

# ECOWAS Directive and related texts on Cyber legislation

**ECOWAS-CoE Regional Conference on  
Cyber legislation  
11 September 2017**

**ECOWAS Commission**



# ICT in ECOWAS

- Regional integration
- Establishment of a single Digital Market in West Africa



# Cybersecurity & Cybercrime

- Current Situation
  - Delay in the harmonisation of legal frameworks
  - Preeminent positions in global cybercrime ranking and lot of damages
  - Poor awareness
  - Lack of national and regional cyber strategies
  - Desperate need of capacity building
  - Few CERT/CSIRT



# Cybersecurity & Cybercrime

- Challenges
  - Domestication
  - Skillsets
  - Cooperation



# ECOWAS Initiatives on Cybersecurity & Cybercrime

- **Objectives**
  - to strengthen the security and resilience of vital ICT infrastructure
  - to secure and encourage use of ICT
- **Three community Acts developed and adopted to secure cyberspace:**
  - Supplementary Act on Electronic Transactions
  - Supplementary Act on Personal Data Protection
  - Directive on Fighting against Cybercrime
- **ECOWAS Cyber security Agenda**



# ECOWAS Directive on fight against Cybercrime

- **Aim:**
  - Adapt the substantive criminal law and procedures of Member States to address cybercrime
- **Key Provisions**
  - Offences specifically related to ICT
  - Incorporating traditional offences into ICT offenses
  - Provides sanctions for cybercrime offenses
  - Rule of Procedure
- **Directive in compliance with**
  - Budapest Convention
  - AU Convention on Cybersecurity and data protection

[http://www.tit.comm.ecowas.int/wp-content/uploads/2015/11/SIGNED\\_Cybercrime\\_En.pdf](http://www.tit.comm.ecowas.int/wp-content/uploads/2015/11/SIGNED_Cybercrime_En.pdf)



# ECOWAS Directive on fight against Cybercrime

- Offences specifically related to ICT
  - Includes fraudulent access and remaining to computer systems and fraudulent access, input, interception and manipulating of electronic data
- Incorporating traditional offences into ICT offenses
  - Use of computer systems to perpetrate traditional offences
- Provides sanctions for cybercrime offenses
  - Major Penalties and Supplementary Penalties
- Rule of Procedure
  - Includes key provisions for investigation & cooperation: Search or access to a computer system, Expedited preservation of Data, Method of Proof , Judicial Cooperation



# ECOWAS Supplementary Act On Personal Data Protection

Aims to fill the legal gap relating to personal data protection within the Community and at establishing in each Member State, a mechanism against privacy through personal data collection, processing, transmission, storage and use

- Legal Framework for personal data protection
- Formalities for executing personal data processing
- Institutional Framework for the protection of personal data
- Principals guiding the processing of the subject of processing
- Rights of an individual whose personal data are the subject of processing
- Obligations of personal data controller





# ECOWAS Supplementary Act On Personal Data Protection



- Legal Framework for personal data protection
  - Requirement for Member States to establish a legal framework of protection for privacy of personal data
- Formalities for executing personal data processing
  - Classifies types of data and which is subject to/exempt from declaration.
  - Formalities relating to requesting, processing and storing personal data.
- Institutional Framework for the protection of personal data
  - Relating to the establishment, composition, responsibilities of the data protection authority
- Principals guiding the processing of the subject of processing
  - Principles to guide both providers and requestors of personal information. E.g. on consent and legitimacy, accuracy, confidentiality and security, choice, prohibition of direct prospecting, etc
- Rights of an individual whose personal data are the subject of processing
  - Right to information                      Right of access
  - Right to object                              Right to rectification and destruction
- Obligations of personal data controller
  - Obligations of confidentiality                      Obligations of security
  - Obligations of preservation                      Obligations of Durability



# ECOWAS Supplementary Act On Electronic Transactions

Defines the rules to regulate Electronic Transactions, notably the obligations and responsibilities of actors and measures to secure electronic transactions.

