

Law No. (7) of 1997
amending certain provisions of Law No. (5) of 1988

The General People's Congress

In execution of the resolutions adopted by Basic People's Congresses in their second ordinary session of 1425 FBP, formulated by the General Forum of People's Congresses, People's Committees, syndicates, unions and professional associations (General People's Congress) during its ordinary session for the period of 4-9 March 1426 FBP;

Upon review of:

- The Declaration of the Establishment of the Authority of the People;
- The Great Green Charter of Human Rights of the Jamahiriya Era;
- Law No. (20) of 1991 on promoting freedom;
- The Penal Code;
- The Code of Criminal Procedure;
- The Code of Civil and Commercial Procedure;
- Law No. (71) of 1972 on criminalising partisanship;
- Law No. (51) of 1976 on the Jamahiriya Security Organization;
- Law No. (22) of 1985 on combatting the abuse of position or profession and deviation in the functions of popular elevation;
- Law No. (10) of 1423 FBP on purification;
- Law No. (1) of 1425 FBP on the work system of the People's Congresses and People's Committees;

issued the following law:

Article (1)

Paragraph (4) of Article (3), Paragraph (2) of Article (6), Articles (9), (13), (16) and Paragraph (1) of Article (19) and Articles (22), (26), (30), (31) and (38) of Law No. (5) of 1988 on the establishment of the People's Court, amended by Law No. (8) of 1991, shall be amended as follows:

Article (3):

4. Shall have obtained a high qualification in Law.

Article (6):

2. First instance circuits, each of which shall be comprised of three members. Each circuit shall have the competencies of the supervisory judge stipulated in the Penal Code and Code of Criminal Procedure.

Article (9)

The People's Court shall have sole jurisdiction to adjudicate the following:

First: Cases arising from the crimes stipulated in the following laws:

1. The Penal Code, Book (2), Part (1).
2. Law No. (71) of 1972 on criminalising partisanship;

3. The crimes stipulated in the Revolutionary Command Council Decree on protecting the revolution issued on 3 Shawwal 1389 AH corresponding to 11/12/1969 AD.
4. Crimes connected to the crimes stipulated in the preceding paragraphs.
5. The crimes stipulated in Law No. (10) of 1423 FBP on purification, Articles (28) and (29).
6. The crimes stipulated in Law No. (75) of 1976 on the Jamahiriya Security Organization, Article (85).
7. The crimes stipulated in Law No. (22) of 1985 on combatting the abuse of position or profession and deviation in the functions of popular elevation.
8. The crimes against individual freedoms stipulated in the Penal Code, Book (3), Part (4), Sections (1) and (2), in the event that the matter is not transferred to the competent judicial authority for any reason.
9. The crimes stipulated in Law No. (2) of 1979 on economic crimes, Articles (4), (6), (8), (9), (10), (11), (13), (14), (15).
10. Crimes committed by or against workers of the People's Court and the People's Prosecution Bureau during or due to their performance of their positions.

Second: Appeals against procedures and decrees concerning the freedom and other basic rights of citizens.

Third: Appeals related to popular elevation.

Fourth: Appeals against People's Congress resolutions issued in violation of the decrees and laws formulated in the General People's Congress.

Fifth: Appeals against the decrees of people's courts formed by the People's Congress within the boundaries of the jurisdiction thereof to adjudicate specific or incidental cases.

Sixth: Cases of compensation for moveable property arising from deviation in the application of revolutionary principles. Claiming compensation shall require the following:

- a. The plaintiff shall have legitimately acquired the property requested for compensation.
- b. The plaintiff's ownership of the funds shall be the result of his non-exploitative efforts without him having exploited others.
- c. The plaintiff shall not be subject to the provisions of Law No. (1) of 1982.
- d. The plaintiff shall confirm his adherence to fulfilling the duties payable to the public treasury for the economic activity performed thereby at the time of the march.

Seventh: Any other cases referred thereto by the Secretariat of the General People's Congress, or cases in which it has jurisdiction by virtue of the laws.

The procedures specified by a regulation issued by the Secretariat of the General People's Congress shall be applied when adjudicating the appeals stated in Clauses (2), (3), (4) and (5) of this article.

Article (13):

The suspect shall have the right to select an attorney to defend him from the Department of People's Legal Defence. If he fails to select a lawyer, the Court shall entrust this Department to delegate one of its members to defend the suspect. In all cases, the People's Legal Defence shall be considered the instrument for defence and pleading before the People's Court.

Article (16):

The litigants and the People's Prosecution Bureau may appeal rulings issued by first instance circuits before the circuit of appeals in accordance with the provisions prescribed in the Code of Civil and Commercial Procedure and Code of Criminal Procedure. The deadline for appeals through the court of appeals against rulings issued in felonies shall be within thirty days from the date of the pronouncement of the ruling. Rulings issued by the circuit of appeals shall not be subject to appeal, with the exception of rulings sentencing the death penalty.

Article (19):

Paragraph (1):

Without prejudice to the provisions of Law No. (1) of 1425 FBP on the work system of the People's Congresses and People's Committees and Law No. (51) of 1976 AD on the judiciary system and the amendments thereof, the People's Prosecution Bureau shall have sole responsibility for investigating the crimes that the People's Court has jurisdiction to adjudicate. The filing of a case therein shall not be contingent upon any permission or request, even if stipulated as such in another specific law. The Bureau shall also be responsible for referring and initiating the case before this court, implementing the rulings issued thereby and appeals therein. To this end, the People's Prosecution Bureau shall have all of the competencies and powers legally prescribed for the investigating judge, the public prosecution and the indictment chamber.

