

Annex 1

Draft Elementary Law n. published in 2013

Dated 2013

Related to the fight against terrorism and prevention of money laundering

Revised version based on recommendations issued by the International Conference on the new draft law for the fight against terrorism dated October 29, 2013

In the name of the People,
After adoption by the National Constitutional Assembly,
The President of the Republic issues the following law:

Preliminary Provisions

Article 1:

The purpose of this is to counter terrorism, its funding sources and money laundering, and to sanction perpetrators of terrorist acts in addition to supporting international efforts aimed at fighting of all forms of terrorism, blocking its sources of funding, and preventing the laundering of funds generated by criminal acts, in the framework of international, regional and bilateral agreements ratified by the Republic of Tunisia.

Article 2:

Authorities in charge of enforcing this law shall comply with constitutional guarantees and rely on international, regional and bilateral conventions ratified by the Republic of Tunisia in terms of human rights, protection of refugees and the Human International Law.

Article 3:

Terms used in this law refer to the following:

Terrorist organization: A structurally organized group made up of three individuals and more, set up for any period of time harmoniously working to commit terrorist acts defined in this law inside or outside the Republic of Tunisia.

Alliance: Agreement between three individuals or more aimed at perpetrating any of the crimes defined in this law, regardless of the presence of a structured organization or the clear distribution of roles among them or of the longevity of their agreement.

Transnational crime:

Transnational crimes include the following:

- If the crime is committed in the national territory, in a foreign country or in more than one country;
- If the crime is committed in the national territory, and has been prepared, planned, managed or directed in a foreign country;
- If the crime is committed in a foreign country and has been prepared, planned, managed or directed in the national territory;
- If the crime is committed in the national territory by an organized group perpetrating criminal activities in more than one country;

- If the crime is committed in the national territory with considerable impacts in a foreign country, or is committed in a foreign country with considerable impacts in the national territory.

Flying aircraft: An aircraft is considered to be flying from the time its external doors are shut after boarding of all passengers until doors are opened for deplaning. In case of forced landing, the aircraft will still be considered in a flying mode until specialized authorities take control of the aircraft, of its passengers and shipment.

In-service aircraft: An aircraft is in-service when pre-flight preparations are launched by the ground staff or by the flight crew to perform a flight and continues to be in-service for up to twenty four hours after landing of the aircraft.

People enjoying international protection: Individuals mentioned below when in a foreign country:

- 1- President of the Republic or member of an institution performing tasks of the President of the Republic as provided for by the constitution of the specified country in addition to members of his family accompanying him;
- 2- President of the Government or Minister of Foreign Affairs in addition to members of their families accompanying them;
- 3- Any State representative or employee or representatives or employees of governmental international institutions and their family members accompanying them;

Can enjoy the right for special protection as per the International Law.

Fixed platforms in the Continental Basin: An artificial island, an entity or a structure permanently fixed at the bottom of the sea in order to explore or exploit resources or for any other economic reason.

Funds: All types of assets acquired by various means, material or non material, fixed and non fixed, bonds and legal checks showing evidence of the property of said assets or existence of rights thereof.

Nuclear materials: Plutonium with the exception of materials with an isotopic concentration exceeding 85 percent of plutonium 238, and the equivalent supplying radioactive uranium 235 or the equivalent radioactive 233, and uranium including a set of equivalent mix available in nature, with the exception of raw materials or raw waste, and any other material including one or more of products stated above.

Nuclear plant:

- 1- Any nuclear reactor, including reactors used in the equipment of ships, vessels, planes, and spaceships as sources of energy for the functioning of ships, vessels, planes, and spaceships, or for any other reason;
- 2- Any plant or means of transportation used to produce, store, process, carry, use, handle or destroy radioactive materials; if damaged or trifled, considerable radiations or radioactive quantities may be leaked.

Radioactive products: Nuclear products and other radioactive products contain atomic species that spontaneously dissolve, leading to the emission of one or several types of ionizing radiations such as alpha, beta, gamma, and neutrons that may constitute real threats due to their radioactive and fissile characteristics, inducing death or major physical harm, and may also damage properties and the environment.

Biological weapons: Microbial or other biological factors, or toxins regardless of their origin or way of production, in unjustified types and quantities for prevention or protection purposes or for other peaceful reasons, weapons or communication modes designed to use such factors or toxins for hostile reasons or in armed conflicts.

Moral entity: Any entity holding its own resources and financial autonomy with regard to its members' or shareholder's assets, even in the absence of a legally granted corporate status.

Article 4:

Provisions of the Penal Code and the Code of Penal Procedures and provisions of legal texts related to some crimes in addition to special procedures specifically related to crimes concerned by this Law shall be fully enforced as long as they do not contradict with other provisions.

Children shall be subject to the Children Protection Code.

Chapter One

The Fight against terrorism and conviction

Section One: General Provisions

Article 5:

Any person publicly calling for the perpetration of acts of terrorism, and when calls, by nature or due to context may constitute real execution threats, shall be considered a perpetrator of acts of terrorism and shall be sentenced to half the sanctions provided for in this type of crimes.

Any person intending to commit acts of terrorism and when intentions are backed by preparations for execution shall be considered a perpetrator of acts of terrorism and shall be sentenced to sanctions provided therefore.

Article 6:

Administrative control shall be enforced on perpetrators of acts of terrorism for at least five years not to exceed ten years. This control shall not prevent the enforcement of all or some other complementary sanctions legally provided.

Article 7:

Moral entities shall be sued if their responsibility in the execution of acts of terrorism is demonstrated.

Sanctions shall be penalties equal five times penalties generally enforced on individuals.

The court of concern may decide to prevent subject moral entity from conducting any activity for a period not exceeding five years as it may decide to dissolve it.

Proceedings against the moral entity shall not prevent enforcement of sanctions provided for in this law on its representatives, managers or partners if their personal liability in acts in question is fully demonstrated.

Article 8:

Any person member of a terrorist organization or alliance, or having an individual project to commit an act of terrorism or a related act, and who takes the initiative to provide related authorities with data and information used to find about the crime and prevent its execution, shall be exempted from sanctions due.

This shall not restrain the court from enforcing administrative control or preventing subject individual to reside in specific areas for a period not to exceed five years.

Article 9:

Individuals mentioned in Article 8 of this Law shall be sentenced to half the sanctions initially applied for acts of terrorism **or for related acts** if data and information they conveyed to related authorities have prevented the execution of acts of terrorism **or related acts** or have prevented crimes or the killing of human beings, or enabled the identification of all or some perpetrators, or enabled their arrest.

Sanctions shall be twenty years imprisonment if the sanction initially planned for the crime is life term imprisonment or a harsher penalty.

Article 10:

The most severe sanction prescribed for acts of terrorism shall necessarily be applied when:

- Committed by individuals legally responsible for monitoring and sanctioning perpetrators, either as primary perpetrators or as participants;
- Committed by members of internal security forces, members of the armed forces or members of the customs administration, either as primary perpetrators or as participants;
- Committed by managers and administrators of sites, locations and facilities targeted by the act, or in charge of their security or working for subject facilities, either as primary perpetrators or as participants;
- Committed by making use of a child;
- **Committed by a terrorist organization or alliance;**
- **Committed by criminal recidivists,**
- **When the crime is transnational.**

Article 11:

If **during a terrorist operation** several criminal acts target the same entity and are inter-related, the perpetrator shall be sanctioned for each act separately.

If several terrorist crimes are committed at different times, perpetrators shall be sanctioned for each crime separately and sanctions cannot be merged.

Article 12:

Foreigners convicted for terrorist acts shall be expelled and deported from the Tunisian territory as soon as they complete their sentence.

Foreigners convicted in the framework of this Law shall be banned from entering Tunisia for a period of ten years if the crime was an offence and for life if the crime was felony.

Any offender shall be sentenced to one to five years and to a ten thousand dinar penalty.

Attempt shall also be sanctioned.

