



## IV CONSTITUTIONAL GOVERNMENT

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### **DECREE LAW No. 19/2009**

### **APPROVES THE PENAL CODE**

Addressing the need to construct its legal system, the preparation and approval of the Penal Code of Timor-Leste was raised by its elected politicians as one of the legislative priorities to ensure fundamental rights and freedoms enshrined in the Constitution of the Democratic Republic of Timor-Leste.

This present legal document is the result of work conducted by a commission of Timorese and international experts who acted under government guidance and in compliance to the limits and content established in the law of legislative authorization on criminal matters approved in the National Parliament.

The rules adopted and enshrined herein, in addition to respecting the specific social and cultural realities of Timorese society, likewise have embraced suggestions put forth by national and international organizations, contributions from diverse legal entities active in Timor-Leste as well as teachings gleaned from comparative law.

We wish to highlight that this approved Penal Code, more than an end in itself, is primarily a fundamental step in the construction of the Timorese legal system, and is thus open to future enhancements that advances in international law, judicial practice and lessons from law may recommend.

Therefore,

In the use of the legislative authorization granted within the scope of articles 1 and 2 of Law no. 13/2008, of 13 October and under the terms of article 96 of the Constitution, the Government does hereby decree that the following shall be valid as law:

## **Article 1**

### **Approval of the Penal Code**

The Penal Code published and attached and that is an integral part of this present law is hereby approved.

## **Article 2**

### **Act of repeal**

1. The Indonesian Penal Code, in force within the legal system under the terms of provisions in article 1 of Law 10/2003 is hereby repealed.
2. All isolated legal provisions present in legislation are hereby repealed that:
  - a) Provide for and establish penalties for acts defined as crimes in the Penal Code herein approved;
  - b) Enshrine provisions contrary to those adopted in the General Part of the Penal Code.

## **Article 3**

### **Entry into force**

The present law and Penal Code shall enter into force on the 60th day after publication of the same.

Approved by the Council of Ministers on March 18, 2009

Prime Minister,

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(Kay Rala Xanana Gusmão)

Minister of Justice,

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(Lúcia M. B. F. Lobato)

Promulgated on

To be published.

President of the Republic,

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(José Ramos Horta)

# ANNEX

## PENAL CODE

I - The restoration of independence and approval of the Constitution of the Democratic Republic of Timor-Leste in 2002 resulted in the need for the country to adopt its own legal system, one that is modern and enshrines fundamental rights as described in constitutional precepts and reflecting the social reality of the country. It was necessary to maintain the Indonesian Penal Code in force to provide the State with a valid criminal law, although the same proved to be inadequate to the new reality of the country and in many cases, called for legal remedies contrary to the new constitutional principles adopted.

As the Timorese people have their own specificities and identity, there was a compelling need to prepare its own Penal Code, with its own intrinsic philosophy based on principles and values inherent to modern societies and that addresses current requirements faced by the country.

A commission of Timorese and international experts was established by the 1st Constitutional Government, which proceeded to prepare a Draft Law for the Penal Code, which, even though the Law of Legislative Authorization on penal matters was approved, was unable to promulgate the former before the end of its legislative term

In early 2008, with a new executive, a new proposal for a Law of legislative authorization was presented to the National Parliament for approving the Penal Code and work to review the draft law of the Penal Code was restarted, the same having undergone amendments and been subject to broad public discussion.

After approval of the legislative authorization, it fell to the Council of Ministers of the IV Constitutional Government to approve the Penal Code.

II - The General Part constitutes Book I of the Penal Code, and integrates the fundamental principles of criminal law enshrined in the Constitution of the Democratic Republic of Timor-Leste, with international conventions, treaties and agreements adopted by the Timorese domestic legal system.

As this code is based on the Democratic Rule of Law, in the General Part enshrines the principle of human dignity, respect for individual freedoms of each citizen and the responsibility of the State to intervene only when unsupportable harm to legal interests fundamental to life in society is observed. In such events, the State assumes the right to mete punishment and the social duty to reintegrate the offender into society.

Equally the reflections of the Rule of Law are the principles of legality, culpability and humanity.