Article (22):

Members of the People's Prosecution Bureau may order the provisional detention of the suspect if required by the Investigation Authority. This order shall only be in effect for a period of 45 days. If extending the detention is deemed necessary, the papers shall be presented before the President of the People's Prosecution Bureau or the members entrusted thereby, in writing, to issue the order to release the suspect or extend the period or periods of detention for a total period of no more than 90 days. If further extension of the detention is deemed necessary, the papers shall be presented before the first instance circuit in the People's Court to issue an order to release the suspect or extend the detention thereof for a period or consecutive periods, after hearing the suspect's statements. Each of the periods shall not exceed 45 days until the completion of the investigation.

Article (26):

Subject to the provisions stipulated in this law, investigations performed by the People's Prosecution Bureau shall be subject to investigation rulings by the investigating judge stipulated in the Code of Criminal Procedure. Notwithstanding the provisions of the preceding paragraph, the People's Prosecution Bureau shall not adhere to the provisions of the Code of Criminal Procedure, Articles (40), (42), (43), (45), (66), (75), (76), (81), (84) and (106) when carrying out investigations in the crimes stipulated the Penal Code, Book (2), Part (1) as well as in Law No. (71) of 1972 on the criminalisation of partisanship and the Revolutionary Command Council Decree on protecting the revolution issued on 3 Shawwal 1389 AH corresponding to 11/12/1969 AD. The same investigations shall also be exempt from the provisions of Articles (58), (60), (61), (62), (67), (68), (69), (72), (73) and (80) of the aforementioned law.

Article (30):

All suspects and People's Prosecution Bureaus may request the reply of one or more of the court members in the cases stipulated in Article (29) of this law during any of the case's stages. The reply request shall be submitted in writing to the President of the People's Court. Attached thereto shall

be the justifications and methods of verification. If the person whose reply is requested in the President of the Court, the request shall be submitted to an entity composed of five members that shall be formed for this purpose by virtue of a decision issued by the Court's General Assembly. The submission of a reply request shall entail the suspension of case proceedings.

The request shall be adjudicated after hearing the person whose reply is requested and examining the submitted information. The decision thereof shall not be subject to appeal.

The decision issued in acceptance of the reply must include the name of the specific member instead of the person requesting the reply thereof. The replying member as well as the litigant that requested the same shall be notified of the decision.

Article (31):

Members of the People's Court and of the People's Prosecution Bureau may be sued in the following cases:

1. If the member cheats, commits fraud, treachery or a serious professional mistake in his work.
2. If the member refuses or neglects, without legitimate reason, to reply to a request or petition from a litigant or refuses to adjudicate a case that is subject to judgment or that is pending.
3. In other cases in which the law provides for the liability of the member and sentences him to damages, where the state is also liable for the damages ruled against the member for these actions. The country shall have the right of recourse therein.

The lawsuit case shall be submitted by virtue of a report to the registrar of the court's extraordinary circuit. It shall be signed by either the applicant or the representative thereof and must include a statement of the grounds of dispute as well as the evidence therefor. All supporting papers therefor shall be submitted therewith.

Article (38):

The People's Prosecution Bureau shall be responsible for all powers and competencies prescribed for the Public Prosecution Office and the Revolution Security Prosecution pursuant to the legislation in force. The President of the People's prosecution Bureau shall have all powers and competencies legally prescribed for the Prosecutor General for the crimes that the People's Court has jurisdiction to adjudicate.

Article (2)

New articles shall be added to the aforementioned Law No. (8) of 1988. The numbers thereof shall be: (9) *bis* (a), (16) *bis* (a), (16) *bis* (b), (16) *bis* (c), (21) *bis* (a) and (31) *bis*. The content thereof shall be as follows:

Article (9) *bis* (a):

The crimes that the People's Court has jurisdiction to adjudicate shall not be extinguished by prescription.

Article (16) *bis* (a):

Without prejudice to the provisions stipulated in the preceding article, the litigants and the People's Prosecution Bureau may appeal, by way of seeking re-examination, the rulings issued by the circuits of the People's Court in accordance with the rules prescribed in the Code of Civil and Commercial Procedure and the Code of Criminal Procedure. The Extraordinary Court in the

People's Court shall also have jurisdiction to adjudicate re-examination requests in accordance with the provisions prescribed in the Code of Criminal Procedure.

Article (16) bis (b):

Without prejudice to the provisions of the Code of Criminal Procedure, Article (385) *bis*, the rulings issued by the People's Court in felonies shall be enforceable immediately even if they are appealed.

Article (16) bis (c):

Anyone that intentionally refuses to implement the rulings and orders issued by the People's Court, as well as the orders and decrees issued by the People's Prosecution Bureau, shall be sentenced to the penalties stipulated in the Penal Code, Article (234).

Article (21) bis (a):

Suspects in crimes that the People's Court has sole jurisdiction to adjudicate shall be transferred to the People's Prosecution Bureau within seven days from the date of his arrest. The Bureau must interrogate him within 14 days from the date of his arrest, or handover if he had previously been arrested, then order either the provisional detention or release thereof.

Article (31) bis:

The disputed cases shall be displayed before a special entity composed of five members that shall be formed by virtue of a decree issued by the Court's General Assembly to adjudicate the case after hearing the applicant or representative thereof and the members of the court or disputed People's Prosecution Bureau, according to the case, as well as the statements of the People's Prosecution Bureau if it is involved in the case. The ruling issued in the case shall not be subject to appeal.

Article (3)

Court jurisdiction to adjudicate cases deliberated before them shall continue at the time of the entry of this law into force for the crimes stipulated in Article (9) of this law, Paragraph (9), Clause (1).

Article (4)

Any provision contrary to the provisions of this law shall be repealed. It shall enter into force from its date of issuance and shall be published in the Official Gazette and in various media outlets.

The General People's Congress – Libya

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