Section Two

Criminal acts and sentences provided

Article 13

Any person attempting by any means to do the following shall be considered a perpetrator of an act of terrorism:

First: kill a person or several people, or inflict them considerable physical damage;

Second: blast facilities of diplomatic and consular missions, and international organizations;

Third: Considerably ruin the environment putting residents' lives and health at risk;

Fourth: Ruin public or private properties, vital resources and infrastructures, transportation means, communication networks, information and computer systems or public facilities;

When the criminal act fulfills a personal or group project aiming by nature and by context to terrorize the population or to force down a state or an international organization to do or not to do an action.

A life term sentence and a two-hundred thousand dinar penalty shall be applied on any individual committing any of the acts mentioned in the first paragraph.

A twenty-year prison sentence and a one hundred thousand dinar shall be applied on any individual committing any act stated in paragraphs 2 and 3.

A ten to twenty year prison sentence and a fifty thousand to one hundred thousand dinar penalty shall be applied on any individual committing any of the acts mentioned in paragraph 4.

Article 14:

A ten to twenty year prison sentence and a fifty thousand to one hundred thousand dinar penalty shall be applied on any individual committing any of the following acts:

- 1- Control or hijack an **operating civilian aircraft regardless of the means**;
- 2- Commit violence against a person on an operating civilian aircraft if such an act jeopardizes the aircraft's safety;
- 3- Destroy or blast an operating civilian aircraft making it useless for operation or jeopardizing its safety when flying;
- 4- Put or facilitate in any way the installation of equipment or materials that may destroy or seriously ruin a flying civilian aircraft making it useless for operation or jeopardizing its safety when flying;
- 5- Destroy, ruin or disturb air navigation systems in a way to put the safety of flying aircrafts at threat;
- 6- **Use a flying aircraft to cause considerable physical damage or to seriously blast properties or the environment.**

The sentence shall be twenty-year imprisonment and a one hundred thousand dinar penalty if any of the acts results in permanent physical disability exceeding 20%.

The sentence shall be a life term imprisonment and a two-hundred thousand dinar penalty if any of these acts results in fatal casualties.

Article 15:

A ten to twenty year prison sentence and a fifty thousand to one hundred thousand dinar penalty shall be applied on any individual committing any of the following acts:

- 1- Drop or release a biological or nuclear or chemical weapon, or explosives, or radioactive materials or any other similar products from an airplane, resulting in killing humans or considerable physical damage or major destruction of property or of the environment;
- 2- Use biological, nuclear or chemical weapons or explosives or radioactive materials or similar products against or on flying aircrafts resulting in killing humans or considerable physical damage or major destruction of property or of the environment;
- 3- Transport or facilitate the transportation on an aircraft the following materials:

- Explosive or radioactive materials with the deliberate aim to kill or to induce considerable physical or material damage aiming at terrorizing people or forcing down a state or an international organization to do or not to do an action;
- Biological, nuclear or chemical weapons with deliberate intention;
- Source materials or special materials subject to fission or equipment or products specially designed to process, use or produce products subject to fission, knowing that their use in an explosive nuclear activity or in any other nuclear operation is not protected by any guarantee;
- Related materials, products, applications or technologies considerably contributing to the design, manufacturing or transportation of biological, nuclear or chemical weapons aimed for that use;

Sentence shall be twenty year imprisonment and a one-hundred thousand dinar penalty if any of these acts results in a permanent physical disability exceeding 20%.

The sentence shall be life-term and a two-hundred thousand dinar penalty if such acts result in fatal casualties.

Article 16:

A ten to twenty year prison sentence and a fifty thousand to one hundred thousand dinar penalty shall be applied on any individual deliberately putting at threat the safety of an airport by using a device, materials or weapons and committing any of the following acts:

- 1- Extreme violence against a person inside the airport;
- 2- Destroy facilities of a civilian airport and non operating parked aircrafts, or seriously damage their operational capacity;
- 3- Impede air traffic operations in a civilian airport.

Sentence shall be twenty year imprisonment and a one hundred thousand dinar penalty if any of these acts results in a permanent physical disability exceeding 20%. Sentence shall be life time and a two-hundred thousand dinar penalty if any of these acts results in fatal casualties.

Article 17:

A ten to twenty year prison sentence and a fifty thousand to one hundred thousand dinar penalty shall be applied on any individual taking control or hijacking a civilian ship **regardless of the method.**

The same sanctions stated in the previous paragraph shall be applied on any deliberating putting the safety of a civilian ship at threat during navigation by committing any of the following:

- 1- Violent acts against a person onboard the civilian ship;
- 2- Destroy a civilian ship or damage it and its shipment;
- 3- Put or facilitate in any way the installation of equipment or materials that may destroy or seriously ruin a civilian ship or its shipment;
- 4- Destroy maritime navigation systems, or damage them to make them non-operational;
- 5- Result in the physical damage of people when directly attempting to commit any of the acts specified in the previous chapters.

The same sanctions stated in paragraph one shall also be applied on any individual trying to terrorize people or to force down a state or an international organization to do or not to do an act through one of the following actions:

- 1- Use explosives, radioactive materials, biological, chemical or nuclear weapons onboard of a **civilian** ship or dropping subject materials in such a way this may lead to fatal casualties or to considerable physical or material damage;
- 2- Release oil, liquid natural gas or any other damaging product from a **civilian** ship, other than products and materials stated in the previous paragraphs, in quantities and in concentrations that may result in fatal casualties or in considerable physical or material damage;
- 3- Use a **civilian** ship in a way resulting in considerable physical or material damage.

The sanction shall be twenty years imprisonment and a one-hundred thousand dinar penalty if any of these acts leads to physical impairment or permanent disability exceeding 20%. The sentence shall be life-term imprisonment and a two-hundred thousand dinar penalty if such acts lead to fatal casualties.

Article 18:

A ten to twenty year prison sentence and a fifty thousand to one hundred thousand dinar penalty shall be applied on any individual illegally transporting the following materials on a **civilian** ship with no respect to ratified international conventions:

- 1- Explosives or radioactive materials;
- 2- Biological, nuclear, or chemical weapons with full awareness;
- 3- Source materials or special materials subject to fission or equipment or products specially designed to process, use or produce products subject to fission, knowing that their use in an explosive nuclear activity or in any other nuclear operation is not protected by any guarantee;
- 4- Related materials, products, applications or technologies considerably contributing to the design, manufacturing or transportation of biological, nuclear or chemical weapons aimed for that use;

Where the use of such materials is intentionally meant to result in or to raise the risk for death or major harm meant to terrorize people or to force down a State or an international organization to perform or not to perform a special act.

The sentence shall be twenty years and a one-hundred thousand dinar penalty if any of these acts results in physical impairment or permanent disability exceeding 20%.

Sentence shall be life time and a two-hundred thousand dinar penalty if any of these acts results in fatal casualties.

Article 19:

A prison sentence of one to five years and a five to ten thousand-dinar penalty shall be applied on any individual ill-intentionally disseminating rumors putting at risk the safety of **civilian** aircrafts and ships during navigation.

Article 20:

A ten to twenty year imprisonment and a fifty to one hundred thousand dinar penalty shall be sentenced to any individual attempting to take control or hold of a fixed platform in the continental shelf regardless of the method.

The same sanctions stated in the previous paragraph shall be applied on any individual intentionally threatening the safety of a fixed platform in the continental shelf by committing one of the following acts:

- 1- Acts of violence on a person present on the fixed platform standing in the continental shelf;
- 2- Destroy or damage fixed platforms standing in the continental shelf;
- 3- Put or facilitate in any way the installation of equipment or materials that may destroy or seriously ruin a fixed platform standing in the continental shelf;
- 4- Result in the physical damage of people when directly attempting to commit any of the acts specified in the previous chapters.

The same sanctions stated in paragraph one shall also be applied on any individual trying to terrorize people or to force down a state or an international organization to do or not to do an act through one of the following actions:

- 1- Use explosives, radioactive materials, biological, chemical or nuclear weapons onboard of fixed platform or dropping subject materials in such a way this may lead to fatal casualties or to considerable physical or material damage;
- 2- Release oil, liquid natural gas or any other damaging product from a fixed platform, other than products and materials stated in the previous paragraphs, in quantities and in concentrations that may result in fatal casualties or in considerable physical or material damage;

The sentence shall be twenty years and a one-hundred thousand dinar penalty if any of these acts results in physical impairment or permanent disability exceeding 20%.

