COLLECTION OF LBC-FT JURISPRUDENCE IN ECOWAS COUNTRIES AND MAURITANIA

TERMS OF REFERENCE

06/02/2020
1. CONTEXT

The ECOWAS countries and Mauritania are subject, like all countries in the world, to the international standards of the FATF in the fight against money laundering and the financing of terrorism (AML-CFT). However, the volume of cases leading to AML / CFT convictions in recent years is very low in all of these countries. The purpose of this activity is to compile detailed judgments and decisions that have led to convictions in each country in relation to AML-CFT and the underlying offenses over the past 5 years.

The main predicate offenses are:
- Participation in an organized criminal group and participation in a racket
- Terrorism, including its financing
- Trafficking in human beings and smuggling of migrants
- Sexual exploitation, including that of children
- Illicit trafficking in narcotic drugs and psychotropic substances
- Illicit arms trafficking- Illicit trafficking in stolen goods and other goods
- Corruption
- Fraud
- Counterfeiting and pirating of products
- Environmental criminal offenses
- The kidnapping, forcible confinement and taking of hostages
- Theft, embezzlement, breach of trust, scam
- Contraband (including in relation to taxes and customs and excise duties)
- Criminal tax offenses
- Extortion
- The fake
- Piracy
- Insider trading and market manipulation.

The countries targeted by this mission are:
- French-speaking countries: Côte d’Ivoire, Senegal, Benin, Burkina-Faso, Togo, Mali, Niger, Guinea and Mauritania.
- Portuguese-speaking countries: Cape Verde and Guinea Bissau.

2. OBJECTIVE

The work should make it possible to have an exhaustive compendium, comprising public and publishable decisions, preferably motivated, in the matter. The collection
should also include acquittals for cases heard from the BC-FT perspective and for which the underlying offenses have not resulted in convictions, so that the cases can be studied (reasons for this failure to convict).

3. DESCRIPTION OF THE MISSION / METHODOLOGY

The expert(s) will be responsible for collecting all court decisions having a direct or indirect link with the AML-CFT. The information may be extracted primarily from national websites and mutual evaluation reports in countries or at regional level. The mission will start in Dakar with a meeting with the OCWAR-M team, then with a meeting with GIABA for information gathering. Additional information should be obtained by e-mail exchanges with the countries, relying in particular on the FIU magistrates of each country. They will complete their missions with documentary research on site, in the press, online, in the latest mutual evaluation reports and in the GIABA annual reports.

Travel within the countries must be motivated. Experts will meet on site:
- the relevant departments of the Ministry of Justice,
- the main registers of the courts and tribunals of the capital,
- the financial intelligence unit.

The decisions collected are then classified by theme and then in chronological order. Each decision must be presented in the same way so as to make the whole readable and usable. The draft project will be transmitted to Expertise France in a provisional form at first, then final after the observations and additional requests from the sponsor, accompanied by a mission report specifying:
- The meetings and contacts obtained during the mission,
- The difficulties observed,
- Any mention useful for understanding the deliverable.

4. EXPECTED RESULTS

An exhaustive collection of AML / CFT case law in the aforementioned 16 countries is expected. This collection will serve as training support for judges and magistrates and will make it possible to build practical cases based on real facts.

5. DELIVERABLES

The information could be extracted primarily from national websites and mutual evaluation reports. An interview with GIABA services will be scheduled for information gathering. Additional information should be collected by e-mail exchange, relying in particular on the CENTIF judges in each country. One travel per country is envisaged. A second mission can be accepted subject to motivation.
Experts are expected to report on court decisions by country in Word and PDF format in one of the three ECOWAS languages (preferably in French). The report will be organized as follows:

- By underlying offense
- Convictions (chronological order)
- Relaxations / acquittals (chronological order).

6. EXPECTED SKILLS OF THE CONSULTANT OR THE FIRM

The consultant (s) must prove that:
1. excellent understanding of the judicial systems of countries and criminal procedures
2. excellent understanding of the legal and regulatory texts of these countries relating to AML / CFT and their underlying offenses.
3. rigor in the collection of information and the development of collections.
4. They must have relevant professional experience related to the activity.

7. LOCATION OF THE MISSION

Senegal and other countries covered by the project.

8. AVAILABLE RESOURCES

5 days / expert per country to be treated, i.e. 80 days / expert for the entire assignment, to be divided between 3 or 4 consultants:
- One or two consultants for French-speaking countries.
- A consultant for English-speaking countries.
- A consultant for Portuguese-speaking countries.

9. IMPLEMENTATION SCHEDULE

Deliverable delivery date: April 17, 2020.

10. PREVISIONAL BUDGET

The day / expert rates may not exceed the scales of the European Union.
Per diems will be paid per night on the spot, excluding aircraft, in countries which do not correspond to the place of residence of the expert.
Air tickets will be covered by Expertise France, as well as visa fees.