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LAW NO 2003-75 OF DECEMBER 10TH 2003 RELATIVE TO THE SUPPORT OF INTERNATIONAL EFFORTS TO FIGHT AGAINST TERRORISM AND MONEY LAUNDRY.

In the name of the people

The house of assembly ratified,

The president of the Republic signed into law the following text.

Article 1 *Preliminary Disposition*

This law gives the community the right to live in peace and security far from all that could disrupt its stability, rejects all forms of deviation, violence, fanaticism, racial segregation and terrorism all which are a threat to peace and social stability. It also contributes support to the international effort, to fight against all forms of terrorism, to counter the financial sources geared to it and the suppression of money laundry within the frame work of international, regional and bilateral conventions ratified by the Republic of Tunisia and in respect of constitutional guaranties.

General Disposition (caps)

Article 2 (new) modified by law no 2009-65 of August 12th 2009. This law applies to faults qualified as terrorism as well as to faults of money laundry coming from other faults.

Article 3

The dispositions of the penal code, of the penal procedure, of the military justice, as well as special text concerning certain faults as well as to procedures relating to them are applicable to the infractions governed by this law, without any prejudice to dispositions which are contrary to it.

Children are subjected to the law on child protection.

CHAPTER ONE

FIGHT AGAINST TERRORISM AND ITS SUPPRESSION.

First Section

Terrorist infractions and foreseen prison terms.

Article 4: Will be qualified as terrorism,

All crimes whatever their aim, in relation to individual or collective enterprise capable of terrorizing a person or a group of person, to sow terror among the population in view of influencing state politics and force it to do what it is not supposed to do, or to abstain from what it is supposed to do, or to trouble public order, peace or international security, to put into danger to persons and their property, cause damage to building housing Diplomatic, consular or international organization, to cause grave damage to the environment, in a manner to the lives or health of the inhabitants in danger or damage to vital Resources, infrastructure, means of transport and communication and informatics systems and to public services.

Article 5 Cancelled by law no 2009-65 of August 12 2009.

Article 7

The minimum prison term incurred for terrorist crime is established as follows:

- if the punishment incurred is life in imprisonment, the minimum is established at thirty years of imprisonment.
- If the punishment incurred is imprisonment for a specific period the minimum is established at half the minimum foreseen for the initial crime.

Article 8

Terrorist crimes are punishable with fines equal to ten times the amount foreseen for the initial crime.

Article 9

The minimum fine incurred for terrorist crimes is fixed (established) at the minimum of the fine foreseen for the initial crime.

Article 10

The disposition provided for in articles 7 and 8 of this law are applicable to crimes and punishment pertaining to them and governed by penal code as well by all other special texts in force in penal matters. Are excluded from the implementation of the said dispositions, crimes and imprisonment relating to them as foreseen by this law.

Section 2

Of punishable persons

Article 11

Is considered guilty of terrorist crime, anyone:

- Who incited or consulted with others to commit it,
- Who resolved to commit it, if this resolution is accompanied by any preparatory act in one of its execution.

Article 12

Will be punished by imprisonment of five to twelve years and a fine of five thousand to twenty thousand dinars, whoever and by any means calls to commit terrorist crimes or use a name, a term or symbol or any other sign in one of defending a terrorist organization, any of its members or its activities.

Article 13

Will be punished for five to twelve years of imprisonment and a fine of five thousands to fifty thousand dinars:

- Whoever, on the national territory adheres in whatever manner to an organization or agreement whatever its nature or the number of its members, which has fortuitously or in a punctual manner, made terrorism a means by which it can execute its objectives or receive military training on Tunisian soil with the aim of committing terrorist crimes on the territory of the Republic outside it.
- Any Tunisian who joins any such organization in whatever capacity out of the national territory in view of the committing terrorist crimes in or out of territory of the Republic.

Article 14

Will be punished with imprisonment of five to twelve years and a fine of five to fifty thousand dinars, whosoever uses the territory of the Republic to recruit or train any person or a group of people with the intention of committing terrorist act on or outside the territory of the Republic.

Article 15

Will be punished with imprisonment of five to twelve years and a fine of five to fifty thousand dinars, whosoever uses the territory of the Republic to commit terrorist crimes against any other state or its citizens or to carry out preparatory activities therein.

Article 16

Will be punished with imprisonment of five to twenty years and a fine of five to fifty thousand dinars, whosoever will acquire weapons, explosives ammunitions or any other material or

equipment of the same type from an organization, an agreement or persons related to terrorist crimes.

Article 17

Will be punished with imprisonment of five to twenty years and a fine of five to twenty dinars, whosoever will place his competence or expertise at the disposition of an organization, an agreement or person related to terrorist infringement, directly furnish or reveal information with the aim of assisting them to commit terrorist acts.

Article 18

Will be punished with imprisonment of five to twelve years and a fine of five to twenty thousand dinars, whosoever will procure a meeting place for members of an organization, an agreement or persons in relation with terrorist crimes, assist to lodge or hide them or facilitate their escape, procure a refuge for them or ensure their impurity, or gain from the fruits of their misdemeanor.

Article 19

Will be punished with imprisonment of five to twelve years and a fine of five to fifty thousand dinars, whosoever will furnish or collect goods by whatever means possible be it directly, which he knows are destined to financing persons, organizations or activities related to terrorist crimes notwithstanding the legal or illegal origin of the goods so furnished or collected.

