

Law No. (97) of 1976
against smuggling commodities outside Customs Offices

In the name of the people,

The Revolutionary Command Council,

Upon review of:

- The Constitutional Declaration;
- The Penal Code and the amending laws thereof;
- The Code of Criminal Procedure and the amending laws thereof;
- The law on cash control issued on 26 Muharram 1375 AH corresponding to 13 September 1966 AD;
- Law No. (55) of 1957 on confiscation;
- The law on the demarcation of territorial waters issued on 10 Shaaban 1378 AH corresponding to 18 February 1959 AD;
- Law No. (12) of 1959 AD on sponge diving;
- Law No. (8) of 1962 on the regulation of fishing;
- The judiciary law issued by virtue of Law No. (51) of 1976;
- The retirement law issued on 17 Dhu al-Hijja 1386 AH corresponding to 28 March 1967 AD, and the amending laws thereof;
- Law No. (81) of 1970 on ports;
- Law No. (55) of 1971 on the judiciary of remote areas;
- Law No. (68) of 1971 establishing the National Organization for Supply Commodities;
- Law No. (6) of 1972 on the police;
- Law No. (67) of 1972 issuing the customs law;
- Law No. (68) of 1972 on the customs guard;
- Law No. (32) of 1974 against the concealment and smuggling of supply commodities;
- Law No. (26) of 1975 on the Council for Nutrition and Marine Wealth Affairs;
- The recommendation of the General People's Congress in its session for the year 1396 AH/ 1976 AD, the proposal of the Ministers of Interior, Justice, Treasury, and Economy, and the Minister of State for Nutrition and Marine Wealth, and the Cabinet's approval;

issued the following law:

Article (1)

In the implementation of the provisions hereof, any of the following acts shall constitute a smuggling crime:

1. Transport or attempt to transport commodities into or out of the Great Socialist People's Libyan Arab Jamahiriya without going through customs offices.
2. Find, transport, or stock commodities in the jurisdiction of customs controls without the authorisation of the legally competent entities.

3. Commit any act set forth in Clause (2) of this Article outside the customs jurisdiction anywhere in the Great Socialist People's Libyan Arab Jamahiriya. The provisions of this article shall not be applicable to commodities and normal consumer goods of citizens and households, in the manner prescribed by a decision of the competent entity. In any case, non-seizure of such goods shall not be construed as disproof of the act of smuggling.

Article (2)

Without prejudice to any harsher penalty stipulated by the Penal Code or any other law, whoever commits any of the crimes laid down by the previous article shall be punished by detention for a minimum of two years and a fine equalling double the value of goods object of the crime or one thousand LYD, whichever is greater.

In the event of recidivism, the act shall be punishable by imprisonment for a maximum of five years and a fine equalling triple the value of goods object of the crime or three thousand LYD, whichever is greater.

Whoever is proven to have financed the smuggling shall be punished by imprisonment for a minimum of five years and a maximum of ten years and by a fine equalling fivefold the value of goods object of the crime or five thousand LYD, whichever is greater.

In any case, the court shall order the confiscation of the goods object of the crime as well as the transportation means, tools, and material used to commit the crime, excluding ships and aircrafts, unless such ships or aircrafts are designed or chartered for this purpose. In the implementation of this provision, boats, barges, gliders and gyroplanes shall not be considered ships and aircrafts.

Article (3)

Without prejudice to the provisions of treaties and agreements to which the Libyan Arab Republic is a party, any person who equips a foreign vessel as well as the master, sailors, and divers thereof shall be punished by detention for a minimum of two years and a fine not less than 1000 LYD if such ship enters the Libyan territorial waters for fishing purposes without the authorisation of the competent Libyan authorities. The presence of a foreign fishing vessel in territorial waters shall be presumed as having fishing intent unless proven otherwise.

The court shall order the impoundment of the vessel, fishing tools, the fish, sponges, and other marine products on board.

In the event of recidivism, the penalty shall double.

