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## Excerpted from the Penal Code of the Tunisian Republic

### BOOK ONE GENERAL PROVISION

#### CHAPTER ONE EXTENDED EFFECTS OF CRIMINAL LAW

##### **Article 1**

No person shall be punished except by virtue of a provision of an existing law.

If, after an act is committed, but before the final judgment is pronounced, a new law is enacted which is milder than the previous law and favorable to the defendant, the new law will be applicable.

##### **Articles 2, 3 and 4 (Repealed by the Decree of 13 November 1956)**

#### CHAPTER TWO PENALTIES AND ENFORCEMENT

##### **Article 5 (Modified by Law No. 64-34 of 2 July 1964, Law No. 66-63 of 5<sup>th</sup> July 1966, Law No. 1989-23 of 27<sup>th</sup> February 1989 and Law No. 99-89 of 2<sup>nd</sup> August 1999)**

Penalties will include the following:

##### a) Principal Penalties:

- 1 Death
- 2 Life imprisonments
- 3 Jail time
- 4 Manual labor
- 5 Fines
- 6 Criminal compensation (**Line 6 is drawn from Law No. 2009-68 of 12 August 2009**)

##### b) Accessory Penalties:

- 1- (Repealed by Law No. 95-9 of 23 January 1995)
- 2- Prohibition of stay
- 3- Administrative supervision
- 4- Confiscation of properties under conditions provided by the law.
- 5- Special Confiscation
- 6- Relegation under conditions provided by the law
- 7- The prohibition to exercise the following rights and privileges
  - a- Public functions and certain professions such as lawyers, public officers, doctors, veterinarians, midwife, director or employee in any educational institution, notary, guardian, expert or witness, other than to make simple declarations.
  - b- Carrying weapons and all official honorary badges
  - c- The right to vote
- 8- Publication excluded by certain laws

##### **Article 14 (Modified by the decree of 15<sup>th</sup> September 1923)**

According to Article 122 of the criminal procedure code, crimes are offenses punishable with imprisonment term of more than 5 years. It is pronounced for 16 days at least, if the

infringement constitutes a crime and one day at least if it constitutes a contravention. A penalty of one day of imprisonment is equal to 24 hours, and one month is equal to 30 days.

**Article 15 (Added by Law No. 99-98 of 2<sup>nd</sup> August 1999)**

In the case where the court pronounces a firm prison term of not more than a year, it can also replace the same judgment with punishment of unpaid public labor and for a period not more than 600 hours with a minimum of 2 hours per day in prison. (The first paragraph is modified by law n° 2009-68 of 12 August 2009).

This sentence is pronounced for all offences and crimes sanctioned by imprisonment terms not more than the above mentioned period and which will include the following crime,

Crimes committed against persons:

- Serious violence not leading to the permanent incapacitation or disfiguration and not included as aggravated
- Defamation
- Involvement in a dispute
- Involuntary body damage to others.

Offences involving road accidents:

- None regards of the high way code, with the exception of driving under the influence of alcohol or in the case of running away from the crime scene.

Offenses involving sport:

- Invasion of the field during a match
- Uttering of bad slogans or words in an exaggerating manner within a public sporting environment or in private competitions. That is, when the condemned is put on waiting trial, this period is deducted from the time when the judgment was made. It is very well stipulated and will not be applicable to all the parties.

Offenses against property damage:

- damage to land
- damage to a registered building

Offense added by Law number 2009-68 of August 12 2009:

- Destruction of boundary stone
- Fraudulent disposition of joint property before sharing
- Theft
- The ownership of a lost but found property
- The forceful recovery of property that belonged to others.
- damage to the property of others
- unintentional fires

Offenses in breach of good manners:

- A call for public decency.
- Indecent behavior
- Repeated drunkenness
- Invasion of privacy

Concerning social offences:

- Breaches of the labor law and social security law and the law on work accidents and job related diseases.
- The offences related to the non-payment of worker salaries.
- The non presentation of the child
- Disorder after execution
- simulation infringement
- Begging

Offences relating to Economy and Finance:

- Issuance of bounce check to the payee's condition and costs.
- Offence resulting from infringement of the law on
- Offense added by Law No. 2009 of the August 12, 2009
- Competitive prices and the law on consumer protection
- Concealment of property belonging to the debtor merchants
- Impossibility of payment after consumption of food and alcohol
- Refusal without just cause to execute a contract.
- Obstacle to the freedom of auctions

Offences against the environment:

- Infringement on environmental laws.

Offences related to town planning

- offenses contrary to the laws on urban planning and land management except subdivision without approval

Military offenses: Added by Law No. 2009-12 August 2009

- Failure to comply with orders to join the unit mentioned in the first paragraph of article 66 of the Military Code of Justice.