Article 20

Will be punished with imprisonment of five to twelve years and a fine of five to fifty thousand dinars, whosoever and by whatever means, directly or indirectly hide or facilitate the hiding of the real origin of movable or immovable goods, income or benefits of individual or corporate bodies in whatever form, related to persons, organizations or terrorist activities or accept to deposit them under a figure head or integrate them notwithstanding the legal or illegal origin of the said goods.

The amount of fine can be five times the value of the goods on which the crime was committed.

Article 21

The penalties provided for in the above two activities are, depending on the case, extended to the heads and to representatives of corporate bodies whose personal responsibility is established without harm of proceedings against the said corporate bodies which ensure fines equal to five times foreseen for initial crime if their implication in these crimes is confirmed.

Article 22

Will be punished with imprisonment of one to five years and a fine of one to five thousand dinars, whosoever even under professional secret failed to immediately inform the competent

authorities of the facts, information or information relative to terrorist crimes of which he had knowledge.

Will be exempted from the dispositions of the above paragraph, parents and kids, as well as brothers, sisters and wife of the concerned.

No action in damages or penal responsibility shall be taken against anyone who in good faith signaled the situation.

Article 23

Will be punished with imprisonment of three to six months and a with a fine of one hundred to one thousand two hundred dinars any witness who will be guilty of failure to give testimony relative to terrorist crime and this, without prejudice in the application of a more severe punishment foreseen in art 241 of the penal code.

Article 24

When it is established that the crime foreseen in articles 12, 13, 14, 16, 17, 18, 19, 20, and 22 of this law are linked to a determined terrorist act, the most severe punishment considered for complicity will applied in the sense of article 32 of the penal code and of special texts governing the subject, and even if the terrorist crime foreseen was not carried out or did not have an effective start of execution.

Article 25

The perpetrators of the terrorist crime must be put under administrative surveillance for a minimum period of five years but without exceeding ten years and this, without prejudice of the enforcement of one or all the other complementary punishment foreseen by the law.

SECTION 3

Of the Exception and of the Reduction of Punishment

Article 26

Shall be exempted from incurred punishment, all members of an agreement or terrorist organization, all instigators of an individual terrorist enterprise who communicates to the competent authorities, the information which enables them to discover the crime and nip it in the bud.

The court can however place the accused under administrative surveillance or forbid him from staying in determined places for a period not exceeding five years.

Article 27

The punishment foreseen for the initial crime shall be reduced by half when the information transmitted to the competent authorities by the person cited in article 26 of this law permit to stop terrorist acts, or to avoid the occurrence of death or to identify all or part of their authors or to arrest them.

Article 28

The minimum punishment foreseen for the initial crime will be incurred if the authors of the terrorist crime justify that they were trained for it under the effect of a hoax, request or abuse of their state or condition.

SECTION 4

OF INCREASEING THE PUNISHMENT

Article 29

In case of repeating the offence, the punishment provided for it will be doubled. After consideration to double the punishment, the court cannot further reduce it by half.

Article 30

The maximum punishment is pronounced;

-if the crime is committed by those on whom the law entrusted with its observation
or

Suppression is they the principal authors or accomplices.

-If the crime is committed by the agents of the Internal Security, agents of the military
armed

Forces or agents of the customs are they the principal authors or accomplices.

-if the crime is committed by those on whom was confined the Administration or the
surveillance of

Buildings, areas or services targeted and those who work there-in be they principal
authors or accomplice.

-If a child is associated to the commitment of the crime.

-If it results to death or causes a permanent physical incapacity above twenty percent.

Article 31

If the arrested person is guilty of many distinct crimes he will be punished of them. In all case the

Punishments are not combined.

SECTION V
OF OFFICERS OF JUDICIAL POLICE

Article 32

Officers of Judicial Police within the jurisdiction of the court of first instance of Tunis charged with the responsibility to determine terrorist crimes will exercise their function on the entire territory of the Republic except for regulations of territorial competence.

Article 33

Officers of Judicial Police are must immediately inform the public prosecutor to whom they are assigned, of terrorist crimes they know.

The public Prosecutors attached to the court of First Instance must immediately transmit the above mentioned information to the Public Prosecutor of Tunis for appreciation of the follow up to be taken.

SETION VI
OF THE PUBLIC MINISTRY

Article 34

The state prosecutor attached to the court of first Instance of Tunis is solely competent to trigger and carry out Public action related to terrorist crimes.

Article 35

Public Prosecutors attached to court of Instance other than that of Tunis are authorized to carry out urgent actions like preliminary inquiries aimed at making an official report of the crime, put together the evidence and search for the authors. They can also receive voluntary denunciations, complaints minutes and related reports. They can even briefly interrogate the arrested persons after the first appearance and decide as the situation warrants whether to prolong their detention and to place them at the disposition of the Public Prosecutor of Tunis as soon as possible with the reports, the minutes and all other evidence.

Article 36

The Public Prosecutor attached to the court of First Instance of Tunis must immediately inform the Attorney General of the court of Appeal of Tunis of all Terrorist crimes reported and request without delay that the judge of his area be inform about them.

Article 37

Public Action related to terrorist infringement will be prescribed after 20 years if they result from a crime. If they resulted from an offence it is prescribed after 10 years all from the date on which the fault was committed if during this interval, no instruction or follow up was undertaken.