Sentence shall be life time and a two-hundred thousand dinar penalty if any of these acts results in fatal casualties.

Article 21:

A six year to twelve year prison sentence and a twenty thousand to fifty thousand dinar penalty shall be applied on any individual delivering an explosive or a burning device, or a device designed to disseminate chemical or biological products, radiations, radioactive products or any other device that may bring about death or serious physical damage, or install, launch or explode that device in a location, in an open public space, in governmental and public facilities or in public transportation networks and infrastructures in order to:

- 1- Kill or cause major physical harm;
- 2- Seriously damage properties or the environment.

The sentence shall be twenty years and a one-hundred thousand dinar penalty if any of these acts results in physical impairment or permanent disability exceeding 20%.

Sentence shall be life time and a two-hundred thousand dinar penalty if any of these acts results in fatal casualties.

Article 22:

A six year to twelve year prison sentence and a twenty thousand to fifty thousand dinar penalty shall be applied on any individual committing any of the following acts:

- 1- Steal nuclear materials or acquire them through misappropriation;
- 2- Use violence and threat to require the acquisition of nuclear or radioactive materials or devices or to take control of a nuclear facility;
- 3- The same sanctions specified in the first paragraph shall be applied on any individual receiving, holding using or threatening to use, carry or change nuclear products, or manage or disseminate them, or use a nuclear facility or damage it in

a way that may induce or threaten the emission of radioactive products aimed for:

- The killing or serious physical harm;
- Major damage to properties and to the environment.

The sentence shall be twenty years and a one-hundred thousand dinar penalty if any of these acts results in physical impairment or permanent disability exceeding 20%.

Sentence shall be life time and a two-hundred thousand dinar penalty if any of these acts results in fatal casualties.

Article 23:

A life sentence and a two-hundred thousand dinar penalty shall be applied on any individual killing a person enjoying international protection.

Article 24:

A ten to twenty year imprisonment sentence and a fifty to one hundred thousand dinar penalty shall be inflicted to any individual committing one of the following acts:

- 1- Abduct, pull, change the direction or transport a person enjoying international protection from one place to another, or attempt to abduct, pull, change the direction or transport that person;
- 2- Arrest, imprison or hold in custody with no legal letter of request a person enjoying international protection;
- 3- Damage official buildings, private homes, or vehicles owned by institutions or individuals enjoying international protection, in a way that may threaten their lives and freedoms or the lives of people sharing with them subject facilities;

The sentence shall be raised to life-time imprisonment and a two-hundred thousand dinar penalty if subject acts result in physical impairment, disease or death.

Article 25:

A one to five year imprisonment and a five to ten thousand dinar penalty shall be applied on any individual committing violence on a person enjoying international protection.

Article 26:

A ten to twenty year imprisonment sentence and a fifty to one hundred thousand dinar penalty shall be inflicted to any individual arresting, imprisoning or holding by force with no legal letter of request another individual, when such acts include threats to kill, harm or extend the custody of that hostage in order to force down another party, a State, a governmental international organization, a person, a moral entity or a group of people to perform or not to perform an act as a prerequisite before releasing subject hostage.

Article 27:

A six year to twelve year prison sentence and a twenty thousand to fifty thousand dinar penalty shall be applied on any individual threatening to commit crimes mentioned in the previous paragraphs in order to force down an individual or a moral entity to perform or not to perform an act.

Article 28:

A one to five year imprisonment and a five to ten thousand dinar penalty shall be applied on any individual publicly and in any way praising a terrorist crime, the perpetrator of a terrorist crime, an organization or an alliance connected with terrorist crimes, their members or their activities.

Article 29:

A **six** year to twelve year prison sentence and a **twenty thousand** to fifty thousand dinar penalty shall be applied on:

- Any individual deliberately joining in any way inside the Tunisian territory a terrorist organization or alliance connected with terrorist crimes, or participating in trainings inside Tunisia **with the aim of committing terrorist crimes**;
- Any Tunisian deliberately joining in any way outside the Tunisian territory a terrorist organization or alliance or participating in trainings outside Tunisia **with the aim of committing terrorist crimes**.

The sentence shall be ten to twenty years imprisonment and the penalty shall range between fifty and one hundred thousand dinars for leaders and trainers of subject organizations and alliances.

Article 30:

A **six** year to twelve year prison sentence and a **twenty thousand** to fifty thousand dinar penalty shall be applied on any individual committing the following acts:

- 1- Use the national territory to recruit or train a person or a group of people in order to commit a terrorist act as specified in this Law inside or outside Tunisia;
- 2- Use the national territory to commit any of the terrorist acts specified in this Law against another country or its citizens, or to conduct preparatory works thereof.

Article 31:

A **six** year to twelve year prison sentence and a **twenty thousand** to fifty thousand dinar penalty shall be applied on any individual committing any of the following acts:

- 1- Provide **in any way** weapons, explosives, munitions, and any other materials, products, equipment or **reserves** in favor of a terrorist organization, alliance or individuals connected with acts of terrorism specified in this Law;
- 2- Disclose or provide, whether directly or indirectly, information to a terrorist organization, alliance or individuals connected with acts of terrorism specified in this Law in order to help them commit subject acts, or hide them, take profit of them or prevent their sanctioning;
- 3- Provide a facility for the meetings of the terrorist organization, alliance or individuals connected with acts of terrorism specified in this Law, or provide them with shelter, hide them or help them to escape, in order not to be discovered and sanctioned, or take profit of their acts;
- 4- **Design or forge a national identity card, a passport or any other license or certificate specified in articles 193 to 199 of the Penal Code in favor of a terrorist organization, alliance or individuals connected with acts of terrorism specified in this Law.**

Article 32:

A **six** year to twelve year prison sentence and a **fifty thousand to one hundred thousand dinar** penalty shall be applied on any individual committing directly or indirectly and in any way one of the following acts:

- 1-** Donate or collect money knowing that the purpose of the money is to fund individuals, organizations, or activities connected with terrorist crimes, regardless of whether the source of donated or collected funds is legal or corrupt;
- 2-** Hide or facilitate the dissimulation of the real origin of funds, real estate, revenues, or profits belonging to individuals or moral entities, regardless of the form, or accept their deposit under fake names or their merging with other assets, knowing that the purpose of the money is to fund individuals, organizations, or activities connected with terrorist crimes, regardless of whether the source of donated or collected funds is legal or corrupt;

It shall be possible to increase the amount of the penalty five times as much as the amount of subject funds.

Article 33:

A one to five year imprisonment and a five to ten thousand dinar penalty shall be applied on any individual refusing, even for reason of professional secret, to immediately inform related authorities about acts he may have come across or information he may have heard about plans or **possibilities** to commit acts of terrorism.

The following individuals are exempt from provisions of the previous paragraph: the father and the mother, sons and daughters, brothers and sisters and the spouse.

Exemptions **also** include lawyers with regard to secrets they can have access to in the framework of their mission. This exemption does not cover information they may come across and which transmission to related authorities may prevent future acts of terrorism.

No claim for compensation or penal proceedings can be launched against individuals conveying information with good intentions.

Article 34:

A three to six-month imprisonment and a 100 to 1200 dinar penalty shall be applied on witnesses failing to witness acts of terrorism, with no prejudice to enforcement of harsher sanctions provided for in article 241 of the Penal Code.

Section Three

Law Enforcement Officers

Article 35:

Law enforcement officers who are eligible to examine terrorist crimes working under the authority of the Tunis Primary Court shall be able to perform their tasks throughout the Tunisian territory with no territorial limit.

Article 36:

Law enforcement authorities shall immediately inform their supervising Attorney General about any information they receive about terrorist crimes and shall immediately inform authorities of

concern if suspicions include members of the internal security forces, the armed forces or the customs administration.

Attorneys General in primary courts shall immediately convey such notifications to the Tunis based Attorney General to decide about following procedures.

Section Four

Public Prosecutor's Office

Article 37:

The Public Prosecutor at the Tunis primary court shall be responsible for the initiation of public proceedings concerning terrorist crimes and related **crimes**.