**Article 15b (Added by Law No. 99-89 of 2 August 1999)**

To replace the imprisonment term with a sentence of public labor, it is required that the accused be present at the hearing, not be a recidivist and it is established in court to ensure the effectiveness of the integration of the accused in the society. **(The first paragraph modified by Law No. 2009-68 of 12 August 2009)**

Offenses added by Law No. 2009-69 of 12 August 2009:

The court must inform the accused of his right to refuse the public work and record their response. **(Paragraph 2 is modified by Law No. 2009-68 of 12 August 2009)**

In the case of a refusal, the court should pronounce the other penalties provided.

The court fixes the time within which the work must be done provided that, it does not exceed eighteen months from the date of delivery of the Judgment.

The sentence of public work will be done concurrently with the sentence of imprisonment

#### **Article 15c (added by Law No. 2009-68 of August 2009)**

The reparation of a penalty tends to replace the sentence of imprisonment imposed by the court with a monetary compensation payable by the convicted person who has suffered a personal and direct harm's offense.

The amount of compensation cannot be less than twenty dinars or exceeds five thousand dinars, regardless of the number of injured persons

The judgment handed by the criminal court does not stop the right of an action for a civil claim, and the court must take into consideration the amount of compensation handed in the criminal trial while making decision on the civil trial.

When the judge pronounces a sentence of imprisonment for misdemeanors or a sentence of imprisonment not exceeding six months; for lesser offenses, the court can, if circumstances require, replace in the same judgment with imprisonment penalty pronounced in the criminal sentence. To avoid contradiction, it is required that, before a decision is passed, it should be looked whether the accused has not been previously sentenced with an imprisonment penalty.

The execution of the penalty should be carried out within a period not exceeding three months from the date of expiration of the appeal of the judgments rendered in the court of first instance or from the date of the pronouncement of the final judgment.

It is forbidden to replace an imprisonment sentence with a fine for criminal offense under Article: 85, 86, 87 twice, 90, 91, 101, 103, 104, 125, 126 paragraph one, 127, 128, 143, 206, 209, 212, 214, 215 paragraph one, 219 paragraph one, 224 paragraph one, 227 twice, paragraph two, 228 twice, 238, 240 twice, 241, 243, 244, 284 of the penal code and article 89 and 90 of the high way cod and article 411 and 411 b of the code of commerce.

#### **Article 16 (Modified by the law n° 2005-45 of June 6 2005)**

The fine may not be less than a dinar in infringement cases nor than 60 dinars in all other cases except provided for by the law

#### **Article 17 (Repealed by law n° 68-23 of July 24<sup>th</sup> 1968 and added by law n° 99-89 of August 2<sup>nd</sup> 1999)**

Public work is performed in public establishments or in local collectivities or charity organizations or in national interest associations and also in associations whose aim is the protection of the environment.

**Article 18 (Repealed by law n° 68-23 of July 24<sup>th</sup> 1968 and added by the law n° 99-89 of August 2<sup>nd</sup> 1999)**

The convicted to community service benefits from the legislative and regulatory requirements relating to hygiene and professional safety.

BOOK TWO  
DIVERSE INFRACTION AND PENALTIES INCURRED

TITLE ONE  
ATTACKS AGAINST PUBLIC ORDER

CHAPTER ONE  
ATTACKS AGAINST THE EXTERNAL SECURITY OF THE STATE

**Article 60 (Modified by the decree of 10<sup>th</sup> January 1957)**

The following are considered guilty of treason and are liable to death sentenced:

- 1 - Any Tunisian who fight as enemy, using arms against Tunisia,
- 2 - Any Tunisian who corresponds with a foreign power, in view of engaging in hostilities against Tunisia or furnishes it in any manner whatsoever the means, with Tunisian secrets,
- 3- Any Tunisian who delivers to a foreign power or its agents or military, Tunisian territories, cities, fortresses, structures, post offices, stores, arsenals, materials, ammunition, ships or aircraft belonging to Tunisia,
- 4- Any Tunisian who in times of war, has called soldiers or sailors to enter the service of a foreign power or who facilitates by any means or recruits soldiers on behalf of a foreign power in war against Tunisia,
- 5- Any Tunisians, who in time of war, continue to maintained relationship with a foreign power or its agents, to promote warlike companies of such power against Tunisia,

**Article 60b (Added by decree of 10 January 1957)**

The following are considered guilty of treason and are liable to death sentenced:

- 1- Any Tunisian who supplied a foreign power or its people, in any way and through any means either national defense secret or would have released by any means whatsoever, secrets of this kind, to a foreign power or its agents,
- 2- Any Tunisian who has voluntarily destroyed or damaged vessels, aircraft, equipment, munitions, buildings, structures, which are likely to be used in the interest of national defense or will knowingly brought before or after their completion, defects them to make them unfit for use or cause an accident,
- 3- Any Tunisian who knowingly participates in an action to destroy the morale of the army or the nation in order to harm the national defense

**Article 60c (Added by decree of 10 January 1957)**

Any foreigner who commits any of the acts referred to in paragraphs 2, 3, 4, 5, of the article 60 and article 60c of this Code, is guilty of espionage and punishable with death.

