

**Law by Decree No. 9 of 2018
Concerning the High Criminal Court**

**The President of the State of Palestine
The Chairman of the Executive Committee of the Palestine Liberation Organisation**

In reference of the provisions of the Amended Basic Law of 2003, as amended, particularly Article 43 thereunder,

Having reviewed the provisions of the Law of the Judicial Authority No. 1 of 2002,

Having reviewed the provisions of the Law on the Formation of Regular Courts No. 5 of 2001, as amended,

The provisions of the Law of Penal Procedure No. 3 of 2001, as amended,

The provisions of the Penal Law No. 16 of 1960, as amended, in force in the Northern Governorates,

The provisions of the Penal Law No. 74 of 1936, as amended, in force in the Southern Governorates,

The provisions of the Law by Decree No. 18 of 2015 Concerning the Combating of Drugs and Psychotropic Substances,

The provisions of the Law by Decree No. 24 of 2017 Concerning the High Criminal Court,

Based upon the recommendation of the Council of Ministers, dated April 10th, 2018,

Based upon the powers bestowed upon me, and

In accomplishment of the public interest,

In the name of the Arab Palestinian people,

I hereby promulgate the following Law by Decree:

Article 1

A specialised court to be called the “High Criminal Court” shall be established within the formation of regular courts and its permanent seat shall be in the capital Jerusalem.

Article 2

The High Criminal Court shall convene on a temporary basis in the city of Ramallah. It may convene upon a decision from the President of the High Court at the behest of its Presiding Judge, Attorney General, the accused or his attorney in any governorates, whenever necessary.

Article 3

The High Criminal Court shall be composed of a sufficient number of panels. Each panel shall be formed of three judges, whose grade is not lower than a judge at the Court of First Instance. The most senior of these shall be the Presiding Judge.

Article 4

A member of the Public Prosecution whose grade is not lower than a Head of Prosecutor’s District Office shall assume the representation of the Public Prosecution before the High Criminal Court.

Article 5

The High Criminal Court shall have the jurisdiction to hear the following crimes:

1. The crimes of murder, with the exception of manslaughter.
2. The crimes of rape, indecent assault, and criminal abduction.

3. The criminal offences committed against internal and external State security.
4. The criminal offences provided for under the Law by Decree No. 18 of 2015 Concerning the Combating of Drugs and Psychotropic Substances.
5. The crimes of selling or leasing any part of the Palestinian land to enemy States or any of their citizens or subjects.
6. The attempt, intervention and incitement to commit the crimes described in the foregoing Paragraphs of this Article.
7. The crimes associated with the crimes prescribed under the foregoing Paragraphs of this Article.

Article 6

The Public Prosecution shall launch the investigation as soon as it is informed of the crime. In accordance with the law, it shall be entitled to take all necessary precautionary measures in relation to the incident. It shall carry out the investigation and indictment in respect of the crimes, which fall within the jurisdiction of the High Criminal Court in accordance with the rules and procedures prescribed under the Law of Penal Procedure in force, unless this Law by Decree provides otherwise.

Article 7

The prosecutor may detain the accused person following his interrogation for a period of four days in the event the procedures of investigation thus require, provided that the detention is extended thereafter in accordance with the rules provided for by Article 8 of this Law by Decree, in the event one of the following cases is in place:

1. In cases of *flagrante delicto*.
2. Fear that the accused person might escape.
3. Fear that damage is caused to the interest of the investigation, either by exerting influence on the victim or witnesses, by contaminating physical evidence, or by concluding agreements with the rest of culprits in order to change or obliterate the truth.
4. Fear of grave breach of public security or order, which may result from the gravity of the crime.
5. In case the accused person does not have an identified permanent place of residence in Palestine.

Article 8

1. In accordance with the Law of Penal Procedure in force, the competent court may, after hearing the statements of the representative of the Public Prosecution, the arrested person or his counsel, release or detain him for a period that does not exceed fifteen days. His detention may also be extended for other periods, the total which shall not be more than three months.
2. No person may be detained for a period in excess of that provided for under Paragraph 1 above, unless the request for his detention was filed by the Attorney General or one of his assistants to the High Criminal Court. In such case, the period of detention may not exceed another three months.
3. The Public Prosecution must present the accused, before the six-month period referred to in the foregoing two paragraphs expires, to the High Criminal Court for the extension of his detention until the trial is completed.
4. In any case, the period of detention prescribed under the foregoing three paragraphs may not surpass six months. Otherwise, the accused shall be released immediately, unless he is referred to the High Criminal Court.

5. The holding of the accused person in custody may not, in all cases, be more than the term of the penalty prescribed for the crime, on the grounds of which he is being held in custody.

Article 9

The procedures provided for under Title III, Chapter 8 of the Law of Penal Procedure No. 3 of 2001 shall be applicable to release on bail and reconsideration of the crimes provided for under this Law by Decree.

Article 10

1. The Head of Prosecutor's District Office must issue forth the charging instrument in any case to which the provisions of this Law by Decree are applicable within a period of not more than seven days from the date of the closing of investigation thereof, and deposit it with the Attorney General within three days from the date on which he issued forth such instrument.
2. The Attorney General or one of his assistants shall issue forth the decision on referral to the High Criminal Court in the case and shall return the same to the Head of Prosecutor's District Office within a period of not more than seven days from the date on which the charging instrument was deposited with him.
3. The Head of Prosecutor's District Office must bring the accused before the High Criminal Court together with a charging instrument within three days from the date on which the case file was returned to him.

