

Royal Decree
amending certain provisions of the Code of Criminal Procedure

We, Idris I, King of the United Kingdom of Libya

Upon review of:

- **Article (64) of the Constitution;**
- **The Code of Criminal Procedure;**
- **Based on the submission of the Minister of Justice and the approval of the Cabinet;**

decree the following:

Article (1)

A new article, Article (2) *bis*, shall be added to the Code of Criminal Procedure, as follows:

Article (2) *bis*

Without prejudice to Articles (1) and (2), certain policemen may be delegated to perform investigations and file and prosecute public proceedings on misdemeanours and petty violations. In remote areas, such delegation may include vesting the assigned policemen with the authority to investigate felonies, which shall be transferred to the Public Prosecution for action thereon.

Delegations shall be made by decree from the Chief Prosecutor of the province after approval by the Justice and Interior Administrators. Delegated policemen shall be subordinate to the Chief Prosecutor and subject to his supervision and direction.

Article (2)

Articles (13), (24), (26), (37), (136), (139), (143), (145), (176), (207), (222), (223), (311), (316), (336), (352), (358), (369), (374), (375), (385), (387), (430), (434), (464), (474), and (498) of the Code of Criminal Procedure shall be amended as follows:

Article (13)

1. The following shall, each within their jurisdiction, be considered judicial police officers: officers, non-commissioned officers, and soldiers holding the rank of sergeant and higher from the police, prison officers, members of the Customs Guard, members of the Municipal Guard, and all employees vested with the competencies of a judicial police officer by law or decree.
2. Municipal heads and mayors and locality elders may perform the activities falling under the jurisdiction of a judicial police officer in the event that there are no judicial police officers present.

Article (24)

Judicial police officers may order the arrest of a suspect found at the scene if there is sufficient evidence to charge them, in the following circumstances:

1. In the case of a felony.
2. In cases of *in flagrante delicto*, if the crime is punishable under the law with imprisonment for a period exceeding three months.
3. If the crime is a misdemeanour punishable with imprisonment and the accused had been placed under police surveillance, a notice had been issued deeming them homeless or suspected thereof, or if they do not have a known fixed place of residence in Libya.
4. In cases of theft, fraud, aggravated assault, resisting a member of the public authorities by use of force or violence, procuring, violation of morals, and narcotic substances.

Article (26)

Judicial police officers must immediately hear the statements of an accused person placed under arrest. If nothing proving the innocence of said accused is found, the officer shall refer them to the competent Public Prosecution within forty-eight hours.

The Public Prosecution shall question them within twenty-four hours, then issue an order for their detention or release.

Article (37)

Even if an offence is not *in flagrante delicto*, judicial police officers may search the houses of individuals under police surveillance and suspects, if there are grounds to believe that they have committed a felony or misdemeanour. The search shall be conducted as set out under Article (40). Homeless individuals and persons without a fixed known domicile in Libya may be searched for the same reasons.

Article (136)

If the investigating magistrate deems an incident a felony, he shall refer it to the Indictment Chamber and task the Public Prosecution to send the documents to it immediately.

However, instead of submitting the action to the Indictment Chamber, the investigating magistrate may issue an order to refer it to the summary court if he deems that the felony was accompanied by a legal excuse or extenuating circumstances that would reduce the sentence to the limits of a misdemeanour.

The order must include a statement of the excuses or extenuating circumstances on which it is based.

In this case, the court shall rule to dismiss for lack of jurisdiction if it deems that the circumstances of the action do not justify the reduction of sentence to the limits of a misdemeanour.

Article (139)

1. Referral orders issued by an investigating magistrate – whether to the summary court or to the Indictment Chamber – shall not be subject to appeal.
2. The Public Prosecution, the victim, and the civil plaintiff may appeal dismissal orders issued by an investigating magistrate.
3. The Public Prosecution shall have the right to appeal release orders issued by an investigating magistrate.

Article (143)

Orders for provisional release may not be enforced prior to the appeal deadline provided in Article (141) or prior to ruling on the appeal, if it is submitted by the deadline.

Article (145)

An indictment chamber shall be formed at each Court of First Instance, consisting of the president of the court or one of the judges of the court assigned thereto by the General Assembly.

Article (176)

If the Public Prosecution decides to extend the term of provisional detention, the documents must be submitted to the competent full-jurisdiction or summary judge, prior to the expiration of the four-day period, who will issue an order thereon after hearing the statements of the Public Prosecution and the accused.

The judge may extend the period of provisional detention for one or more consecutive terms, provided the total number of terms not exceed forty-five days.

The Public Prosecution shall have the right to appeal release orders issued by an investigating magistrate. Such appeal shall be subject to the rules and provisions set out for the appeal of orders issued by investigating magistrates under Articles (141) and (143).

Article (207)

Subpoenas shall be served to the concerned party or at their place of residence through the means provided under the Code of Civil and Commercial Procedure.

For petty offences, the subpoena may be served through a public authority officer. Such shall also be permitted for misdemeanours in remote areas.

If a search does not reveal the accused's place of residence, the subpoena shall be delivered to the administrative authorities of their last place of residence in Libya. The place where the crime occurred shall be considered the last place of residence of the accused, unless established otherwise.

Article (222)

If they have any grounds for recusal, judges shall notify the president of the court to rule on their removal in chambers. If there are reasons that cause them discomfort in hearing a case, judges may submit their recusal to the president of the court, who shall make a decision thereon.

Article (223)

The procedures and provisions provided in the Code of Civil and Commercial Procedure shall apply to recusal requests.