**Article 60d (Added by decree of 10 January 1957)**

The following are considered secrets of National defense;

- 1- Military, diplomatic, economic or industry information, which by their nature, must be known only to person qualified, and must, in the interest of national defense, be kept secret

from any other person.

2- Objects, materials, writings, drawings, maps, surveys, photographs, other reproductions and any other document which, by their nature, must be known only to persons qualified to use or hold them, must be kept secret from any other person; as this may lead to the discovery of information belonging to one of the categories mentioned in the preceding paragraph

3- Military information of any nature not made public by the government, which the law prohibits the publication, broadcasting, disclosure or reproduction, and which are not included in the lists above,

4- Information relating to either the measures taken to search for the perpetrators of crimes against the external security of the state and their accomplices and their arrest or the conduct of criminal prosecution, trial or pleadings before the trial courts

#### **Article 61 (Modified by decree of 10 January 1957)**

Any Tunisian or foreigner who is guilty of endangering the external security of the state will be punished according to the penalties provided in article 62 of this Code:

- 1- An act of hostility not approved by the Government of Tunisia exposes the country to war,
- 2- Which will, by acts not approved by the government, expose Tunisia to attack,
- 3- Which in times of peace, within Tunisian territory, employs soldiers for a foreign country.
- 4- Who in time of war, has maintained, without government permission, correspondence or contacts with subjects or agents of an enemy power.
- 5- Who in times of war, proceeds in defiance of prohibitory provisions provided, continue to do business directly or through an intermediary, with an enemy state,

#### **Article 61b (Added by decree of 10 January 1957)**

Any person, whether a Tunisian or a foreigner, is guilty of infringement of the external security of the state and is punishable according to article 62 of this code:

- 1- When he undertakes by any means to infringe on the integrity of the Tunisian state.
- 2- When he meets with officials of a foreign state, with the aim to undermine military or diplomatic relations of Tunisia,

#### **Article 61c (Added by decree of 10 January 1957)**

Any Tunisian or foreigner, who breaches the external security of the as provided bellow, will be punished as provided by article 62 of this code:

- 1- When without intention to divulge the information to a foreign state or its agents, monopolizes by any means what so ever the secrets of national defense or would have handed, in any manner or any means possible, information not supposed to be known to the public, to the public or to persons not entitled to know,
- 2- When, through carelessness, negligence or breach of regulation causes the destruction, removal or abduction, in whole or in part, even provisionally, the object, material, information or documents entrusted to him and whose disclosure could lead to the discovery of secret of national defense, or allows the copying or reproduction of such knowledge, even in whole or in part,
- 3- Who, without prior authorization of a competent authority delivers or communicates to a person acting on behalf of a foreign power or a foreign company, an invention involving national defense, or information, studies or processes related to fabrication with such an invention or an industrial application of interest to the National Defense.

#### **Article 61d (Added by decree of 10 January 1957)**

Any Tunisian or a foreigner guilty of damage to the external security of the state as punishable under article 62 of this code, without prejudice where appropriate punishable as attempted

crimes as provided in article 60 and 60b of this code:

- 1- Which will be introduced in disguise or a false name or concealing its quality or nationality, in a fortress, book, post, arsenal, barracks, warships or employee for national defense aircraft, military vehicle military establishments or naval establishment, of any nature whatsoever, establishment or construction site working for national defense,
- 2 - Who, even without concealment of identity or conceal without his name, quality or nationality, organizes clandestinely, any means of communication or transmission in a distance that could be prejudicial to the defendant's state
- 3- Who without being authorized by the Tunisian authorities or diplomatic convention, flies a foreign aircraft over Tunisian territory,
- 4- Who will execute in a prohibited area, without permission of the military and marines, drawings, photographs, maps showing the inside and outside of the military or maritime structures,
- 5- Who would have remained in defiance of a lawful prohibition from and around military and maritime establishments.