SECTION VII

OF THE PRELIMINARY INVESTIGATION

Article 38

Preparatory Preliminary Investigation is obligatory in matters of terrorist Crimes.

Article 39

The judge change with Preliminary Investigation has to proceed with confiscation of weapons, ammunition explosives and other materials, tools and equipment of the same kind and documents used either to carry out the crime or to facilitate its execution.

He should on the other hand precede with the confiscation of all objects whose manufacture, ownership, use or commercialization constitutes a crime.

An inventory is made of these things in the presence of the detained person or the person in whose possession the seized are found. The judge carrying out the Preliminary Investigation draw up the minutes containing the characteristics of objects and other useful indications, mentioning the date of the seizure and the number of the case.

Article 40

The judge change with preliminary investigation or can at any stage of investigation can officially or at the request of the District Attorney, order the seizure of movable and immovable property of the arrested person as well as his financial assets, and determine the manner of their administration while the case in progress or put them under lock and key if need be. At any stage of the end of the above mentioned measures.

Article 41

Witnesses are questioned separately without the arrested person. They testify without having access to the written documents after identifying themselves and the negative proof of existing

motif against them. The examining magistrate cannot confront them with the arrested person or other witnesses without their acceptance.

Article 42

If the witness does not measure up to the exigencies of testimony, the examining magistrate draws up independent minutes and transmits them to the Public Prosecutor so he can appreciate the timing of dragging the witness before the competent court following the procedure of direct subpoena without any need to acquire further information.

SECTION VIII **OF THE JURISDICTION OF JUDGEMENT**

Article 43

The court of First Instance of Tunis is the only competent court to handle Terrorist crimes.

Article 44

The dispositions of articles 40 and 41 of this law are applicable to jurisdiction of Judgment.

Article 45

The court must order the liquidation of products resulting directly or indirectly from the crime even if they had been transferred to relative, family members or wife or allies of the author of the crime whether they be in their initial state or have been transformed to other goods except they prove that the goods are not the products of the crime.

If the effective seizure of the goods was not possible, a fine, equal to the liquidation is pronounced, without being in any case inferior to the value of the goods on which the crime was committed.

The court must also order the liquidation of arms, ammunition, explosives and other materials, tools and equipments which served to execute or facilitated the execution of the crime as well as all objects whose manufacture, ownership, use or marketing constitute a crime.

Article 46

The court can also order the confiscation of all or part of movable and immovable goods and financial assets belonging to the convicted person if their graves charges exist that they can be used to finance persons, organization or activities related to terrorist crimes.

Article 47

Prison terms in matters concerning terrorist crimes must be executed despite any opposition.

SECTION IX

OF THE MECHANISM OF PROTECTION

Article 48

Necessary measures will be taken to protect persons to whom the law confided the responsibility to write an official report and the repression of terrorist crimes, notably magistrates, judicial police, officers and agents of the public Authority.

Protective measures are also applicable to the auxiliaries of justice, victims, witnesses and all persons charge in whatever little to alert the competent authorities.

The said measures will be extended if need be, to family members of persons designated in the two paragraphs above and all those among their relatives who could be targeted.

Article 49

If the residence is imperil, the examining judge or the President of court can order that the investigations or audiences be held in a place other than the usual one, according to the case and if circumstances require so but rights of defense accorded to the accused must not be prejudiced.

They can precede to the interrogation of accused and hearing of persons whose testimony they useful using other means of adequate audio or visual communication without necessary having to have them come personally to the hearing.

Appropriate measures will be taken in other not to expose the identity of the persons so questioned (modified by law no 2009-65 of August - 12- 2009)

Article 50

The persons designated in the third paragraph of the above article if called to make arrangements to the officers of judicial Police, to the examining magistrate or to all other judicial Authority will take up Residence besides public prosecutor of Tunis.

Mention is then made of their identity and address of their real home in a confidential Register signed and kept with public Prosecutor of Tunis.

Article 51 (new) modified by law No 2009-650 of August 12. 2009.

If the home is imperil and if circumstances so require all available information susceptible to identify the victim, the witnesses and all persons who, in whatever title that may be, and who

will be change to alert the competent authorities, can be cited in the independent minutes kept in the documents handled separately from the initial file.

Mention is then made of the identity of persons enumerated in the above paragraph and all other information likely to identify them. They sign the confidential Register which is initialed by state Procurator of Tunis and which kept with him.

Article 52

The accused or his council can, within a maximum time of ten days on which they were informed of declaration of persons innumerate in the first paragraph of the precedent article, request the judiciary Authority handling the affaire so that their identification be revealed.(modified by law No 2009-65 of August 12. 2009)

The legal Authority to the affair was referred to can order the lifting of the measures mentioned above and disclose the identity of the persons concerned. If he estimates that the request is founded, and they is no reason to fear for the life or the property of the person in question or that of members of his family.

The Decision that rejects or accepts the application cannot be a subject of appeal.

Article 53

Protective measures must not in any case undermine the rights of the accused or of his council to have access to the minutes or other documents in the file, subject to the disposition of article 194 of code of Penal Procedure.

Article 54

Will be punished with imprisonment of five to twenty years, and a fine of five to fifty thousand dinars, whosoever will put the life and property of persons designated for the protective are those of members of their families and this, by deliberately disclosing the data likely to identify them with view of causing harm or attacking their property.

SECTION X

Of Terrorist Crimes committed abroad.