Article 11

1. The High Criminal Court shall hold its session to hear the case instituted before it within a period of time that does not exceed one week from the date of the deposition of the charging instrument before it.
2. The sessions of the High Criminal Court shall convene on successive days. It may not adjourn the trial for more than one week except in cases of necessity and for reasons which it shall state in the decision on adjournment.
3. The High Criminal Court shall assign the Head of Prosecutor's District Office and the civil claimant to submit their written pleadings within seven days from the date of the closing of the pleadings. The accused and the party liable to make civil reparation shall be assigned to submit their written pleadings within seven days from the date on which the Head of Prosecutor's District Office and the civil claimant submit their pleadings.
4. The pleadings submitted by the adversary parties shall be read out in the specified session and shall be annexed to the record of the sessions after they are signed by the Presiding Judge of the panel.

Article 12

1. The articles of the Law of Penal Procedure in force in relation to the trial of the indicted fugitive shall be applicable to the accused who was not arrested from the outset.
2. In the event the accused does not appear on the day and at the time allotted on the subpoena served to him in due form before the Court, he shall be tried as if he were present.
3. In the event the accused attends a session of the trial, but then withdraws from it for any reason whatsoever or is absent from a session of the trial after he appeared at one of its sessions, the High Criminal Court shall continue to hear the case as if he were

present. The decision may not be reconsidered, unless the High Criminal Court is convinced that his absence is attributed to a legitimate excuse, which the Court accepts.

4. The High Criminal Court, when the accused who was absent from previous sessions appears, must inform him of the proceedings conducted in his absence. It shall, thereafter, continue to hear the case.
5. The absence of any one of the accused persons shall not result in adjourning the trial or delaying the hearing of the case with regard to the rest of the accused persons.
6. In the event the indicted fugitive or the accused who has been put on trial as if he were present or is arrested before the term of the sentence expired by statutory limitation, the judgement and all the proceedings shall be deemed to be definitely null and the trial shall be repeated in accordance with the applicable procedures.

Article 13

1. Subject to the provisions of Articles 214 and 215 of the Law of Penal Procedure in force, in the event the accused confesses that he committed the crime, his confession shall be recorded using words that are closest to the expressions he used in his confession. In such case, the High Criminal Court may suffice with his confession and sentence him without hearing the witnesses. Otherwise, it shall decide to hear the statements of the prosecution witnesses without prejudice to the guarantees of defence. Unless the crime is punishable by capital punishment or imprisonment for life with hard labour, the High Criminal Court must complete the investigation.
2. The confession of the accused at the outset of the trial shall be deemed to be a mitigating reason, on condition of conciliation with the victim or his family or extinguishment of the personal right.

Article 14

1. The High Criminal Court shall render its judgement within a period of time that does not exceed two weeks from the date of the conclusion of the trial. It may adjourn the pronouncement of the judgement only once and for a period of time that does not exceed two weeks.
2. In the event the indicted fugitive who has been sentenced *in absentia* is arrested or turns himself in, he shall be retried in accordance with the proceedings provided for under the Law of Penal Procedure in force.

Article 15

The judgements and decisions rendered by the panel of the High Criminal Court in pursuance of this Law by Decree shall be subject to objection by appeal and cassation in accordance with the provisions of the Law of Penal Procedure in force.

Article 16

1. Appellate trials shall be conducted in the form of pleading in the event the judgement under appeal rules for capital punishment or imprisonment for life with hard labour, or the Attorney General or the sentenced person requests that they be conducted in the form of pleading in any of the appealed criminal sentences that fall within the jurisdiction of the High Criminal Court.
2. With the exception of the judgement on capital punishment or imprisonment for life with hard labour or the request of the Attorney General or the sentenced person in accordance with Paragraph 1 of this Article, the Court of Appeal shall consider the

criminal appeals relating to the sentences that fall within the jurisdiction of the High Criminal Court by close examination/ in detail.

3. With the exception of the judgement on capital punishment or imprisonment for life with hard labour, it shall not be a condition precedent in the pleadings that evidence is heard anew, unless the Court of Appeal deems it necessary.

Article 17

The High Criminal Court shall have the jurisdiction to hear the civil right of action for the compensation for the damage arising from the crime of whatever value. It shall hear such action following the penal case in accordance with the proceedings provided for under Chapter 2, Title I, of the Law of Penal Procedure No. 3 of 2001.

Article 18

In accordance with the provisions of this Law by Decree, all of the cases which have become to fall within the jurisdiction of the High Criminal Court shall be remitted thereto, unless the pleadings therein have been closed.

Article 19

The High Criminal Court shall be entitled to continue to hear the cases referred to it in conformity with the provisions of this Law by Decree from the point which they have reached, or to reconsider them by investigating them in accordance with the conditions and details of the case.

Article 20

Where no relevant specific provisions exist under this Law by Decree, the provisions of the Law of Penal Procedure in force shall be applicable.

Article 21

This Law by Decree shall be presented to the Legislative Council in the first session it convenes for approval.

Article 22

1. To materialise the goals intended by this Law by Decree, all of the provisions under any other law or piece of legislation shall be deemed to be repealed or amended to the extent to which they contradict the provisions of this Law by Decree.
2. The Law by Decree No. 24 of 2017 Concerning the High Criminal Court shall be repealed.

Article 23

All the competent authorities, each one within its sphere of jurisdiction, shall implement the provisions of this Law by Decree, which shall enter into force as of the date of its publication in the Official Gazette.

**Issued in the city of Ramallah on April 29th, 2018 Anno Domini.
Corresponding to Sha'ban 13th, 1439 Anno Hegira.**

Mahmoud Abbas

President of the State of Palestine

Chairman of the Executive Committee of the Palestine Liberation Organisation