Article 38:

Public prosecutors in other primary courts shall be liable to conduct necessary initial investigations in order to examine the crime scene, collect information, and identify perpetrators; they shall also receive optional notifications, claims, minutes, and reports drafted about the matter, as they shall interrogate suspects brought to them and may when necessary ask to extend custody of suspects and promptly deliver them to the Tunis based Public Prosecutor along with reports and drafted minutes as well as with pieces of evidence confiscated to find the truth.

Article 39:

The Tunis based Public Prosecutor shall immediately inform the Attorney General at the court of appeal of Tunis about findings of investigations made on terrorist crimes and shall immediately ask the examining magistrate sitting in his district to launch an investigation.

Article 40:

Public proceedings concerning acts of terrorism are barred after twenty full years for felony and ten full years for offences starting from the day of the crime, provided no further investigations or proceedings are undertaken during subject prescription period.

Section Five

Investigations

Article 41:

Investigations are mandatory in crimes of terrorism.

The examining magistrate at the primary court of Tunis shall perform duties throughout the Tunisian territory with no territorial limitation.

Article 42:

The examining magistrate shall confiscate weapons, munitions, explosives and other materials, equipment, machinery and documents prepared or used in the crime or to facilitate execution of the crime.

He shall also seize all items which manufacture, possession, use or commercialization may constitute crimes.

A list of all seized items and products must be drafted with the presence of suspects or individuals holding subject items whenever possible, then the examining magistrate shall draft

minutes of the confiscation operation including a detailed description of all seized items, their characteristics and other pertinent information including confiscation date and the case number.

Article 43:

The examining magistrate may decide by himself or at the request of the Public Prosecutor's Office to put fixed and non-fixed assets, real estate properties and financial assets seized from suspects in foreclosure and to decide about the way they should be managed or when necessary to hold them as credit assets.

The examining magistrate may provide suspects with a portion of their funds to cover basic life needs for themselves and for their families, as he may lift all measures and procedures even without a request.

Article 44:

Witnesses shall be listened to individually, in the absence of suspects, without referring to written documents, after checking their civil status and any possible calumny raised against them.

The examining magistrate shall confront them with suspects and other witnesses only with their approval.

Article 45:

If witnesses fail to fulfill their duties, the examining magistrate may draft separate reports to the General Attorney who may decide to bring subject witnesses before specialized courts according to the direct proceeding system, with no prejudice to the decision to conduct an investigation.

Section Six

Judicial Courts

Article 46:

The Tunis primary court shall be the only court among other judicial or military courts to examine terrorist crimes and related crimes when committed:

- Within the Tunisian territory,
- Onboard an aircraft registered in Tunisia or onboard a passengers aircraft landing in Tunisia with the perpetrator still onboard;
- Onboard a leased aircraft with no crew to the profit of an operator based or permanently residing in Tunisia;
- Against or onboard a vessel flying the Tunisian flag when the crime is committed.

Article 47:

Provisions of articles 42 and 43 of this Law shall be applied by judicial courts.

Article 48:

The court shall rule for the liquidation of funds that are directly or indirectly acquired from crimes even if transferred to another financial entity, whether remaining in the form of funds or transformed in different assets.

In case subjects assets cannot be seized, the penalty shall in no case be less than the value of funds concerned by the crime and meant for liquidation.

The court shall also rule for the liquidation of weapons, munitions, explosives and other materials, equipment or machinery used to commit the crime or to facilitate its execution, and all items which manufacture, possession, use or commercialization may constitute a crime.

Article 49:

The court can rule to seize all non-fixed assets and real estate properties belonging to convicted individuals in addition to all or part of their financial assets if **evidence shows** that they have been used to fund individuals, organizations or activities connected with terrorist crimes.

Article 50:

Objections do not stop imprisonment in the case of terrorist crimes.

Section Seven

Private investigations

Article 51:

In cases of required additional investigations, it is possible to resort to phone-tapping that shall be authorized and justified in writing by the Attorney General or by the examining magistrate.

Phone-tapping include data on traffic, tapping phone calls, or studying the content of **calls** in addition to copying and recording phone calls by means of appropriate techniques and with the help whenever necessary of telecommunications operators according to their the type of service they provide.

Data on traffic include the **origin of the calls**, the destination, the path of the call on the network, the date, time, period and type of service.

The decision issued by the Attorney General or by the examining magistrate shall include all elements identifying communications and calls subject of the tapping request, the type of actions and their duration.

The phone-tapping period shall not exceed four months starting from the decision date, and can be extended once for the same period by means of a duly justified decision.

The party in charge of phone-tapping shall inform the Attorney General or the examining magistrate depending on the case about procedures **that have been taken to enforce it and when the phone-tapping operation has actually started.**

The decision provided for in this article can be reviewed anytime.

Article 52:

The party in charge of phone-tapping shall perform its duties in conjunction with and under the authority of the Attorney General or the examining magistrate depending on the case, and shall inform him about progress of the phone tapping operation in order to enable him to take appropriate measures for smooth investigations.

Article 53:

The party in charge of phone-tapping shall draft a report when the operation is complete including a description of measures taken, operations performed, and results, and must also

necessarily include data that have been collected, copied or recorded in addition to data that have been learnt, read and understood.

If data collected from phone-tapping do not result in penal proceedings or conviction according to provisions of this Law, they shall be protected based on legislation in force with regard to the protection of personal data.

Article 54:

Whenever required by the investigation, it shall be possible to resort to infiltrations by means of a plain-clothed police officer or a certified informant, duly authorized by **Law Enforcement Officers** eligible to investigate terrorist crimes.

Interceptions shall be authorized in writing by the Attorney General or by the examining magistrate and shall be performed under his control **for a period not exceeding four months** that can be renewed once with a well justified decision.

The decision provided for in this article can be reviewed anytime.

Article 55:

The decision issued by the Attorney General or the examining magistrate shall include fingerprints, the gene records and the fake identity used by the interceptor. The authorization shall be valid throughout the Republic of Tunisia.

The interceptor's real identity shall in no case be disclosed.

Any person disclosing this identity shall be sentenced to five years imprisonment and to a ten thousand dinar penalty.

If disclosure results in violence and injuries against the interceptor, his/her spouse, children or parents, the sanction shall be seven years imprisonment and a fifteen thousand dinar penalty.

If disclosure results in the death of the interceptor or of any other person mentioned in the previous paragraph, sanctions shall be a ten-year imprisonment and a twenty-thousand dinar penalty with no prejudice to enforcing the harshest sanctions related to premeditated assassination.

Article 56:

Interceptors shall not be held liable from a penal point of view for actions required by intercepting activities.

Article 57:

The Law Enforcement Officer in charge shall monitor the intercepting operation and draft reports there about to the Attorney General or to the examining magistrate whenever required as well as at the end of the intercepting activity.

The file shall only include the final report.

Article 58:

Whenever required by the investigation, the Attorney General or the examining magistrate depending on the case may authorize in a **well justified written notice eligible law enforcement officers** to investigate terrorist crimes, by setting up a technical package aimed at capturing, recording and conveying words and photos of an individual or of several individuals secretly monitored in their **private space**, and in private or public locations or vehicles.

The decision of the Attorney General or the examining magistrate depending on the case shall include authorization to have access to private sites or vehicles even outside hours specified in Article 95 of the Penal Procedures Code and without the knowledge or permission of the owner of subject site or vehicle, or that of any other person holding authority on them.

The decision includes all elements defining **personal goods**, private and public sites or vehicles that can be subject to audiovisual monitoring, in addition to actions required and their duration.

The duration of audiovisual monitoring shall not exceed four months from the **decision date**, and can be extended only once for the same period by means of a well justified decision.

The decision stated in this article can be reviewed anytime.

The Attorney General, the examining magistrate and law enforcement officers may, depending on the case, resort to specialized and experienced agents to perform this task.

The entity in charge of performing audiovisual monitoring shall draft at the end of its mission a report including measures taken, operations conducted, their locations, dates, times, and results as well as audiovisual recordings collected and used to find the truth.

The translation of discussions held in a **foreign language** must be performed by a sworn translator.