Article 55

Tunisian courts are competent to handle terrorist crimes committed outside the National Territory in the following cases:

- If they are committed by a Tunisian citizen
- If the victim is of Tunisian nationality or if committed against Tunisian Interest.

-If it is committed by a foreigner or a stateless person habitually resident on Tunisian Territory against foreigners or foreign interest, or by a foreigner or a stateless person who are on Tunisian Territory of whom extradition has not been requested by a competent foreign authority before a final judgment is rendered against him by a competent Tunisian court.

Article 56

In the cases foreseen in article 55 of this law public action is not subordinate to the incrimination of facts, objects to legal proceedings in accordance with the legislation of the state where they were committed.

Article 57

The District Attorney is the only one authorizes to trigger, and exercise public action resulting from terrorist crimes committed abroad.

Article 58

Public actions cannot be triggered against authors of terrorist crimes if they justify that they had been definitively judge abroad and in case of imprisonment, that they served the whole term or that it was cancelled or that they were objects of some measure of pardon.

SECTION XI

OF THE EXTRADITION OF AUTHORS OF THE CRIMES.

Article 59

Terrorist crimes are not in any case considered as political crimes.

Article 60

Terrorist crimes can result to extradition in accordance with the dispositions of article 308 and in accordance with code of penal procedure, if they are committed outside the national Territory by a non Tunisian citizen against a foreigner or against foreign interest or a stateless person if their author is found on Tunisian territory.

Extradition is only accorded if a regular request from a competent state, in accordance with its internal legislation is addressed to the competent Tunisian authorities and on condition that the Tunisian jurisdiction has not yet given ruling on the affair in conformity to the rules governing their competence.

SECTION XII

OF THE EXTINCTION OF PUNISHMENT

Article 61

The punishment pronounced for terrorist crimes is prescribed after 30 years if the acts constitute a crime. However the sentenced person remains forbidden from living in the constituency of the governor where the crime was committed except if authorized by a competent administrative authority. Every infringement of this measure is liable to punishment foreseen for contravention to the ban to stay.

Punishment pronounced for offences expire after ten full years.

The time limit for statute for limitation runs from the date on which the sentencing became definitive.

It runs from the notification of judgment by default, if this notification was done to nobody and at least let it not result acts of execution of judgment which has been brought to the knowledge of the sentenced person.

CHAPTER

OF THE FIGHT AGAINST MONEY LAUNDERING

Article 62

Shall be considered as laundering of property, all intentional act which aims by all means to false fully justify the illicit origin of movable or immovable goods revenue resulting directly or indirectly from a crime or offence..

Can also constitute property laundering all intentional acts with the aim of placement, deposit, hiding, administration, integration or conservation of products resulting directly or indirectly form an offence or crime to give assistance to such operations.

The disposition of the above two paragraphs are applicable even if the crime from which comes the funds subject to the laundering was not committed on the national Territory.

Article 63

Will be punished with imprisonment of one to six years and a fine of five to fifty thousand dinars whosoever shall be guilty of money laundering.

The fine can increase to an amount which will be equal to half the value of goods which the object of laundering.

Article 64

The sentence is five to six years of imprisonment and a fine of ten thousand to hundred thousand dinars when the crime is committed by:

-A person who habitually carries out laundering operations.

-A person who uses facilities procured for him when execute his functions or his professional or social activities.

-An organized group.

Article 65

When the prison punishment incurred for the initial crime from which came the goods object is laundering is superior to that foreseen for the crime designated in article 63 and 64 of this law, the author of the crime of laundering is punished with condemnation undergone in the initial crime, if it is established that he was informed, will be taken into consideration for the determination of the punishment incurred, only the aggravating circumstances attached to the principal crime of which the author the crime of money laundering was informed.

Article 66

The punishment foreseen in the preceding articles will according to the cases be extended to leaders and representatives of corporate bodies whose personal responsibility is established.

This does not prejudice the case against these corporate bodies, if it is established that the laundering operations were carried out for their benefit, or that they got money or that laundering operations were their main object.

This does not also prejudice the extension of disciplinary sanctions foreseen for the said corporate bodies in accordance with the legislation in force which is applicable to them, especially the ban on their activities for a determined period of time or their dissolution.

Article 67

The court must order the confiscation of goods objects of laundering as well as products generated directly or indirectly from the crimes of laundering and its liquidation from the profit of the state.

If effective seizure is not possible, a fine equal to the liquidation is pronounced and must not in any case be inferior to the value of funds to which the crime was committed.

The court can also forbid the author of the crime from exercising other functions or professional or social activities which accorded to him. The facilities used to commit one or more laundering operations for a period not exceeding five years. The authors of the laundering crime can be put under Administrative surveillance for a period of five years. This does not prejudice their sentencing for one or all other complementary punishment foreseen by the law.

CHAPTER THREE

COMMON CLAUSES FOR THE FIGHT AGAINST FINANCING TERRORISM AND MONEY LAUNDERING

FIRST SECTION

OF THE BANNING OF ILLEGAL FINANCIAL CIRCUITS

Article 68

Will be forbidden, all forms of support financing persons, organization or activities related to terrorist crimes and other illegal activities whether given to them in a direct or indirect ways through physical or corporate bodies, whatever their forms or object even the goals pursued are of nonprofit character .Will be considered a corporate body in the sense of this law, all entities provided with personal resources with autonomous property other than that recognized to it by virtue of a special text of the law.

