

The Constitution Drafting Assembly

The Committee on Rights, Freedoms and Transitional Measures

A Detailed Map of the Title of Transitional Measures

Approved in the 51st Session Held at the Assembly's Headquarters in al-Bayda' on 9/12/2014.

Title on Transitional Measures

Chapter 1: Transitional Justice Measures

Article ()

The State shall be committed to put in place the necessary measures and mechanisms to hold community dialogue, uncover the facts, achieve fairness, reconciliation and constitutional and legislative reform. These mechanisms shall be independent, neutral, objective and conducted by individuals who have diverse competencies, expertise and integrity and in a manner that ensures they do not involve any kind of political liquidation.

Article () The Right to Knowledge

The State shall be committed to take the following necessary measures:

1. Uncovering the truth and details of the systematic violations of human rights and basic freedoms in the period from 1/9/1996 until the permanent constitution takes effect;
2. Documenting systematic violations and crimes of corruption;
3. Uncovering the fate of missing individuals.

Article () The Right to Compensation

Without prejudice to its right to prosecute violators of rights, the State shall be committed to compensate victims and affected parties, individuals, groups, or regions in proportion to the harm or damage done. This applies to:

1. Systematic violations of human rights;
2. Military operations and armed conflicts.

Financial and moral compensation shall include individual, collective and regional compensations.

The State shall also be committed to:

1. Treating the psychological and social effects of the violations and rehabilitating the victims;
2. Guaranteeing the rights of persons whose property or movable assets have been illegally taken away. In the case of property, the elements that should be taken into account are the rights of the original owner, the financial position of the person who has illegally taken the property, the constructions added to the property and the previous administrative and judicial procedures;
3. Returning the bodies of the victims of wars from abroad.

This is an unofficial translation prepared by International IDEA (www.idea.int) of a draft of Libya's constitution that was published online at <http://www.cdalibya.org/> on 23 December 2014.

Article ()
Criminal Trials

The State shall be committed to take all the necessary measures to enshrine the principle of non-escape from criminal prosecution in relation to all those who took part in systematic violations of human rights and crimes of financial and administrative corruption. In order to achieve this, the following shall be ensured:

1. No immunity for anyone accused of such crimes;
2. No amnesty covers such crimes;
3. These crimes are not subject to the statute of limitation regardless of the time they were committed;
4. The necessary measures shall be taken to protect witnesses;
5. Specialized judges shall be trained on transitional justice.

When the principle of banning violators of rights from assuming public office is violated, the authority charged with fact finding and reconciliation shall examine the possibility of filing a criminal case concerning systematic violations of human rights based on requirements of national interest, the rights of victims and victims' relatives, the requirements of fact finding and banning rights violators from assuming public office.

Article ()
Guarantees of Non-repetition

1. The State shall be committed to institutional reform in accordance with the following measures:
 - Vetting the staff of the military and the security institutions based on their records, and excluding those who are not qualified, in accordance with objective criteria, from leading positions and purging these institutions of those who took part in human rights violations and in crimes of financial and administrative corruption and rehabilitating others in a manner that ensures respect for rights and freedoms;
 - Structural reforms of institutions with the objective of guaranteeing they are based on the principles of transparency, integrity and accountability;
 - Dissolving all the institutions whose existence violates provisions of the constitution.
2. Rescinding all the decisions granting Libyan nationality taken since 15/2/2011 and those taken in violation of the nationality laws in force at the time they were taken.
3. Revising all legislation in accordance with provisions of the constitution.
4. Disarmament and dismantling of all armed organizations, conducting psychological and professional rehabilitation of their members without prejudice to the principle of not escaping criminal prosecution and ensuring State monopoly of arms, guaranteeing individual and collective security and peaceful rotation of power.
5. Taking all the necessary measures to uncover the facts about collective disputes and uncovering their causes and addressing them in a radical manner.

Chapter 2:
The Right to Reclaim Public Money and Religious Endowments Money

Article ()
Reclaiming Public Money

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The State shall commit itself to take the following necessary measures:

1. Tracing, uncovering and reclaiming public money to the public treasury;
2. Reclaiming State-owned property illegally taken away by others;
3. Tracing and uncovering grants, donations, allocations and all transactions related to transferring ownership of State-owned property in violation of legislation, reclaiming them or reclaiming their value in order to protect others who acted in good faith;
4. Expropriating money resulting directly or indirectly from crimes of corruption;
5. Drawing an inventory of State investments in and outside the country and determining their status.

In order to achieve this, the State shall implement international agreements and conclude the necessary agreements in order to obtain legal and judicial assistance.

Without prejudice to the principle of banning those who committed crimes of corruption from assuming public office, the State should identify the legal framework for negotiations with those subject to legal prosecution to ensure the reclamation of public money.

Article () Religious Endowments Money

The State shall commit itself to take the following necessary measures:

1. Tracing, uncovering and reclaiming religious endowments money;
2. Reevaluating the way this money is used and considering the contracts concluded in this regard in a manner that achieves the objectives of religious endowments.

Article () Foreigners' Ownership of Property

Without prejudice to the rights of use, the State shall take the necessary measures to rescind all the legal transactions on which foreigners' ownership of property is based.

Chapter 3 Transitional Measures Concerning Elections

Article () Women and Parliamentary Elections

Every electoral system shall secure at least a 30% share for women for three consecutive elections.

Article () The Right of the Military to Vote

Military personnel have the right to take part in the electoral process, through voting, after three elections, in accordance with the permanent constitution, if the military institution has been fully structured and its absolute neutrality has been ensured.

Article () Candidature for the Elections in Accordance with the Individual System

The electoral system shall ensure that candidature is only possible in accordance with the individual system for three elections. (Second proposal: Candidature for parties cannot be frozen).

Article ()

Non-permissibility of extending the president's term in office.

The president might not put himself forward as a candidate to extend his term in office for three elections.