In the implementation of the provision of this article, any means of transportation used for fishing purposes shall be considered a vessel.

Article (4)

In the event of recidivism, the Minister of Interior may decide to take one or more precautionary measures regarding the recidivist:

1. Impose residence in a certain location.

2. Prohibit residence in a certain location.
3. Prohibit frequenting certain places.
4. Prohibit the exercise of a certain occupation or craft.

The period of any such measure may not exceed five years. Whoever violates the imposed measure shall be punished by detention for a minimum of six months.

Article (5)

Courts shall expeditiously adjudicate actions pertaining to the crimes stipulated herein.

A stay of execution shall not be allowed upon the penalty handed down. Appeal shall not result in a stay of execution.

In all cases of conviction, the court shall order the publication of the final judgment summary at the convict's expense for two consecutive times in the daily newspapers of its choice.

Article (6)

The commodities confiscated in accordance with the provisions hereof shall not be subject to the provisions of Law No. (55) of 1957 on confiscation.

Article (7)

1. Supply commodities that are confiscated in accordance with the provisions hereof shall be handed over to the National Organisation for Supply Commodities (NOSC) upon their confiscation in order to dispose thereof in accordance with the prescribed rules.
2. Other goods, means of transportation, tools, and material confiscated in accordance with the provisions hereof may be disposed of before adjudication. The rules of disposal of confiscated items shall be set forth by a regulation issued by virtue of a decision by the General People's Committee.

Article (8)

For the implementation of the provisions hereof, judicial officers shall include police and customs officers, regardless of their rank and grade, as well as the members of Local People's Security, Armed People, and National Service, designated by a decision of the secretary of the General People's Committee for Justice and General Security in coordination and consultation with the secretary of the General Interim Committee for Defence when required.

The capacity of a judicial officer may also be conferred by a decision of the competent secretary of the standing General People's Committee to certain employees working for sectors concerned with the implementation of the provisions hereof.

Article (9)

Whoever assaults a police or customs officer or other persons in charge of implementing the provisions hereof, resists the same by force or violence during the exercise of their functions or as a result thereof, or intentionally obstructs the performance of their duties shall be punished by imprisonment and by a fine of at least one thousand LYD.

Such acts shall be punishable by imprisonment for a minimum of six years if they result in an incurable permanent disability of the victim, or if the perpetrator was armed or is a public authority agent.

If the act results in the death of the victim, or the death is intentional, it shall be punished by the death penalty.

Article (10)

A special prosecution shall be established called the “Anti-Smuggling Prosecution,” whose headquarters shall be located in Derna. By a decision of the Minister of Justice in agreement with the Ministers of Interior and the Treasury, branches thereof may be established in other areas of the Republic and their jurisdictions determined.

Article (11)

The Anti-Smuggling Prosecution shall be composed of a Head of Prosecution and a sufficient number of members, to be delegated by a decision from the Minister of Justice from among the members of the Public Prosecution, and they shall report directly to the Prosecutor General.

A sufficient number of employees shall perform the necessary administrative and clerical works of the Anti-Smuggling Prosecution. They shall be delegated for this purpose by a decision from the Minister of Justice from among Ministry of Justice employees or employees of the Ministries of Interior and the Treasury upon the agreement of the relevant minister.

Article (12)

The Anti-Smuggling Prosecution shall have sole jurisdiction to investigate and refer to the competent court, and initiate and conduct public suits for the crimes stipulated by the present law.

Article (13)

In the implementation of the provisions hereof, the Anti-Smuggling Public Prosecution shall have all the powers conferred to the investigating judge and indictment chamber stipulated by the Code of Criminal Procedure.

In the investigation of the crimes set forth by this law, the Public Prosecution shall not abide by the restrictions laid down in Articles (40, 42, 43, 45, 66, 75, 76, 81, 84, 106) of the Code of Criminal Procedure.

Such investigation shall be governed by the provisions of Articles (58, 61, 68, 122, 123, 131, 133, 135, 136, 175/1, 176, 177, 179) of the Code of Criminal Procedure.