Article 69

Corporate bodies must adopt the following rules of cautionary control;

-Abstain from accepting gifts or subventions of unknown origin or coming from illegal acts which the law qualifies as offensive or criminal or from physical persons or corporate bodies, organization or organism seriously implicated within or outside the national territory in activities connected to the terrorist crimes.

-Abstain from receiving all contributions whose value is superior to the limits fixed by the law.

-Abstain from receiving all gifts or other forms of financial aid whatever the amount unless special disposition of the law makes it an exception.

-Abstain from receiving all funds coming from abroad without the assistance an authorized intermediary resident in Tunis even if the legislation in force dose not forbid it.

-Abstain from receiving all funds in cash whose value is above or equal to five thousand dinars even if it is done in many payments suspected to present some bonds.

Article 70

Corporate bodies must:

-Keep their accounts in an account register showing all income and expenditure?

-Keep an inventory in foreign relation transaction transfers mentioning the amounts concerned their justification, dates of their realization and the identification of physical person or corporate bodies concerned. A copy should be transmitted to the central Bank of Tunisia.

-Prepare an annual balance sheet.

-Preserve the account books and documents for ten years whether they are kept materially or electronically, from the date of their closure.

-Will be exempted from the obligations of this article, corporate bodies whose annual income available reserves have not reached a determined limit which will be fixed by an arête of the Minister of finance.

Article 71

The obligations designated in the above article are considered minimum account rules common to all corporate bodies with no damage in the application of specific accounts regime to some of them and to rules governing their financing and this, in accordance to the legislation in force to which they are subjected.

Article 72

The Minister of finance can submit the corporate bodies suspected of having links with persons, organization or activities related to the crimes designated by this law or if they are guilty of infringement to the rules of prudent management or those which govern their finances or the keeping of their accounts to a prior special authorization for all acceptance of money transfers from abroad

This measure is taken by way of decree notified to the legal representative of the concerned corporate body by all means capable to live a written track.

A copy of the said decree is transmitted to the governor of the central bank to inform the Tunisian Commission of Financial Analyses and all Financial Establishments –banking and non banking about the said decree. Its aim is to subordinate the payments of funds object of the payments to the concerned corporate bodies to the presentation of the authority of the minister of finances.

Article 72

Bis (new) added by law no 2009-65 of August 12.2009.

Within the framework of respect for International Agreement of Tunisia, the Minister of Finances, after the opinion of the governor of the central bank, can decide to freeze the property of persons or organization whose links with terrorist crimes is proved by the competent authorities.

The Freeze will include personal and impersonal movable goods and immovable whatever their means of acquisition, revenue and benefits resulting from them as well as documents and files be the material or electronic, proving the ownership or rights over the said goods and this without any harm of a third party.

The persons changed with the execution of the decision to freeze must, immediately it is published official gazette of the Republic of Tunisia, take the necessary measures to this effect and declare to the minister of finance all the operations for freezing that they have taken and communicate to him all the useful information for the execution of his decision.

No action in damages or in penal responsibility can be accepted against all individuals or corporate body which accomplished in good faith the duties which belong to them in the decision of the freeze.

Article 72(the) (new) added by law no 2009-65 of 12August 2009.

The Minister of Finances can after the opinion of the governor of the central bank order to permit the person concerned by the decision to freeze to take possession of part of his goods to cover up his necessary needs as well as those of his family including the house.

Article 72 quarter (new) added by law no 2009-65 of August 12, 2009.

Whoever is concerned by the decision freeze in accordance with the disposition of article 72 bis of this law can ask the minister of finances to order the removal of freeze on his goods if he estimates that it was taken against him by error.

The Minister of Finances is equally competent to order the removal of the freeze on persons and organizations whose links with terrorist crimes is no longer established by competent authorities.

Article 73

The President of the court of First Instance territorially competent can, at the request of the Minister of Finance, decide by way of an ordinance on request place any corporate body (legal entity) suspected of links with persons, organizations activities in contact with crimes designated by this law, or be found guilty of infringement prudential rules of management and those regulating their financing or the keeping of their accounts to an expert of external audit or a group of special experts.

Article 74(new) modified by law no 2009-65 of August 12, 2009.

Financial establishments, banking or non banking and all persons who in the exercise of their profession, prepare or carry out in profit of his client, purchase as sell of real estate goods or capital goods, manage the capital and accounts of the clients, organize contributions for the creation of companies and other legal entities.

Article 74 bis (new) added by law no 2009-65 of August 12. 2009.

The persons enumerated in article 74 of this law must take following vigilant measures.

1-To verify by means of official documents as well as other documents emanating from independent and reliable sources, the identity of their occasional and customers and register all necessary facts capable to identify them.

2-Verify by means of official documents and other documents emanating from independent and reliable sources.

-The identity of the beneficiary of the operation or the transaction and the quality of the person acting on his behalf.

-The constitution of the legal entity, its legal status its head office, the distributions of its share capital and the identity of its leaders and those who have the power to engage themselves in its name, while taking reasonable measures to identify individuals who control it.

3-Obtain information on the object and the nature of business relations.

4-Obtain, in case of consultation of a third party necessary information capable of identifying the customer and make sure that the third party is subjected to a regulation and supervision relative to the repression of money laundering and to the fight against financing terrorism, that he has taken necessary measures to the effect that he can finish, within the shortest time copies of identification data of his customers and other relative documents and take upon himself in all cases the responsibility of the identification of the customer.

