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LAW

***LAW No. 2005 – 009 dated August 3 relative to child trafficking in
Togo***

CHAPTER I – GENERAL PROVISIONS

Art. 1 – The purpose of this law is to define, prevent and punish child
trafficking in Togo.

CHAPTER II – DEFINITIONS

Art. 2 - Within the meaning of this law, a child refers to any human
being under the age of eighteen (18) years.

Art. 3 - Child trafficking is a serious crime, which is defined as the
process by which a child is recruited or kidnapped, transported, transferred,
housed or received, inside or outside the national territory, by one or more
people for exploitative purposes.

Art. 4 – Exploitation refers to any activities to which the child is subjected and that do not have any economic, moral, mental or psychological interest for the latter, but which, on the other hand, provide economic, moral or psychological interest to the perpetrator of the trafficking or any other person, whether directly or indirectly.

Art. 5 – Any person guilty of at least one of the acts listed in article 3 above is guilty of child trafficking.

Art. 6 – Individuals are considered accomplices to the crime who have knowingly:

- caused the act by providing information or instructions;

- provided instruments, weapons, vehicles, or any other means useful for the preparation, consumption of the action, or to favor the impunity of its perpetrators;

- aided or assisted the perpetrators of the crime in the acts that prepared, facilitated or consumed it.

CHAPTER III – PREVENTION

Art. 7 – The State and the local collectivities will take all appropriate measures to provide protection for all children against trafficking and all forms of exploitation.

Art. 8 – A national commission to fight child trafficking has been created.

The organization and operation of the commission are set by decree in the Council of Ministers.

Art. 9 – The removal from the national territory of a child not accompanied by his or her parents or guardians is subject to displaying a special authorization, the terms of which are set by decree in the Council of Ministers.

The measures taken must guarantee the greater interest and respect for the dignity of the child.

CHAPTER IV – SANCTIONS

Art. 10 – The perpetrators and accomplices of child trafficking are subject to imprisonment of two (02) to five (05) years and a fine of one million (1,000,000) to five million (5,000,000) CFA francs, or one of those two penalties, irrespective of the departure and destination locations of the children in question.

Any attempted child trafficking is punishable by the same sentences.

Art. 11 – Any person guilty of child trafficking committed under the circumstances below is punishable by a sentence of five (05) to ten (10) years of rigorous imprisonment and a fine of five million (5,000,000) to ten million (10,000,000) CFA francs:

- the victim is under the age of fifteen (15) years at the time of commission of the acts;

- the act was committed by violence;

- the perpetrator has used drugs to alter the will of the victim;

- the perpetrator had a visible or hidden weapon;
- the victim was sequestered or exposed in a public or private location;

- the trafficking acts caused the child physical, moral or mental disability or any other medically recognized consequence;

- the trafficking is the work of an organized group;

- the child has been subjected to the worst forms of labor;

- in case of repeat occurrence.

The judge may order the confiscation of all objects and materials used in the process of child trafficking.

The penalties set out in article 10 above are doubled when the acts of child trafficking have led to the disappearance or death of the victim.

Art. 12 – Any parent or guardian who knowingly facilitates trafficking of their child or a child over whom they have custody is punishable by a sentence of six (06) months to one (01) year of imprisonment.

The prison sentence may be subject, in whole or in part, to a stay of proceedings for a period set by the judge, not to exceed three (03) years.

In case of repeat offense, the penalty is doubled.

Art. 13 – Anyone who requests, receives gifts, promises, benefits of any nature in order to facilitate child trafficking is subject to a penalty of one (01) to five (05) years of imprisonment and a fine of five hundred thousand (500,000) to one million (1,000,000) CFA francs, or one of those two penalties.

The penalty is doubled if the perpetrator is an agent of the public administration having acted in the context of his or her duties.

Art. 14 – Any foreign national who is guilty of child trafficking, attempted child trafficking or complicity in child trafficking, is also prohibited from staying in the national territory for a period of at least five (05) years after having served his or her sentence.

Art. 15 – Any person found guilty under this law is required to pay all costs incurred by the services to care for the victim and covered by the national commission to combat child trafficking.

CHAPTER V - FINAL PROVISIONS

Art. 16 – All earlier provisions contrary to this law are repealed.

Art. 17 – This law will be enforced as a law of the State.

DECREES

DECREE No. 2005-064/PR dated July 26, 2005 pertaining to appointment of the Chief of Special Staff to the President of the Republic

THE PRESIDENT OF THE REPUBLIC

In light of the Constitution dated October 14, 1992, in particular article 70 thereof;

In light of decree no. 2005-052/PR dated June 06, 2005 pertaining to organization of the Services of the Presidency of the Republic,

Upon proposal by the minister delegated to the Presidency of the Republic, responsible for Defense and Veterans Affairs;

Having heard the Council of Ministers;

DECREES:

Art. 1 – Colonel Essofa AYEVA is appointed Chief of Special Staff to the President of the Republic.

Art. 2 – This decree will be published in the Official Journal of the Togolese Republic.

Executed in Lomé, July 26, 2005

*The Minister Delegated to the Presidency of the Republic
Responsible for Defense and Veterans Affairs
Kpatcha GNASSINGBE*

*The Prime Minister
Edem KODJO*

*The President of the Republic
Faure Essozimna GNASSINGBE*

DECREE no. 2005-065 dated August 4, 2005 pertaining to immunity for members of the Independent Investigatory Commission responsible for shedding light on violence having taken place before, during and after the Presidential Election

PRESIDENT OF THE REPUBLIC

In light of the Constitution dated October 14, 1992, in particular article 70 thereof;

In light of decree no. 2005-058/PR dated June 20, 2005 pertaining to the composition of the government;

In light of decree no. 2005-050/PR dated May 25, 2005 pertaining to the creation of the Special National Commission for the Independent Investigation of acts of violence and vandalism having occurred before, during and after the presidential election on April 24, 2005;

Having heard the Council of Ministers;

DECREES:

Art. 1 – The members of the commission enjoy criminal, civil and disciplinary immunity for all acts committed in the performance or on the occasion of their duties.

Art. 2 – The State owes them protection for any injury they may suffer during that performance.

Art. 3 – This decree will be published in the Official Journal of the Togolese Republic.

Executed in Lomé, August 4, 2005

*The President of the Republic
Faure Essozimna GNASSINGBE*