- Electronic Commerce
- Electronic Advertising
- Electronic Contract
- Security on electronic transactions



# ECOWAS Supplementary Act On Electronic Transactions

## ■ Electronic Commerce

- Access to information by goods/services supplier
- Indication of price
- Contractual liabilities
- Applicable law

## ■ Electronic Advertising

- Identification of the advertisement
- Identification of price
- Identification and accessibility of the offer
- Prohibition of direct prospecting

## ■ Electronic Contract

- Contract negotiation
- Transmission of contract information
- Condition of contract validity
- Acknowledgement of receipt

## ■ Security on electronic transactions

- Electronic signatures
- Conditions of acceptance of electronic signatures



# Status of Cyber law reforms in ECOWAS

(update: June 2017)

	<b>Electronic Transaction</b>	<b>Personal Data Protection</b>	<b>Cybercrime</b>
<b>Laws</b>	<ul style="list-style-type: none"> <li>✓ Benin</li> <li>✓ Burkina Faso</li> <li>✓ Cabo Verde</li> <li>✓ Cote d'Ivoire</li> <li>✓ Gambia</li> <li>✓ Ghana</li> <li>✓ Guinea</li> <li>✓ Niger</li> <li>✓ Senegal</li> </ul>	<ul style="list-style-type: none"> <li>✓ Benin</li> <li>✓ Burkina Faso</li> <li>✓ Cabo Verde</li> <li>✓ Cote d'Ivoire</li> <li>✓ Gambia</li> <li>✓ Ghana</li> <li>✓ Guinea</li> <li>✓ Senegal</li> </ul>	<ul style="list-style-type: none"> <li>✓ Benin</li> <li>✓ Cabo Verde</li> <li>✓ Cote d'Ivoire</li> <li>✓ Gambia</li> <li>✓ Ghana</li> <li>✓ Guinea</li> <li>✓ Nigeria</li> <li>✓ Senegal</li> </ul>
<b>Bills</b>		<ul style="list-style-type: none"> <li>✓ Nigeria</li> </ul>	<ul style="list-style-type: none"> <li>✓ Burkina Faso</li> </ul>



## Other Related Texts on Cybercrime

- ECOWAS has established some rules for cross – border cooperation and technical assistance which could be used by Member States to render mutual assistance on cybercrime issues
  - Article 57 of the ECOWAS revised Treaty on judicial and legal cooperation, which prescribes that the Member States undertake to promote judicial cooperation with a view to harmonizing judicial and legal systems
  - Convention A/P1/7/92 of ECOWAS relating to mutual aid on judicial penal matters
  - *ECOWAS Convention A/P1/8/94 relating to Extradition*
  - Agreement on cooperation in criminal police matters between the Member States of ECOWAS
  - Supplementary Act A/SA.1/01/10 on Personal Data Protection within ECOWAS



# Key actions for Member States

- Adopt and implement necessary legal frameworks in line with ECOWAS texts and International Conventions to fight cybercrime
- Create specialised units to fight against cybercrimes
- Train law enforcement institutions personnel, especially judges and magistrates on the specificities of cybercrimes
- Balance Privacy and Law Enforcement Needs (SA on data protection vs Directive on cybercrime)
- Improve abilities to collect, to share and to preserve electronic evidence regionally and internationally
- Enhance regional cooperation by sharing information and best practices



# Outlook – Implement ECOWAS Cyber security Agenda



- Fight Cybercrime
  - Appropriate legislation
  - Sensitization and capacity building
  - Establish forensic laboratories
  - International cooperation...
- Improve the cyber security environment
  - Define National cyber security strategy
  - Establish CERTs/CSIRTs
  - Sensitization and capacity building
- Collaboration of ECOWAS Commission
  - Continue its regional and international partnership for the implementation of its cybersecurity agenda





THANK YOU !





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