These measures are particularly taken when:

-They tie business relations.

-They carry out occasional transactions whose value is equal or superior to an amount which shall be fixed by a decree of the minister of finances or under the forms of electronic transfers.

-There is suspicion of money laundering or financing of terrorism.

There are doubts as to the truthfulness or to pertinence of identification data of customers previously obtained.

If these people do not succeed to verify the said data or if the information is insufficient, manifestly fictive, they should abstain from opening the account to tie or continue the business relation or to carry out the operation or the transaction and envisage to make suspicious declaration or operations..

Article 74 ter (new) added by law no 2009-65 of August 12. 2009.

The persons designated in article 74 of this law must update data pertaining to the identity of their customers, exercise permanent vigilance towards during the entire duration of business and attentively examine operations and transactions carried out by the customers in order to ensure that they are coherent with the data at their possession concerning the said customers taking into consideration the nature of their activities, the risk they run and if necessary the origin of the funds.

Article 74 quarter (new) added by law no 2009-65 of August 12. 2009.

The persons designated in article 74 of this law must take the following vigilant measures:

-Ensure that their subsidiaries and the companies of which they have the majority of the social capital and are abroad, enforce the vigilant measures related to the repression of money laundering and the fight against financing of terrorism and inform the authority in charge of control when the laws of the country in which do not allow them to enforced the measures.

-Dispose of adequate system of managing risk in case of relations with people who exercised or are exercising high public functions in a foreign country, or those to them or persons having contacts with them, obtain authorization from the head of the legal entity before establishing a

business relationship with them, ensure a reinforced and sustained watch of this relationship and take reasonable measures to identify the origin of their funds.

Article 74 Quinquies (new) added by law no 2009-65 of August 12, 2009.

The persons envisaged in article 74 of this law when establishing relations with a corresponding bank abroad and other similar relationships must:

-Collect sufficient information about the corresponding bank to know the nature of its activities and basis of available information sources, its reputation and efficiency of the control under which they are subjected and verify if it has been an object of an investigation or a measure of a controlling authority.

-Obtain authorization from the head of the legal entity before establishing relationships with a foreign corresponding firm and fix the respective obligations of the two parties in writing.

-Abstain from establishing or continuing a relationship of a corresponding bank, with foreign fictitious bank and to establish relationship with foreign institutions that authorize fictitious banks to use their accounts.

Article 74 sexies (new) added by law no 2009-65 of August 12, 2009.

The persons designated in article 74 of this law must:

Pay particular attention to their business relations with persons in countries which do not apply, or apply in an insufficient manner, international norms in matters of the fight against money laundering the financing of terrorism.

Pay particular attention to the risk of money laundering, financing of terrorism, which is inherent to the use of new technologies, and if need be, take necessary measures to avoid them.

Put in place managing devices of risk linked to business relations which do not involve the physical presence of the parties.

Article 75 (new) modified by law no 2009-65 of August 12, 2009.

The persons designated in article 74 of this law must preserve for a period which must not be less than ten years from the date of the creation of the operation or the closure of the account, the registers, the account books and other documents at their keeping handy or electronically for purpose of consultation if necessary and this, for need of traceability of different phase of transactions or financial operations by them or by their intermediary and to identify all the participants or to ensure their truthfulness.

Article 76

All operations or of importation or exportation of currency whose value is equal to or an amount to be fixed by the minister of finances must, at the entrance or exit and during transit operations will be subjected to custom declaration.

Approved intermediaries and the sub exchange delegates must be sure of their identity of all persons who carry out operations in cash, the value of which is above or equal to a determined amount which will be fixed by the minister of finances on information by the central bank of Tunisia.

Article 77(new) modified by law no 2009-65 of August 12, 2009.

The authorities skilled with the control of the persons cited in article 74 of this law, are charged with the elaboration of programs and adopted practices on the fight against money laundering crimes and the financing of terrorism and to ensure their applications.

These programs and practices must particularly establish:

A system for detecting suspicious operation and transactions, comprising the designation of those within their leaders and employees charged to accomplish the obligation of declaration.

-The rules of internal audit in order to evaluate the effectiveness of the established business.

-Programs of continues training for the benefit of agents.

Article 77 bis (new) added by law no 2009-65 of August 12, 2009.

Notwithstanding penal punishment, all breach to the vigilant measures foreseen in article 74 bis, 74ter, 74quater, 74quinquies, and 74 sexies permit disciplinary pursuit in accordance with procedures in force foreseen by the disciplinary regime characteristic of each of the persons enumerated in article 74 of this law.

In the absence of a particular regime, disciplinary actions are exercise by the authority charge with control of these individuals

Article 77 ter (new) added by law no 2009-65 of August 12, 2009.

The competent disciplinary authority can, questioning the concerned take one of the following punishment:

1-Warning

2-Reprimand

3- Ban to exercise the activity, or the suspension of approval for a duration not exceeding two years.

4- Suspension from their functions.

5- Final ban to exercise the activity, or the withdrawal of the permit.

These sanctions are equally applicable to leaders and members of the supervisory council if the responsibility for the non respect of vigilance measures is established.

SECTION II

OF THE FIGHT AGAINST THE FINANCING OF TERRORISM AND MONEY LUANDERING

FIRST SUB SECTION

OF THE COMMISSION OF FINANCIAL ANALYSES

Article 78

It is instituted besides the central bank of Tunisia a commission named “ The Tunisian Commission of Financial Analyses” It is head quartered at the central bank of Tunisia which provides the secretariat.