If data collected from audiovisual monitoring do not result in penal proceedings or conviction according to provisions of this Law, they shall be protected based on legislation in force with regard to the protection of personal data.

Article 59:

A ten year imprisonment sanction shall be applied on any person **deliberately** unveiling data and information concerning phone tapping, interception or audiovisual monitoring, or data collected as a result of these activities, **with no prejudice to any sentence applied on more serious crimes.**

Article 60:

Pieces of evidence collected through phone tapping, interception or audiovisual monitoring shall be used only against crimes concerned by this Law.

Audiovisual records shall be destroyed with the presence of a representative of the Attorney General's Office when a final sentence issued for conviction or release. In addition, they shall also be destroyed when public proceedings are barred with time.

A report shall be drafted in that case.

Section Eight

Tunisian Committee to fight terrorism and prevent its financing

Article 61:

A committee referred to as the "**Tunisian Committee to fight terrorism and prevent its financing**" shall be created under the authority of the President of the Government, which fills in the Secretary General's position and provides it with facilities.

Article 62:

The Tunisian Committee for the fight against terrorism and preventing its funding is made up of the following members:

- A third degree judge as a chairperson;
- Expert representing the Presidency of the Government;
- Expert representing the Ministry of Justice;
- Expert representing the Ministry of Interior;
- Expert representing the Ministry of Foreign Affairs;
- Expert representing the Ministry of Defense;
- Expert representing the Ministry of Human Rights and Transitional Justice;
- Expert representing the Ministry of Social Affairs;
- **Expert representing the Ministry of Health;**
- Expert representing the Ministry in charge of Finance (Expert representing the Customs General Department);
- Expert representing the Ministry of Transport; and
- Representative of the Tunisian Committee for Financial Analyses.

Members of the Committee shall be appointed at the suggestion of concerned ministries and institutions for a three year mandate.

The Committee's chairperson may invite additional experienced and specialized experts to attend the committee's meetings in order to listen to their opinions concerned topics of interest.

The committee's organization and operation shall be defined in a decree.

Article 63:

The Tunisian Committee to fight terrorism and prevent its financing shall mainly be responsible of the following tasks:

- Issue guidelines that will enable stakeholders to monitor acts of terrorism and their financing operations, and issuing reports there about,
- Assist in the development of programs and policies aimed at preventing terrorism and its financing and to propose implementation,
- Coordinate efforts for the enforcement of procedures aimed at protecting persons concerned by protection as per provisions of this law and the procedures to provide assistance to victims,
- Facilitate communication between various ministries involved and coordinate their efforts and representation where appropriate, both internally and externally,
- Cooperate with non-governmental organizations involved in combating terrorism and preventing its financing, and help them to implement their programs in this regard,
- Collect data, information and statistics related to the fight against terrorism and its financing sources in order to design a database that will be used in the execution of tasks entrusted to them,
- Raise social awareness about dangers of terrorism and its financing through awareness campaigns, conferences, seminars, publications and directories,
- Hold training courses and conduct experts' training programs both internally and externally,

- Promote measures taken by the State to combat terrorism and prevent its financing, and prepare answers to issues of interest to international organizations specialized in that field,
- Contribute to research and studies to update legislations governing areas related to terrorism and the prevent of financing sources, which shall support the implementation of state programs in this regard,
- Perform tasks aimed for that purpose.

Article 64:

The Tunisian Committee to fight terrorism and prevent its financing shall reinforce cooperation with its counterparts in foreign countries in the framework of ratified international, regional and bilateral conventions.

Cooperation mentioned in the previous paragraph shall be made based on the equal treatment principle and on foreign counterparts' commitments within legislation in force, observing professional confidentiality, and refraining from sharing data collected with other parties, or using them for reasons other than the fight against crimes defined in this Law.

Article 65:

The Tunisian Committee to fight terrorism and prevent its financing shall prepare an annual report about its activities necessarily including suggestions and recommendations to improve national tools and mechanisms aimed at fighting terrorism and preventing its financing.

The Committee may also publish statements about its activities and programs.

Section Nine

Protection Mechanisms

Article 66:

Necessary measures shall be taken to protect legally liable individuals to investigate and sanction terrorist crimes including judges, law enforcement officers and public authority agents.

Protection measures shall also cover court assistants, victims, witnesses and any person having one or the other informed the authority about subject crimes.

Measures also concern when appropriate parents of individuals specified in the two previous paragraphs and all family members that may constitute a target.

The Tunisian Committee to fight terrorism and prevent its financing shall ask concerned authorities to take all necessary measures to protect individuals mentioned in the previous paragraph anytime such protection proves to be necessary.

Article 67:

Depending on the case, the examining magistrate or the president of the court may whenever appropriate or in case of danger conduct an investigation or ask to change the court meeting location, in addition to taking appropriate measures to protect defendant's rights for defense.

They shall be able to decide to interrogate defendants and receive other individuals' declarations through modern visual or audio applications without requiring the physical presence of subject individuals.

All appropriate measures shall be taken to keep the anonymity of interrogated individuals.

The legal entity in charge shall decide by itself or at the request of the Attorney General's Representative to hold secret sessions.

It is prohibited in this case to publish information about proceedings or decisions that may put at threat victims' private lives and reputation, in addition to other guarantees provided for in the legal literature.

Article 68:

Individuals referred in the third paragraph of the previous article may when invited to submit declarations before law enforcement officers, the examining magistrate or other judicial bodies, choose to be heard by the Tunis based Attorney General.

In this case, their identities and original places of residence shall be recorded in a sequential and duly signed secret register that can be opened only by the Tunis based Attorney General.

Article 69:

In case of an imminent threat and whenever required, it shall be possible to keep all data and information that may unveil the identity of the victim, witnesses and any person contributing in any way to informing concerned authorities about the crime in separate reports classified in files other than the original file.

In this case, identity of individuals listed in the previous paragraph and other information likely to unveil them including their signature, shall be kept in a sequential confidential file signed and kept by the Tunis Attorney General.

Article 70:

Suspects or their lawyers may ask the judicial entity in charge of the case to unveil the identity of individuals listed in the first paragraph of the previous article within ten days from learning about their declarations.

The judicial entity in charge may lift the measure stated above and unveil identity of subject individual if the request is considered to be grounded enough and if evidence shows that subject individual, his assets, his family and his family's assets will not be at risk.

The decision issued by the examining magistrate to accept or reject that request may be appealed at the level of the Court of Criminal Appeal within four days from its publication for the Attorney General and from its notification date for other parties.

Appeal shall not prevent further investigations.

Article 71:

Protection measures shall in no case prevent suspects and their lawyers from the right to read depositions and other documents included in the case file, in compliance with provisions of article 194 of the Penal Procedures Code.

Article 72:

A five to twelve year imprisonment sentence and a five to fifty thousand penalty shall be applied on any individual putting the life of subject individuals and their assets, or their families' lives and assets at threat by deliberately disclosing information that may unveil their identity.

A twenty-year imprisonment sanction and a one hundred thousand dinar penalty shall be applied on any individual committing acts of violence against persons listed in article 66 or against their assets, their families or their families' assets in order to take revenge in the framework of penal proceedings connected with terrorism crimes.

This shall not prevent enforcement of the sanction provided for the most serious crime.

Section Ten

Assistance to Victims

Article 73:

The Tunisian Committee to fight terrorism and prevent its financing shall work jointly with all concerned structures and institutions to provide necessary medical and psychological assistance to victims in need.

Assistance shall enjoy free medical care and assistance in public healthcare institutions.

The committee shall jointly work with concerned structures and institutions to provide necessary social assistance to victims in order to help them reintegrate social life.

Measures taken in this regard shall take in consideration victims' age, **gender** and special needs.

Article 74:

The Tunisian Committee to fight terrorism and prevent its financing shall raise the awareness of victims about various provisions related to judicial and administrative procedures that can help them to improve their conditions and receive appropriate compensations for any damage affecting them.

The committee shall follow up victims' files at the level of various public authorities with the help and coordination of nongovernmental organizations and shall assist them whenever necessary to overcome problems and obstacles.

