

Law by Decree No. 24 of 2017
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 and its Amendments, particularly Article 43 thereunder,

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

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

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

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

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

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

Based upon the recommendation of the Council of Ministers, dated August 1st, 2017,

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. Its permanent seat shall be in the capital Jerusalem.

Article 2

The Court shall convene on a temporary basis in the city of Ramallah. It may convene upon a decision from its Presiding Judge in any governorates of the homeland whenever necessary, either *sua sponte* or at the behest of the Attorney General.

Article 3

The 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 a 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 Court.

Article 5

The 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 crimes 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 prescribed under 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. 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 Court in accordance with the rules and procedures prescribed under the Law of Penal Procedure, unless this Law by Decree provides otherwise.

Article 7

The prosecutor may detain the accused 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 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 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 of this Article, unless the request for his detention was filed by the Attorney General or one of his assistants to the competent court. In such case, the period of detention may not exceed three months.
3. The Public Prosecution must present the accused, before the six-month period determined under Paragraphs 1 and 2 of this Article expires, to the Criminal Court for the extension of his detention until the trial is completed.
4. In no case shall the period of detention prescribed under Paragraphs 1, 2, and 3 of this Article surpass six months. Otherwise, the accused shall be released immediately, unless he is referred to the Court.
5. The holding of the accused 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

1. The prosecutor may interrogate the accused before inviting his counsel to attend in the event of a flagrant crime, necessity, urgency or fear that the evidence may be lost, provided the grounds for precipitating the interrogation are stated in the record. The counsel shall have the right read statements of the accused after the interrogation is complete.
2. In the event the accused is not represented by counsel, or his counsel does not attend after he is invited, the prosecutor must, *sua sponte*, appoint a counsel for him.

Article 10

1. The Public Prosecution shall be entitled to issue an order for the release of the accused on bail at any time, either *sua sponte* or at the behest of the accused or his counsel, unless he is referred to the Court, at which point the release shall fall within the jurisdiction of the Court. This shall not breach the Court's right to detain or release the accused during the stage of preliminary investigation.
2. The issued order on release shall not prevent the Attorney General or one of his assistants from issuing a new order on the arrest and detention of the accused in case new evidence arises. In the event the [order on] release is entered by the Court, the new order on the arrest of the accused shall be issued forth by the same Court, upon the request of the Public Prosecution.

Article 11

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 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 Court together with a charging instrument within three days from the date on which the case file was returned to him.

Article 12

1. The 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 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 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 13

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 which was 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 Court shall continue to hear the case as if he were present. The decision may not be reconsidered unless the Court is convinced that his absence is attributed to a force majeure.
4. The 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.

Article 14

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 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 Court must complete the investigation. In the event the accused confesses at the outset of the trial, it shall reduce the legally prescribed penalty by the amount of one third, on condition of conciliation with the victim or his family or extinguishment of the personal right.

Article 15

The competent Court of Appeal, at the request of the Attorney General, shall be entitled to decide in the cases which fall within the jurisdiction of the Court to transfer the case from the panel which is competent of hearing the same to another panel of the same grade, when its hearing within the area of jurisdiction of the competent panel may disturb public security. The provisions of this Article shall apply to the stage of investigation.

Article 16

1. The 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. The Court 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 accused who has been sentenced *in absentia* is arrested or turns himself in, he shall be retried in accordance with the proceedings provided for under this Law by Decree and Law of Penal Procedure in force.
3. The judgements rendered by the Court shall be subject to summary execution unless the judgement rules for capital punishment.

Article 17

The judgements and decisions rendered by the 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 18

Appellate trials shall be conducted in the form of pleading in the event the judgement rules for capital punishment or imprisonment for life with hard labour. Other judgements on crimes and misdemeanours, which fall within the jurisdiction of the Court, shall be heard with close examination, unless the Court is of the opinion to conduct the trial in the form of pleading or in the event the sentenced party thus requests and it consents to the request or the Attorney General thus requests. With the exception of the judgement which rules for capital punishment and imprisonment for life, it shall not be a condition precedent that the pleading involves the hearing of evidence anew unless the Court deems it necessary.

Article 19

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

Article 20

The Court shall be entitled to continue to hear the cases remitted 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 21

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

Article 22

To materialise the goals intended by this Law by Decree, all of the provisions under any other law shall be deemed to be repealed or amended to the extent to which they contradict the provisions of this Law by Decree.

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 December 30th, 2017 *Anno Domini*.
Corresponding to Rabee' al-Thani 12th, 1439 *Anno Hegira*.**

**Mahmoud Abbas
President of the State of Palestine
Chairman of the Executive Committee of the Palestine Liberation Organisation**