Article 79 (new) modified by law no 2009-65 of August 12, 2009.

The Tunisian Commission for Financial Analyses will be made up of:

- The governor of the central bank or his representative- President.
- A third grade magistrate.
- An expert from the ministry of Interior and local development.
- An expert from the ministry of finances.
- An expert from the general directorate for customs.
- An expert from the committee of financial market.
- An expert from the National Postal Agency.
- An expert from the general committee of insurance.
- An expert especially in the fight against financial crimes.

The members of the commission are appointed by a decree for a period of three years.

The members shall carry out their missions within the commission in total independence vis a vis of the Administrations of the origin.

The commission will include an orientation committee, an operational cell, a general secretariat; the methods of functioning of the commission are determined by decree.

Article 80(new) modified by law no 2009-65 of August 12, 2009.

The Tunisian Commission for Financial Analyses is charge with the following mission:

-To establish general directives liable to allow persons designated in article 74 of this law detect and declare suspicious operations and transactions.

Gather and treat declarations concerning suspicious transactions and indicate their follow up.

Collaborate on the study of programs to be implemented for the fight against illicit financial circuit and counter the financing of terrorism and money laundering.

Take part in research activities for training and study and in general and in all activities related to the area of its intervention.

Represent different services and or organism concerned with this domain at national and international levels and facilitate communication between them.

Article 81(new) modified by law no 2009-65 of August 12, 2009.

The Tunisian Commission for Financial Analyses can, in the execution of the missions which are assigned to it request the assistance of Financial Authorities charge with the implementation of the law on persons designated in article 74 of this law, the letter are required to communicate necessary information for the analyses of operations and transactions, objects of declarations gathered with legal date lines.

Professional secret in this case is not in opposition to the Tunisian Commission for Financial Analyses guardians of the said secret cannot be pursued by the chief for their exposure.

Article 82

The Tunisian Commission for Financial Analyses must put in place a data base indicating natural persons and legal entity suspected of being linked to financing operations of terrorism or money laundering, of declarations relative to suspicious operations or transactions gathered from investigation and information sent to it by authorities charge with the application of the law or his foreign counterparts and their follow up.

The cooperation foreseen in the above paragraph is subjected to the fact that similar foreign services be conformed to the legislation in petting the organization subjected to professional secrets and under the obligation not to transmit or use the data intelligence reports communicated to them for ends other than the fight and repressions stipulated by this law.

Article 83

The Tunisian Commission for Financial Analyses is bound to put in place a data base indicating natural and legal entities suspected of being in connection with operations of financing terrorism or money laundering, declarations relative to suspicious operations or transactions or unusual collection of request for information which came to it from Authorities charge with the execution of the law or of its foreign counterparts and the follow up given to them.(modified by law no 2009-65 of August 12, 2009)

Besides, it must conserve, during a minimum period of ten years from the date of closure of its work, all information or documents, held on a material or electronic report, justifying the follow up of declaration it received and to consult them if necessary.

Article 84

Members of the Tunisian Commission for Financial Analyses, the collaborations and all other agents permitted by virtue of their functions to have access to files related to declarations on suspicious operations or transactions are bound by professional secrets. They cannot therefore, even after cessation their functions, use the information they were able to know for aims other than those required by the mission entrusted to them.

SUB-SECTION II

OF THE MECHANISM TO ANALYSE SUSPICIOUS OPERATIONS AND TRANSACTIONS

Article 85 (new) modified by law no 2009-65 of August 12, 2009.

The persons envisage in article 74 of this law must without delay make a written declaration to the Tunisian Commission for Financial Analyses on all suspicious operations and transactions suspected of being linked directly or indirectly to the products of illicit acts qualified by law as criminal or offensive or in financing persons, organizations or activities in relation with terrorist crimes as well as on all attempts of the said operation or transaction.

The obligation of declaration also applies, even after the completion of the operation on the transaction when new information suspected to link directly or indirectly, the said operations and transactions to the products of illicit acts qualified by the law as criminal or offensive or to the financing of persons, organization or activities in connection with terrorist crimes.

Article 86

(new) modified by law no 2009-65 of August 12, 2009.

The persons envisage in article 74 of this law must pay particular attention to activities and transactions covering a complex character or of an abnormally high amount as well as to abnormal operations and transactions whose economic aim or lawfulness are not manifested.

They must, as much as possible examine the framework within which the said operation and transactions are carried out as well as their aim, and to record the results of this examination in writing and put them at the disposal of the authorities charged with control and the government auditor.

Article 87

The Tunisian Commission for Financial Analyses can order the author of the declaration to precede to temporary freeze the funds which are objects of the declaration and place them in a waiting account.

The author of the declarations must abstain from informing the persons concerned by the declaration of which he was object of the measures which resulted from it.

Article 88

If the analyses did not confirm the suspicious linked to the operations or transactions, object of the declaration. The Tunisian Commission for Financial Analyses must inform without delay, the author of the declaration and authorize it to end the freeze of the belongings subject of the declaration.

If the Tunisian Commission for Financial Analyses dose not communicates the results of its work within the time limit set by article 91 of this law, silence tantamount to authorization to end the freeze.

