

Law No. (38) of 2012
On Some Procedures Concerning the Transitional Phase

The Interim National Transitional Council

Upon review of:

- The interim Constitutional Declaration issued on 03/08/2011;
- The bylaws of the Interim National Transitional Council (NTC);
- The internal regulations of the NTC;
- The Penal Code and the laws that amend and supplement it;
- The Code of Criminal Procedure and the laws that amend and supplement it;
- Law No. 37 of 1974 on issuing the Military Penal Code;
- The decisions of the NTC in its session held on Tuesday, 10 Jumada al-Akher 1433 AH, corresponding to 1 May 2012;

Issued the following law:

Article (1)

The Ministers of the Interior and Defence or their deputies, each within his mandate, shall take the necessary measures to handle the seniors officials from the former regime who have been arrested or detained by revolutionaries during military operations as part of the 17 February Revolution or on the occasion thereof as of the date that this law enters into force, by referring them to the competent prosecution office if sufficient evidence exists that they committed acts that are deemed criminal under the law, or otherwise release them within a maximum period of two months from the date that this law enters into force.

Article (2)

Reports by revolutionaries documenting incidents and statements of witnesses and detainees from senior officials of the former regime shall have the status of information-gathering reports conducted by judicial police officers in accordance with the Code of Criminal Procedure, when they display reliability according to the discretionary authority of the trial judge.

Article (3)

If a conviction is handed down for any of the persons mentioned in Article (1) of this law, the period of the penalty's execution shall be calculated from the date of arrest. The convicted party may establish such date by any means of proof.

Article (4)

There is no penalty for necessities of the 17 February Revolution in terms of military, security or civil acts carried out by revolutionaries to save or protect the revolution.

Article (5)

Without prejudice to the provisions of Article (261) and (262) of the Penal Code, if an order of dismissal or an acquittal is issued for any such person as mentioned in Article (1) of this law for any objective or legal reason, he shall not be entitled to seek criminal or civil recourse

against the State or the persons who arrested or detained him unless it is established in the prosecution's decision or the grounds of the judgment that the incident attributed to him is fabricated or malicious.

Article (6)

In order to deal with a person who is suspected of constituting a threat to public security or stability in the transitional phase on the basis that he previously worked, was affiliated or collaborated with any official or unofficial apparatus of the former regime, the Ministers of the Interior and Defence or their deputies, according to the situation – may take one or more of the following measures:

1. Require him to regularly report to a certain security office.
2. Bar him from frequenting certain places.
3. Bar him from residing in a certain place or region.
4. Place him under surveillance.
5. Bar him from leaving a certain region.
6. Ban him from travel.
7. Exile him abroad.

Article (7)

Any person subjected to any of the measures set forth in the previous article may file a complaint before the competent judge of summary jurisdiction within 72 hours.

Article (8)

With the exception of Item (7) of Article (6), the period of any of the stipulated measures shall not exceed one month. It may be extended for the same period, provided that it does not last past the end of the transitional phase.

Article (9)

Anyone who violates the measures imposed by this law shall be punished by imprisonment lasting no more than six months or by a fine no greater than 50,000 LYD.

Article (10)

If it emerges that the measures set forth in Article (6) are insufficient, the Ministers of the Interior and Defence or their deputies, according to the situation, may order the arrest of anyone subject to Article (6) of this law.

Article (11)

The period of arrest set forth in the previous article shall not exceed one month, renewable once for the same period. Afterwards, the arrestee shall be released or referred to the competent prosecution office if there exists sufficient evidence that he committed a crime punishable by law.

The source of the arrest order or renewal shall refer him with cause to the public prosecutor within 48 hours from the issuance thereof.

The person against whom such an order has been issued may file a petition with the prison warden to be submitted to the court of first instance convened in chambers, which shall decide thereon immediately.

Article (12)

The competent public authorities may take the necessary measures to seize locations associated with suspects in accordance with Article (6) in order to search for weapons or items that represent a threat to public security or stability in the transitional phase. Such locations may only be searched by virtue of a warrant issued by the competent prosecution in accordance with the legislation in force.

Article (13)

Filing a lawsuit does not depend on specifying the parties for which the law requires a request or permission to confront.

Article (14)

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

Interim National Transitional Council – Libya

Issued in Tripoli,

Wednesday, 11 Jumada al-Akher 1433 AH

Corresponding to 2 May 2012 AD