entries will be initialed by the parties and, in case of refusal, or inability to sign, he will be mentioned in the register.

The register referred to in the preceding paragraph will be presented at the request of the prosecutor or the judge instructed the prosecution.

The detainee may, at his request or that of a family member be submitted, by agreement of the prosecution, a medical examination.

Art. 54 - The minutes prepared by the police officer in flagrante delicto on the field are written and signed by him.

Art. 55 - The provisions of Articles 43 and 54 are applicable to crimes punishable by blatant imprisonment.