**Article 62 (Modified by Law No. 89-23 of 27 February 1989)**

Any person, who courses damage to the external security of the state, shall be punished by imprisonment of twelve years if committed in time of war and five years if committed in time peace. An attempt to commit such crime is equally punishable and Article 53 will not be applicable. However, it can be applicable with accessory penalties enacted by Section 5 of this Code for not less than five years or twenty years and above.

**Article 62b (Modified by Law No. 89-23 of 27 February 1989)**

The penalties provided in this chapter shall be construed to acts committed against any government linked to Tunisia by a treaty or international convention in place.

CHAPTER TWO

ATTACKS AGAINST THE INTERNAL SECURITY OF THE STATE

**Article 63**

The attack against the life of the head of state is punishable by death

**Article 64 (Modified by Law No. 89-23 of 27 February 1989)**

Any person who carries an assault on the Head of State is liable to punishment of fifteen years of imprisonment and a fine of one hundred and twenty thousand dinars.

**Article 65 and 66 (Repealed by the decree of 31 May 1956)**

**Article 67 (Modified by the decree of 31 May 1956)**

Any person, except as provided in article 42 and 48 of this code, who is guilty of an offense against the head of state, is liable to punishment of three years imprisonment, and two hundred and forty dinars or one of these two penalties.

**Article 68 (Modified by Law No. 2005-45 of 6 June 2005)**

Any person who conspires to commit an attack against the internal security of the state as provided by articles 63, 64 and 72 of this code, is liable to a punishment of five years imprisonment.

If the conspiracy to execute the attack on the state is not premeditated, the act is punished by an imprisonment of two years.



**Article 69**

Conspiracy is when; two of more people agree to coordinate an action.

**Article 70 (Modified by Law No. 2005-45 of 6 June 2005)**

Any person who proposes to organize a conspiracy in order to commit an attack against the internal security of the state under article 63, 64 and 72 of the penal code is liable to punishment of two years imprisonment.

**Article 71 (Modified by Law No. 2005-45 of 6 June 2005)**

A person will be punished for one year if he begins preparation to carry an attack against the internal security of the state.

**Article 72**

Any person who attempts to overthrow the government encourages people to arm themselves against each other, cause disorder, murder and looting in the Tunisian territory, is punishable to death

**Article 73 (Modified by Law No. 89-23 of 27 February 1989)**

Any person who during unrest, agrees to replace a legally constituted authorities will be punished with life imprisonment and a fine of two hundred thousand dinars.

**Article 74**

Any person who organizes armed robbery with the aim to loot the funds of the state or of individual or to seize movable or immovable properties.

**Article 75 (Modified by Law No. 89-23 of 27 February 1989)**

Any person who knows the purpose and character of a gang and agrees to share with them, keep them, without hesitation provides weapon, homes, and places of retreat or meeting, shall be punished with imprisonment of twenty years and a fine of two hundred thousand dinars.

**Article 76 (Modified by Law No. 89-23 of 27 February 1989)**

Any person who uses explosives to burn or destroy buildings, military ammunition warehouse, or other properties rented by the state, is punishable by death.

**Article 77**

If any group of people armed or not, commits an act of violence against persons or against properties, each member is punished with ten years imprisonment

**Article 78**

Any person who encourages a group of people, whether armed or unarmed, within a vessel, or environment or within a confined property, with intends to engage in assault, will be punished with imprisonment of three years.

**Article 79**

Any person who joins a crowd to disturb public peace, with intention to commit an offense or to resist enforcement of the law, or a trial, will be punished with imprisonment of two years.

The penalty will be three years if two or more members of the crowd are carrying a visible or hidden weapon, without prejudice to the provisions of Law No. 69-4 of 24 January 1969 relating to public meetings, processions, parades, demonstrations and gatherings.

### **Article 80**

People who have knowledge of a conspiracy against the state, and before an attack to the state, denounce their action by reporting such action to a competent authority, judiciary, before such action is executed, or before their arrest, will be exempted from punishment.

## CHAPTER FOUR ATTACKS AGAINST PUBLIC AUTHORITIES BY INDIVIDUALS

### SECTION ONE - REBELLION

#### **Article 116**

Any individual who exercises or threatens to exercise violence in resisting the actions of a public officer acting in due authority or any one lawfully required to assist the said official, is liable to punishment by a six months imprisonment term and a forty-eight dinars fine.

Any individual who exercises or threatens to exercise violence on public officers, to compel them to act or to not act as demanded by their functions will be punished with the same penalties provided in the preceding paragraph

The sentence is three years imprisonment and a one hundred and twenty dinars fine if the offender is armed.