Article 75:

Legal and judicial assistance shall be provided to victims of terrorism in order to launch civil and penal proceedings related to their case.

The committee shall assist victims in the constitution of their files requesting legal assistance according to legal procedures in force.

Requests for legal assistance shall be examined with regard to the victims' specific conditions.

Article 76:

Victims of terrorism holding final ruling for compensation that cannot be recovered from defendants shall be able to request subject compensation from the State Treasury.

The State shall assist victims in the recovery of funds considered to be public debts.

Section Eleven

Terrorist actions committed outside the Tunisian territory

Article 77:

The Tunis primary court shall be liable to examine terrorist crimes and **related crimes** committed outside the Tunisian territory in the following cases:

- When committed by a Tunisian citizen;
- When committed against Tunisian parties or interests;
- When committed against foreign parties or interests by a foreigner or a stateless person having permanent residency in Tunisia, or by a foreigner or a stateless person located in Tunisia and not requested by foreign judicial authorities before a final legal decision is issued by specialized Tunisian courts.

Article 78:

Public proceedings shall not be ceased in cases listed in article 77 of this Law to sue criminal acts with regard to regulations of the country where they are committed.

Article 79:

The Attorney General at the Tunis primary court shall have the exclusive liability to launch public proceedings related to terrorist crimes **and related crimes** committed outside Tunisia.

Article 80:

Public proceedings shall not be launched against perpetrators of terrorist crimes **and related crimes** if they show evidence that foreign judicial authorities have already started legal proceedings in that matter, and in case sanctions have been issued, evidence shall demonstrate that subject sanctions have been fully served, barred with time or amnestied.

Section Twelve

Extradition of criminals

Article 81:

Terrorist crimes shall in no case be considered as political crimes not requiring extraditions.

Terrorism financing crimes shall in no case be considered fiscal crimes not requiring extradition.

Article 82:

Terrorism crimes require extradition according to article 308 and following articles of the Penal Procedures Code when committed outside the Tunisian territory against a foreigner or against foreign interests by a foreigner or a stateless person located in Tunisia.

Extradition shall be made only concerned Tunisian authorities receive a formal request from a State holding rights as per its internal regulations, provided no ruling has already been issued in subject case by Tunisian courts.

Extradition shall not be made if there is clear evidence that the individual meant for extradition will be tortured or that the extradition request is meant to sue or sanction a person for racial, religious or gender reasons.

Article 83:

If decision is made not to extradite a person sued for any of the crimes listed in this Law, subject individual shall be immediately sued before the Tunis primary court if located in Tunisia, whether the crime is committed in Tunisia or outside Tunisia, and regardless of the defendant's nationality or lack of citizenship.

Article 84:

Sentences taken in the framework of terrorist crimes shall be barred in case of felony after thirty full years; defendants shall not be allowed to reside in the Governorate where they committed their crimes unless authorized by concerned administrative authorities or after serving sentences preventing them from residing in subject Governorate.

Sentences taken for offences shall fall in prescription after ten full years.

The prescription delay starts from the final verdict is made and from the date verdict in absentia is notified if the defendant is not personally informed, provided no evidence shows in executing the sentence that the defendant was actually aware of the verdict.

CHAPTER TWO**Fighting and Sanctioning Money Laundering****Article 85:**

Money laundering refers to any action aiming by any means to give wrong justifications about the illegal origin of funds, real estate or revenues directly or indirectly generated from offences or felony.

Money laundering also includes any deliberate act aiming at using funds directly or indirectly generated by offences or felony, then depositing, hiding, managing, integrating or merging subject funds, or assisting in any of the previous actions.

Provisions of the previous two paragraphs shall apply even if the crime generating money for laundering is not committed in Tunisia.

Article 86:

Perpetrators of money laundering shall be sentenced to one to six years in prison and to a five to fifty thousand dinar penalty. The penalty amount may be increased to half the amount of money subject to laundering.

Article 87:

A five to ten year prison sentence and a ten to one hundred thousand dinar penalty shall be applied if the crime is committed by:

- A recidivist having already committed money laundering crimes;
- An individual taking profit of facilities provided by his professional or social employment or activity;
- An organized group.

According to this article, an organized group refers to a group set up for a specific period of time, including a number of individuals with the agreement to commit a crime or several crimes.

The amount of the penalty can be increased to the value of funds meant for laundering.

Article 88:

If the prison sentence required for the initial crime generating money for laundering exceeds the sentence provided for the crime defined in articles 86 and 87, perpetrators of money laundering shall be sentenced to the initial crime if evidence shows they have known about.

In defining sentences required for money laundering, consideration shall be given to tougher verdicts applied on the initial crime when perpetrators of money laundering are aware of.

Article 89:

Sentences provided for in previous paragraphs shall also apply, depending on the case, to managers of moral entities when their responsibility is clearly asserted. This shall not prevent proceedings against subject entities if evidence shows that the laundering operation was made in their favor or that they have benefited from subject operation, or that laundering constitutes the main reason for their existence; the penalty shall amount to five times the penalty due on individuals and can be increased to the value of money meant for laundering.

This shall not prevent enforcement of disciplinary sanctions provided for by legislation in force including banning activities for a specific period or dissolution of the entity.

Article 90:

The court shall order the seizure of money meant for laundering and all other assets directly or indirectly generated by money laundering and their deposit in the State treasury. In case seizure cannot be operated, a penalty that can in no case be less than the crime's generated amounts shall be applied. The court may also prevent defendants from exercising professional or social employments and activities having facilitated money laundering operation(s) for a period not to exceed five years.

An administrative control may be imposed on perpetrators of money laundering for a period of five years. This shall not prevent the enforcement of all or some additional sentences provided by legislation in force.

CHAPTER THREE**Common provisions for the fight against terrorism and money laundering****Section One****Preventing illegal financial channels****Article 91:**

It is strictly prohibited to provide any type of support or funding to individuals, organizations, or activities directly or indirectly connected with terrorist crimes and other illegal activities through individuals or moral entities, regardless of their form or goal, even if no profits are made from this support.

Article 92:

Moral entities shall take the following preventive management rules:

- Refuse to receive donations or financial assistance from unknown origins or from illegal activities considered by the law to be an offence of felony, or from individuals, moral entities, organizations or structures known for their involvement inside or outside Tunisia in activities connected with terrorist crimes;

- Refuse to receive membership fees exceeding the legally defined ceiling;
- Refuse to accept other donations or financial assistance, regardless of their size, with the exception of some cases provided for by special laws;
- Refuse to receive funds from abroad, but only through an intermediate agent based in Tunisia, provided such operations are authorized by legislation in force;
- Refuse cash donations amounting to or exceeding five thousand dinars even when paid in various installments.

Article 93:

Moral entities shall:

- Keep daily accounting records including all receipts and expenses;
- Keep records of all receipts and transfers received from abroad, including detailed statements of amounts received, their justifications, transfer dates, the beneficiary(ies) (individuals or moral entities), with a copy to the Tunisian Central Bank;
- Prepare an annual budget;
- Maintain accounting books and logs in hardcopies and on electronic media for at least ten years,

Moral entities which annual receipts and expendable savings do not reach limits defined by the Minister in charge of Finance shall be exempt from this provision.

Article 94:

Provisions of the previous article shall constitute minimal accounting principles common to all moral entities; additional accounting rules shall be applied on special categories and their source of funding according to legislation in force.

Article 95:

When there are suspicions about specific moral entities' connection with individuals, organizations or activities related with terrorist crimes defined in the present Law, or when moral entities violate preventive governance rules concerning book keeping and accountings, the Minister in charge of Finance shall be liable to require preliminary authorizations before they can receive overseas financial transfers.

This measure shall be subject of a decision addressed to the moral entity's legal representative in a written form.

A copy of subject decision shall be sent to the Governor of the Central Bank, who shall inform the Tunisian Financial Analyses Commission and the different banking and non banking financial institutions; this may lead to requiring an authorization from the Minister in charge of Finance before clearing the transfer of subject funds to the moral entity.

Article 96:

In accordance with Tunisia's international commitments and after consulting with the Governor of the Central Bank, the Minister in charge of Finance may decide to freeze funds held by individuals or organizations that security authorities believe they have connections with terrorist crimes.