Article (311)

If a matter calls for examination of an accused's mental state, the investigating magistrate or summary judge may, at the request of the Public Prosecution or the court hearing the case, as the case may be, order that an accused who is in provisional detention be placed under observation in a specialized government hospital for a period or periods not to exceed a total of forty-five days, after hearing the statements of the Public Prosecution and the defence, if the accused has a defence counsel.

If this period ends, the matter shall be submitted to the Indictment Chamber for a decision in accordance with Article (123). If the accused is not in provisional detention, an order may be issued placing them under observation in any other location.

Article (316)

A juvenile court shall be formed at each summary court, consisting of a judge assigned thereto.

Article (336)

For each calendar period, a schedule of the cases to be heard shall be drawn up. The criminal court shall conduct sessions one after the other until all cases on the schedule have been completed.

In cases of necessity, new cases may be added to the schedule during the calendar period.

Article (352)

A copy of a ruling issued against a person accused *in absentia* shall be posted along with the sentence on the court's notice board, and, at the request of the Public Prosecution, a description of the charge and the text of the ruling shall be published in the Official Gazette of the State or in two local newspapers.

Article (358)

If a person convicted *in absentia* appears or is arrested before the penalty lapses due to the passage of time, the prior ruling shall be voided, both with regard to the penalty or compensation, and the case shall be heard again before the court.

If this ruling was issued for a custodial penalty, the accused shall be presented to court as a prisoner for retrial at the nearest session.

If an award of compensation has been carried out, the court shall order that the amounts collected be returned, in whole or in part. If the person convicted *in absentia* dies, the ruling to award compensation shall be reheard against the heirs.

Article (369)

Appeals shall be made pursuant to a report at the registrar of the court that issued the ruling or before a prison officer, within ten days from the date of a ruling read *in presentia*. The Prosecutor-General may appeal within thirty days from the date a ruling is issued, and may file the appeal at the registrar of the court holding jurisdiction to hear the appeal.

Article (374)

An appeal submitted by a person sentenced to an enforceable custodial penalty shall be dropped if they fail to present themselves for execution prior to the session date.

Article (375)

The Court of Appeal shall hear directly any witnesses that should have been heard before the Court of First Instance and shall make up for any other deficiencies in the investigation procedures.

Article (385)

Appeals shall be made pursuant to a report at the registrar of the court that issued the ruling within thirty days from the date of a ruling read *in presentia* or issued on an objection, or from the date of a decision nullifying a ruling.

The appeal report may be filed with a prison officer by said deadline.

The grounds for the appeal, signed by the appellant's attorney, must also be filed by this deadline, otherwise the right thereto shall lapse.

Article (387)

The registrar shall give the concerned party, at their request, a copy of the ruling within eight days from the date it is pronounced.

If it fails to do so, the appeal shall be accepted from the concerned party within twenty-two days from the date they were served notice thereof, by filing such with the registrar.

In this case, the concerned party must obtain a certificate from the registrar that the ruling was not present on said deadline, and they must notify them within twenty-four hours, at most, of their chosen domicile in the town where the court is located in order to be served notice of the filing of the ruling or more preferably are served at the registrar.

Article (430)

When a death penalty becomes final, the case documents shall be immediately submitted to the King by the Minister of Justice.

The verdict shall not be enforced without the approval of the King.

Article (434)

The death penalty shall be executed with a member of the Public Prosecution, the prison warden, and the prison doctor or another doctor assigned by the Public Prosecution present. No one else may attend without special permission from the Public Prosecution. The defence counsel for the convicted person shall always be permitted to attend.

The text and charges of the conviction issued for the death penalty must be read aloud to the convicted person, in the location where the penalty will be executed and for all those present to hear.

If the convicted person wishes to make a statement, the member of the Prosecution shall take minutes of such statement. Upon execution of the death penalty, the member of the Prosecution shall write up a report on such, attaching therewith the doctor's certificate of death and time of death.

Article (464)

Physical coercion against the perpetrator of a crime that has been adjudicated may be used in order to collect amounts due to the government. Such execution shall be in the form of simple imprisonment, the period of which shall be determined by considering one day as equivalent to 0.50 LYD or less.

However, for petty offences, the execution period shall not exceed seven days for the fine, and seven days for expenses, compensation, and amounts due to be returned.

For felonies and misdemeanours, the enforcement period shall not exceed three months for the fine, and three months for expenses, compensation, and amounts due to be returned.

Article (474)

Convicted persons may engage in such work without pay for a government entity or municipality, for a period of time that is equivalent to the execution period. The types of work that convicted persons may engage in and the administrative agencies that determine this work shall be specified in a decision issued by the competent administrator.

Convicted persons may not work outside their city of residence or the area thereof. In determining the work assigned to convicted persons each day, they should be capable of completing such work within six hours, as according to their physical state.

Article (498)

The Prosecutor-General or Chief Prosecutor that has jurisdiction over the accused or convicted person's place of residence, if any, or the area where they were arrested shall, within three days from the notice of arrest, submit to the President of the Court of Appeal a request to present the wanted person before the Criminal Court.

Article (3)

The Minister of Justice shall enforce this Decree and it shall enter into force thirty days after the date of its publication in the Official Gazette.

King Idris – Libya

**Issued at Al Salaam Palace on 28 Rabi' al-Thani 1375
Corresponding to 13 December 1955**

By order of the King

**Abdur Rahman al-Galhoud
Minister of Justice**

Mustafa Ben Halim