#### **Article 117 (modified by law n°89-23 of February 27<sup>th</sup> 1989)**

The sentence is three years imprisonment and a two hundred dinars fine if the rebellion was carried out by more than ten unarmed persons.

If at least two persons among these people were armed the sentence suffered by everyone is six years imprisonment.

#### **Article 118**

The definition of the word, dangerous weapon, as defined in the two preceding chapters include, any sharp, piercing or blunt instrument.

Stones and other projectiles that are hand-held including batons can only be considered arms when they were used in killing, hurting or to threaten.

#### **Article 119**

Everyone having participated in an armed or an unarmed rebellion during which assault was exercised on a public official in the exercise of his functions is liable to be punished with five years imprisonment if the assault was carried out by less than 10 persons, 10 years if the assault was carried out by more than 10 persons, without affecting the penalties prescribed by this code against the perpetrator of assault and injury.

If the assaults were a determining factor in the death of the public officer, perpetrators will be punished with a penalty of 12 years imprisonment, without affecting the penalties made against the perpetrator on homicide **(Modified by law n° 89-23 of February 27<sup>th</sup> 1989)**.

#### **Article 120**

A conspiracy created to commit violence against public officers is punishable by a three years prison term if the conspiracy was not premeditated.

If the act was premeditated, the punishment is 5 years.

### **Article 121**

Anyone who provokes violence either by speeches made on the spot or public meetings, placards, written or printed posters, is punished as a participant in a rebellion.

If the rebellion did not take place, the perpetrator is punished for a year in prison.

### **Article 121b (Added by organic law n°2001-43 of May 3<sup>rd</sup> 2001 amending the press code)**

When done knowingly, the sale, distribution and the reproduction of prohibited works, the publication or the distribution under a different title or name of a prohibited book or work are punishable with a prison term of between 16 days and one year and a fine ranging from 60 to 600 dinars.

The Ministries of interior proceed will to order administration stop the reproduction or publications, and seize all banned books or works.

### **Article 121c (Added by organic law n° 2001-43 Of May 3<sup>rd</sup> 2001, amending the press code)**

The distribution, sale, exposure for the public view and detention for distribution, exposure for the purpose of propaganda, leaflets, tracts, newsletters of foreign origin or not, that are likely to harm public order and morale are prohibited.

Any breach to the prohibitions in the preceding paragraphs may also lead to the immediate seizure, imprisonment for 6 months to 5 years and a fine of 120 to 1,200 dinars

### **Article 122**

The perpetrators of crimes committed during a rebellion are punished with penalties provided for such offences if both are stronger than those of the rebellion.

### **Article 123**

The sentence pronounced against the perpetrator of the rebellion who is already a prisoner, adds to that which he is already serving

If the perpetrator of the rebellion is in custody on remand, the sentence pronounced for rebellion is added to that which would have been served.

In case of dismissal or acquittal, the author of the rebellion suffers the penalty which is applied to him for this title before his release.

## SECTION V THREAT TO THE HONOR OR REPUTATION OF INDIVIDUALS

### **Article 245**

Defamation is any claim or accusation of a public authority, of an act that violates the honor integrity of a person or a corporate body.

The proof of the defamation may be established as provided in Article 57 of the `code of the Press`

### **Article 246**

Slander is when:

- 1) The fact defamation has been judicially declared not established.
- 2) The defendant can produce evidence of that fact in the case where the law authorizes

Slander is punishable even if the allegations have been made in writing, not made public, but addressed or sent to two or more persons.

**Article 247**

Any person guilty of defamation, is liable to punishment by six months of imprisonment and a fine of two hundred and forty dinars.

Any person guilty of slender is liable to punishment by one year of imprisonment, and a fine of seven hundred and twenty dinars.

**Article 248 (Modified by Law No. 57-73 of 4 July 1958)**

Any person who by whatever means, makes a false accusation against one or more person with administrative or judicial positions or who acts in a way to undermine a competent hierarchical authority, or his employer, is liable to be punished with imprisonment of two to five years and a fine of seven hundred and twenty dinars.

The court may also order the referrals of part or whole decision from a single or multiple sources at the expense of the accused.

If the act complained of is likely to result to a criminal sanction or a disciplinary proceeding, the accused, can decide to, by virtue of this code, after the trial or stay of proceedings or discharge, or stop, not emanating from the presiding judge, or after filing of termination by the magistrate, official, authority concerned, or employer who is familia with, and can assess the following to give the information

The court can under the present article, order a stay of proceeding if the pending prosecution is stopped.

**Article 249**

An excuse or an argument of the fact that, the writings, printed pictures or objects used in the publication of the prosecution was made in Tunisia or abroad, would not be accepted.