Freezing shall include material and non material funds, real estate, regardless of their nature of property, revenues and profits generated by hard or electronic bonds and checks, with clear proof of property but without jeopardizing rights of other well intentional proprietors.

Authorities in charge of enforcing the freezing decision shall take all appropriate measures as of its publication in the Tunisian Gazette, and shall report to the Minister in charge of Finance about the freezing operations and all necessary information to justify the Minister's decision.

No claim for compensation and no complaint shall be made to individuals or moral entities for enforcing the freezing decision with good intentions.

Article 97:

The Minister in charge of Finance may ask the Governor of the Central Bank to grant entities which funds have been frozen some of their funds to cover their basic needs and needs of their families including cost of housing.

Article 98:

Entities with frozen funds as per article 96 of this Law shall be able to ask the Minister of Finance to lift the freezing decision if they consider that subject decision was wrongfully taken.

The Minister in charge of Finance is the party that is liable to lift freeze on individuals and organizations which connection with terrorist crimes can no more be proved by security authorities.

Article 99:

The President of the territorial primary court shall order the execution of an external financial audit to be performed by one or several specialized auditors formally appointed at the request of the Minister in charge of Finance on moral entities suspected of connections with terrorist individuals, groups or activities as defined in this Law, or violating preventive management procedures pertaining to book keeping and financing.

Article 100:

Banking and non banking financial institutions and qualified professionals in charge of preparing or performing financial transactions in favor of their clients for the purchase or sale of real estate or commercial equities, or the management of customers' funds and their accounts, or which undertake procedures to create companies or other moral entities, or manage them or operate or monitor transactions and activities, or perform consultancy works shall take the most preventive and cautious measures in conducting their tasks.

Provisions of the previous paragraph shall also be applied on sellers of jewelry, precious stones and other valuable items and managers of casinos when dealing with their customers in the framework of transactions exceeding a value limit defined by the Minister in charge of Finance.

Article 101:

Entities mentioned in article 100 of this Law shall take the following preventive measures:

- 1) Investigate, based on official documents and other documents issued by reliable independent sources, the identity of regular and irregular customers and keep record of all data required for their identification;
- 2) Investigate, based on official documents and other documents issued by reliable independent sources the following information:
 - Identity of the beneficiary from the transaction and identity of the person performing the transaction on behalf of the first;

- Constitution of the moral entity, its legal form, official address, distribution of capital equities, identity of managers, legal representatives, as well as individuals having control or exercising pressure;
- 3) Collect information about business goal, objectives and nature.
- 4) When resorting to third parties, collect information required to identify the customer and confirm compliance of third parties with anti-money laundering measures and with measures to fight against terrorism financing channels, and take appropriate measures to ensure full compliance;

Such measures shall be taken particularly:

- At the first contact;
- When punctual transactions are performed at amounts defined by the Minister in charge of Finance, including bank and wire transfers;
- When there is suspicion about money laundering or financing terrorism;
- When there are doubts about the soundness of information provided ;

In case information cannot be confirmed or if they clearly seem unsound, individuals mentioned above shall refuse to open up bank accounts, start or continue business relations, perform activities or conduct operations, and consider denouncing suspicious conduct.

Article 102:

Entities mentioned in article 100 of this Law shall update data related to the identity of their customers and apply great caution throughout their business cooperation, examine their customers' transactions to check their compliance with other data and information related to their business mode, risks and origin of funds.

Article 103:

Entities mentioned in article 100 of this Law shall take measures for the following:

- Ensure that their branches and subsidiaries located overseas where they hold most equities are applying preventive measures to prevent money laundering and to fight terrorism financing channels, and that they have procedures to inform auditing authorities in case legislations of subject countries do not apply these measures;
- Provide appropriate systems to manage risks when dealing with individuals or family members having held or still holding senior public positions in foreign countries, and ensure preliminary authorizations are received from managers of moral entities before starting or continuing transactions with them, then closely monitor business relationships and take appropriate measures to identify the origin of their funds and resources.

Article 104:

When establishing business relations with foreign bank correspondents, Entities mentioned in article 100 of this Law shall:

- Collect enough information about foreign correspondents to identify the nature of their activity, assess their reputation, check efficiency of their auditing system based on data available, and check whether the previous is subject to auditing measures and procedures on the part of an auditing entity fighting money laundering and the financing of terrorism operations.
- Receive authorizations from the moral entity's manager before dealing with the foreign correspondent, and define in writing both parties' commitments;
- Refuse to start or continue corresponding relations with a virtual foreign bank, or build relations with foreign companies allowing virtual banks to use their accounts.

Article 105:

Entities mentioned in article 100 of this Law shall:

- Pay considerable attention to business relations with people residing in countries not applying or not enough applying various international standards in terms of money laundering and the fight against financing terrorism;
- Pay considerable attention to risks of money laundering or the fight against financing terrorism using modern technologies and take any required additional measure to prevent them;
- Implement special systems to manage risks related to business relations with people not physically present.

Article 106:

Entities mentioned in article 100 of this Law shall keep for ten years as of the end of business relations or close-out of accounts, all books, registers and other documents they worked on, both in hard copy and on electronic media, for future reference whenever required, to check various phases followed by financial operations and transactions performed at their level or through them, and to identify various stakeholders.

Article 107:

A declaration shall be submitted to customs authorities for every import, export or transit of foreign currency exceeding a specific amount defined by the Minister in charge of Finance.

Authorized brokers, delegates and financial representatives shall check the identity of every person conducting transactions in foreign currency in amounts defined by the Minister in charge of Finance and shall inform the Central Bank of Tunisia about such operations.

Article 108:

Parties in charge of the control of Entities mentioned in article 100 of this Law shall put in place programs and practical procedures to fight money laundering and terrorism financing channels and shall monitor their implementation.

Programs and procedures shall particularly include the following:

- A system to monitor suspicious operations and transactions, including appointment of assigned individuals as managers and the requirement to declare;
- Internal auditing procedures to ensure efficiency of the system;
- Permanent training programs for the staff.

Article 109:

Regardless of penal sanctions, any violation of preventive measures mentioned in articles 101, 102, 103, 104, and 105 of this Law shall induce disciplinary sanctions as per the disciplinary system in force concerning various Entities listed in article 100 of this Law.

The party in charge of following up subject individuals shall ensure enforcement of disciplinary measures in the absence of a specific disciplinary system.

Article 110:

The specialized disciplinary authority may take the following measures after listening to the person concerned by the case:

- 1- Warning;
- 2- Blame;

- 3- Prohibition to carry out the business or suspension of the license for a period not to exceed two years;
- 4- Termination of activity;
- 5- Final prohibition to conduct subject business and withdrawal of license;

These sanctions shall also be applied to managers and managers of the control council if evidence shows they are responsible for violating required prevention measures.

SECTION TWO

Fighting the financing of terrorism and money laundering

Part One

Financial Analyses Commission

Article 111:

A commission has been created within the Central Bank of Tunisia referred to as the "Tunisian Financial Analyses Commission" holding its meetings at the Central Bank of Tunisia, which acts as the Commission's Secretary General.

Article 112:

The Tunisian Financial Analyses Commission is made up of the following members:

- Governor of the Central Bank or his representatives, as Chair
- A third class judge
- An expert from the Ministry of Interior and Local Development
- An expert from the Ministry of Finance
- An expert from the Customs General Department
- An expert from the Financial Market's committee
- An expert from the National Post Office
- An expert from the General Insurance Committee
- An expert specializing in the fight against financial crimes

Members of the commission shall be appointed by decree for a three-year long mandate.

Members shall be fully independent from their initial offices when operating in the Committee.

The Commission shall include an orientation committee, a practical committee and the secretariat general. A decree shall define the Commission's organization and way of operation.

Article 113:

The Tunisian Financial Analyses Commission shall mainly be in charge of the following tasks:

- Issue guidelines and principles enabling Entities mentioned in article 100 of this Law to observe and denounce suspicious operations and transactions;
- Receive statements about suspicious operations and transactions, analyze them and report on their process;
- Help to design programs aiming at preventing illegal financial channels, fighting the financing of terrorism and money laundering;
- Contribute to research, training and study activities in areas of its scope;
- Represent various services and parties concerned by this area at the domestic and external levels, and facilitate communications.