Article 89

If the analyses confirmed the suspicions linked to the operation and transaction objects of the declaration, the Tunisian Commission for Financial Analyses will transmit its conclusions and all relative documents at its disposal to the Government Attorney of Tunis without delay so that the follow up can be appreciated and inform the author of the said declaration.

The Governor of prosecutor must decide the follow up to be given to the denunciation in five days latest following its receipt and notify his decision to the author of the declaration and to the Tunisian Commission for Financial Analyses (modified) by law no 2009-65 of August 12, 2009.

Article 90

Follow up actions of preliminary investigation and judgment, in matters of crimes of money laundering is the responsibility of the court of First Instance of Tunis. The disposition governing terrorist crimes by virtue of this law will be applied.

Article 91 (new) modified by law no 2009-65 of August 12, 2009.

The Tunisian Commission for Financial Analyses must close its work within the shortest time. Nevertheless, if it had ordered a provisional freeze of funds, object of the declaration, it must end its work within the limit of five days from the date of order to the freeze and inform the author of the declaration of the results of its deliberation.

Article 92

The decision rendered by the Tunisian Commission for Financial Analyses must be motivated. They are susceptible of any appeal.

Article 93

The decision to put away without any follow up comes from the public prosecutor has as consequence the immediate lifting of the freeze on belongings object of the declaration.

If the public prosecutor on the opening of information, the freeze is maintained unless the judicial authority contacted with the affaire cannot decide otherwise about it.

Article 94 (new) modified by law no 2009-65 of August 12, 2009.

The public prosecutor attached to the appeal court of Tunis can, even in the absence of declaration of suspicious operations or transactions, request from president of the court of first instance of Tunis that a freeze be ordered on belongings of natural persons or legal entity suspected of being linked to persons or organizations or activities in connection with crimes designated by this law, even if they were not committed on the territory of the republic.

Article 95

The decision to freeze provided for in the above article is taken by the president of the court of first instance of Tunisia in conformity with the ordinance on investigation.

Article 96

The Attorney general attached to the court of appeal of Tunis is bound to immediately transmit the ordinance of the freeze taken in application of the preceding article and all the documents at his possession to the state prosecutor of Tunis to order that he be informed.

The Attorney general attached to the court of appeal transmits the ordinance of the freeze to the Tunisian Commission of Financial Analyses and his opinion on the opening of information against the concerned person.

The belongings, object of the above mentioned ordinance will remain frozen unless the judicial contacted on the affaire dose not decide otherwise about it.

Article 97

Will be punished with one to five years of imprisonment and a fine of five thousand to fifty thousand dinars, whosoever deliberately abstain to submit himself from the obligations declarations in the sense of the stipulations of article 85 of this law.

Article 98

No action in damages or penal responsibility will be admitted against natural persons or legal entity who might have accomplished in good faith, the duty of declaration foreseen by article 85 of this law.

No action in damages or in penal responsibility is also admitted against the Tunisian Commission of Financial Analyses during the execution assigned to it.

Article 99

Will be punished with one month to five years imprisonment and a fine of three thousand to three hundred thousand dinars, whosoever will abstain to submit to the declaration of obligation foreseen in the first paragraph of article 76 of this law.

The fine can be brought up to five times the value of the funds on which the crime was committed.

Article 100

The fines designated in the preceding article are applicable to approved intermediaries and to sub-delegates who abstain to submit themselves to the obligations designating the second paragraph of article 76 of this law.

Article 101 (new) modified by law no 2009-65 of August 12, 2009.

Will be punished with six months to three years imprisonment and a fine of five thousand to ten thousand dinars, the professionals designated in article 74 of this law, traders in jewelry and of precious stones and other precious objects. Owners of casinos and all leaders, representatives or agents of legal entities whose personal responsibility infringed or did not intertemperate to the stipulations of article 69, 70, 72, of paragraph 3 of article 72 bis, of article 73, 75, 84, 86 of paragraph 2 of article 87 and article 96 of this law is established.

The punishment is from three months to two years of imprisonment and the fine of one thousand to five thousand dinars if the business relations have been established or continuous or occasional operation or transaction. The value of which is equal or above an amount to be fixed by the Minister Finances or the ones in which electronic transfers were realized without respecting the obligations of:

-Verify by means of official documents or other documents coming from reliable and independent sources, the identity of the habitual or occasional customers and to register all necessary data to their identity.

-Verify by means of official documents or other documents coming from independent and reliable sources the identity of the beneficiary of the operation or the transaction, the quality of anyone acting on his behalf and the constitution of the legal entity, of its head quarters, of the identity of its leaders, and those having the power to act in its name.

-Obtain from the customer, information on the object and nature of business relations.

-Abstain from opening an account, establish or continue business relations or to realize an operation or transaction if information on them is insufficient or manifestly fictive.

This does not prejudice the proceedings against morale entities which incur fines equal to or above five times the amount of the fine foreseen for the original crime.

Article 102

The judgments pronouncing the liquidation or the confiscation of belongings in application of the law cannot in any case have repercussions on rights of third party acquired in good faith.

Article 103

The disposition of article 52 bis of the penal code, the third paragraph of article 305, the second paragraph of article 313 of the penal code, and article 30 of law no 92-52 of 18, May 1992 relative to drugs are all cancelled. (Article 4 of law no 2009-65 of August 12, 2009)

The persons submitted to the duty of vigilance must:

Within a time limit not exceeding three years from the date of coming into force of this law, update the files relative to their existing clients before the promulgation of this law, in order to respect its dispositions.