Article (14)

Notwithstanding the provisions of Article (26) of the Code of Criminal Procedure, the person accused of a crime governed by the provisions hereof shall be transferred to the Anti-Smuggling Prosecution within seven days from his apprehension. Such Prosecution shall interrogate the accused within three days and thereupon order his provisional detention or his release.

Article (15)

The Anti-Smuggling Prosecution shall have the right to detain the accused in provisional detention for a maximum of thirty days from the date of his arrest or referral to the Anti-Smuggling Prosecution if he has been previously arrested.

The Anti-Smuggling Prosecution may also, after hearing the accused, extend the detention for one or more periods totalling a maximum of sixty days. If the Prosecution decides to further extend the provisional detention, it shall submit the papers to the competent court. After hearing the Anti-Smuggling Prosecution, the court may extend the provisional detention for consecutive periods not exceeding forty-five days each until completion of the investigation. It may also release the accused with or without bail, which shall be estimated in accordance with the provisions of Article (126) of the Code of Criminal Procedure. It shall also be entitled to do the same after the case is referred thereto if the accused is detained, and it may detain the accused if he is released.

Article (16)

Any person who helps guide to, uncover, or expose a crime set forth by this law shall be rewarded. The amount of such reward shall be set at 25% of the value of the confiscated goods and fines handed down. It shall be distributed to such persons in accordance with the terms and conditions set forth by a decision taken by the Minister of the Treasury in agreement with the Minister of Interior, provided that the share of each person does not exceed five hundred LYD per crime.

The reward may only be disbursed after the final judgment is rendered on the crime.

Article (17)

The judicial officer shall be entitled to financial compensation if he is attacked while pursuing smugglers or if the attack results from controlling smuggling crimes and causes a disability that prevents the officer from resuming his service. The compensation shall be reckoned on the basis of one hundred LYD for every percentile of the disability. If the disability results in termination of service, the judicial officer shall be entitled to a salary equalling 100% of his last salary and a financial compensation of twenty thousand LYD. If the injury results in death, the beneficiaries of the deceased person shall be paid a salary equalling 100% of his last gross salary, and his heirs shall be granted a financial compensation of fifty thousand (50.000) LYD distributed among them based on their legitimate share unless they are governed by a different regulation that grants them better rights or benefits.

Those who guide to or cooperate on anti-smuggling activities shall receive the same treatment reserved for judicial officers if they suffer injuries or death during the exercise of such activities or as a result thereof.

Article (18)

The provisions of this law shall not prejudice the outstanding taxes and fees imposed on commodities object of the crime by the customs law or any other law.

The Anti-Smuggling Prosecution shall inform the customs department of the crime immediately upon uncovering such crime.

Article (19)

Public suits shall only be filed in the crimes stipulated in Article 1, 2, and 3 of this law with the permission of the Minister of Interior.

Article (20)

Whoever has commodities subject to customs control upon the entry into force of this law shall inform the police station having jurisdiction over such commodities of the type, quantity, and location thereof. He shall also settle his affairs within a maximum of sixty days from the date of entry into force of this law.

Article (21)

The terms mentioned in this law shall have the following meanings:

1. Commodities:

Movable assets of all types, including money and animals, and excluding personal luggage.

2. Area of customs control:

The area located at the borders of the Libyan Arab Republic, defined in accordance with control requirements by a decision of the Minister of Treasury taken in agreement with the Ministers of Interior and Economy, and the Minister of State for Nutrition and Marine Wealth Affairs. The area of marine customs control shall not recede behind the line of territorial waters.

3. Customs offices:

The place designated by a decision of the Minister of the Treasury in any customs centre, port, or airport, where commodities are deposited for inspection and undertaking of all or part of customs procedures.

4. Marine fishing:

The act of catching fish, sponges, and other plankton and marine products in territorial waters.

Article (22)

This law shall be published in the Official Gazette and shall enter into force from its date of issuance.

Revolutionary Command Council – Libya

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