Article 114:

In the framework of its tasks, the Tunisian Financial Analyses Commission may call upon administrative authorities to enforce the Law and to Entities mentioned in article 100 of this Law who shall provide it with all necessary information to help it find the true process of operations and transactions subject of statements received within legal deadlines.

The professional secret cannot be justified and informants shall not be sued for unveiling secrets.

Article 115:

The Tunisian Financial Analyses Commission may also resort to its counterparts in foreign countries with which it has cooperation agreements in order to speed up the exchange of financial information, which shall give early warning about crimes defined in the Law and hence prevent them.

Cooperation mentioned in the previous paragraph depends on the foreign counterparts' commitment based on their own legislation in terms of professional secret, the non exchange of financial information and data they hold, or their use for purposes other than fighting and sanctioning crimes defined in this Law.

Article 116:

The Tunisian Financial Analyses Commission shall create a database about individuals and moral entities suspected of having connections with terrorism or money laundering. The database shall also include statements received about suspicious operations or transactions, and requests for information submitted by law enforcement authorities or foreign counterparts.

Article 117:

Managers of the Tunisian Financial Analyses Commission, their assistants and other specialized agents invited to consult and study files subject of statements concerning suspicious operations and transactions shall protect the professional secret and shall not use their knowledge for purposes other than tasks assigned to them even after the end of their mission.

Part Two**Mechanisms to investigate suspicious operations and transactions****Article 118:**

Entities mentioned in article 100 of this Law shall immediately make written statements to the Tunisian Financial Analyses Commission about various suspicious operations and transactions that may have direct or indirect connections with funds generated by illegal activities considered by the law to be an offence or felony, or with individuals, organizations or activities connected with terrorist crimes, as well as about any attempt to perform this kind of operations or transactions.

The duty to make statements remains in force even after the end of the operation or the transaction when new information shows that subject operations and transactions may have direct or indirect connections with funds generated by illegal activities considered by the law to be an offence or felony, or with individuals, organizations or activities connected with terrorist crimes.

Article 119:

Entities mentioned in article 100 of this Law shall particularly pay attention to all complex and complicated operations and transactions, oddly high amounts or uncommon operations and transactions, when their economic feasibility and objectives are not clear.

They shall as much as possible examine the execution framework of these operations and transactions and their purpose, and shall write their findings and provide them to auditors and control authorities.

Article 120:

The Tunisian Financial Analyses Commission may provide temporary authorization to the informant to freeze funds subject of the statement and deposit them in a suspense account. The informant shall not share any information with the concerned party about the statement and subsequent measures.

Article 121:

If investigations do not confirm suspicions about the operation or transaction subject of the statement, the Tunisian Financial Analyses Commission shall notify the informant and shall authorize the release of funds subject of the operation or transaction.

Silence on the part of the Tunisian Financial Analyses Commission to notify the informant about the investigation results within the deadline specified in article 124 of this Law shall imply authorization to release funds.

Article 122:

If investigations confirm suspicions about the operation or transaction subject of the statement, the Tunisian Financial Analyses Commission shall immediately transmit results of the study with all justifying documents to the Attorney General of Tunis in order to launch proceedings, and shall notify the informant about this process.

The Attorney General shall judge the case within five days following reception of the file and shall notify both the informant and the Tunisian Financial Analyses Commission.

Article 123:

The Tunis primary court shall be the court specialized in suing, investigating and judging money laundering crimes, and shall rule on the basis of this Law pertaining to terrorist crimes.

Article 124:

The Tunisian Financial Analyses Commission shall terminate its works in the shortest possible time; however, in case it issues a decision to temporarily freeze funds subject of the statement, it shall end its investigations within five days after the decision date and notify the informant about results.

Article 125:

The Tunisian Financial Analyses Commission shall justify its decisions that can in no way be appealed.

Article 126:

The close-out decision taken by the Attorney General shall result in the immediate release of funds subject of the statement.

If the Attorney General decides to investigate the matter, the freeze shall remain as long as the judicial authority does not object.

Article 127:

Even in the absence of a statement on suspicious operations or transactions, the Attorney General at the Tunis Court of Appeal may ask the President of the Tunis primary court to order the freeze of funds held by moral entities suspected of connections with individuals, organizations and activities having relations with crimes defined in this Law, even if subject crimes have not been committed in Tunisia.

Article 128:

The freezing decision mentioned in the previous paragraph shall be taken by the president of the Tunis primary court based on statement clearing procedures.

Article 129:

The Attorney General at the Tunis court of appeal shall immediately convey the freezing order issued according to the previous paragraph including all justifying documents to the Tunis based Attorney in order to launch an investigation.

The Attorney General at the Tunis court of appeal shall send a copy of the freezing order to the Tunisian Financial Analyses Commission informing it about investigations launched.

Funds subject of this decision shall remain frozen as long as the judicial authority does not rule otherwise.

Article 130:

A one to five years prison and a five to fifty thousand dinar penalty shall be applied on any individual refusing to make statements according to article 118 of this Law.

Article 131:

No proceedings for compensation or complaint shall be made against individuals or moral entities having good intentions to make statements as per article 118 of this Law.

Similarly, no proceedings for compensation or complaint can be made against the Tunisian Financial Analyses Commission in the framework of its tasks and mission.

Article 132:

A one month to five year prison sentence and a three thousand to three hundred thousand dinar penalty shall be applied against individuals refusing to make statements as per paragraph one of article 107 of this Law.

The penalty amount may be increased to five times the amount of funds subject of the crime.

Article 133:

Financial sanctions mentioned in the previous paragraph also apply on brokers, delegates and financial representatives refusing to comply with requirements stated in the second paragraph of article 107 of this Law.

Article 134:

A six month to three year prison sentence and a three thousand to ten thousand dinar penalty shall be applied against professionals listed in article 100 of this Law, sellers of jewelry, precious

stones and other valuable items, managers of casinos, managers of moral entities, their representatives and agents when their personal liability is shown in offences or in violations of articles 92, 93, 95, paragraph 3 of article 96, and articles 99, 106, 117, and 119 in addition to paragraph 2 of article 120 and article 129 of this Law.

A three month to two year prison sentence and a one thousand to five thousand dinar penalty shall be applied against individuals establishing or proceeding with business relationships, or performing a temporary operation or transaction amounting to a value defined by the Minister in charge of Finance, or including wire transfers, without observing the following requirements:

- Based on formal documents and other documents issued by reliable independent sources, check the identity of regular and irregular customers and take record of all data required for their identification;
- Based on official documents and other documents issued by reliable independent sources, investigate the identity of the transaction's beneficiary and identity of the person performing the transaction on behalf of the first, the constitution of the moral entity, its legal form, official address, identity of its managers and legal representatives;
- Collect information from customers about the business goal, objectives and nature.
- Refrain from opening accounts, establish or continue the business relation, or perform the operation or the transaction if data and information do not seem sound enough.

This shall not prevent suing moral entities, which sanctions may amount to five times the amount of the sanction due on the initial crime.

Article 135:

In no case shall sentences issued to liquidate or seize funds in applying provisions of this Law impact rights and assets of others acquired with good intentions.

Article 136:

Provisions of Law 75/2003 issued on December 10, 2003 concerning support to international efforts aimed at fighting terrorism and preventing money laundering, amended by Law 65/2009 issued on August 12, 2009 shall be cancelled, in addition to the sentence "or member of the diplomatic or consular corps" and the letter "m" of the Arabic plural of families in paragraph 2 of article 237, and from paragraph c of article 251 of the Penal Code; similarly, provisions of paragraph D of article 251 of the Penal Code and the sentence "or a terrorist organization operating abroad" and the sentence "whether the defendant did it alone or in the execution of this organization's instructions" shall be removed from paragraph 2 of article 123 of the Military Proceedings and Sanctions Code.

This Law shall be published in the Tunisian Official Gazette and shall be enforced as a State Law.