The enshrinement of the principle of legality, as the fundamental principle of Criminal Law, provided for in article 31 of the Constitution, determines that any act or omission may only be considered a crime and punished as such, when and if provided for in law. Adherence to this principle results in disallowing any use of analogy when qualifying a crime, so that the Court cannot qualify any specific act as a crime, nor define danger to self and others or determine a penalty or security measure by applying an analogous interpretation of rules contained in the Penal Code.

The principle of non-retroactivity of criminal law forbids retroactive application of criminal law, except in cases where the same is concretely demonstrated to be more lenient to the accused. This is also correlated with the principle of legality.

The principle of humanity, in turn, enshrined in articles 29 and 32 of the Constitution, is the guiding principle upon which is based the prohibition against applying the death penalty as

well as ordering penalties or security measures of a perpetual nature or of unlimited or indefinite duration.

The guiding principles for selecting the rules that form this present Code are those of need, proportionality and suitability, and form the foundation for applying each penalty or security measure. The aim is always the protection of legal interests essential to life in society and the social reintegration of the offender.

The principle of culpability has been followed, as an assumption for applying penalties, ensuring that there can be no penalty without guilt (*nulla poena sine culpa*). This principle places a form of limitation on the power of the State, insofar as the measure of punishment can never exceed the measure of guilt. The principle of guilt or culpability is also reflected in the treatment given to errors regarding unlawfulness, providing exemption from criminal liability due to age or if any psychological disturbance is confirmed, which diminishes criminal liability of the perpetrator due to lack of culpability.

With regards to legal consequences of punishable acts, observe that penalties are always executed as a teaching or re-socializing tool, with different means of applying sanctions presented in the Code that do not involve institutionalization.

Whenever either a liberty-depriving or non-liberty depriving penalty is alternatively applicable, the court must give preference to the non-liberty depriving penalty, whenever this adequately and sufficiently fulfils the purpose of the punishment and meets the requirements for reproof and preventing crime (article 62).

Therefore alternative penalties are given preeminence, particularly in situations of petty or less serious crimes. Specifically, penalties such as fines and community service have been enshrined as means to best ensure intended social reintegration of the offender.

Penalties of fines are set in days, thus enabling them to better adapt to the guilt of the perpetrator and his or her economic and financial conditions, varying the amount set for each day of fine according to the economic and financial status of the convict and his or her personal expenses.

On the other hand, different rules for converting fines into days of imprisonment are established in the event of failure to pay fines, in order to differentiate penalties of fines that are the primary penalty from fines that are substitution for imprisonment.

Regarding community service as a sanction not involving institutional confinement, the Code took care to clarify and systematize certain fundamental aspects of this option, leaving its further development and concrete application to an autonomous law.

The penalty of imprisonment then should only be applied when the others have shown themselves to be inadequate to fulfill the objectives of preventing and reproof crime. Minimum and maximum duration of the penalties of imprisonment have been established from between 30 days and 25 years, with the possibility of extending the maximum limit to 30 years in cases specifically provided for in law.

Corollary to social reintegration of offenders is the provision of suspending execution of a prison sentence, applicable in cases where the concrete measure of the punishment does not exceed 3 years and no outstanding need for prevention of future crimes disallows it. Suspension of execution of a prison sentence may be conditioned to performance of certain duties or rules of conduct or subject to monitoring by reintegration services.

Security measures of limited duration have been adopted for those exempt from criminal liability by reason of mental disorder, particularly internment measures, whenever danger to self and others warrants. Life sentences are not permitted, and security measures must be terminated whenever the danger to self and others that legitimated them ends, allowing, in the case of foreigners, that said orders may be substituted by deportation from the country.

The Penal Code, in its defense of values and legal interests essential to life in society, has distinguished crimes of a public nature, which must be warded by the State, from those less serious crimes, which depend upon the exercise of the right to file complaint by the bearer of

the right, pursuant to provisions already adopted in criminal procedural legislation. Whenever the exercise of the right to file complaint is provided in the description of the legal definition of the crime in the Special Part of the Penal Code, the same are considered as semi-public crimes.

With regards to extinguishment of criminal liability and the effects thereof, the General Part of the Code sets statutes of limitations for criminal prosecution, penalties, security measures and accessory penalties, as well as defines situations where suspension may be warranted. Nevertheless, the decision was made to have no statute of limitation for criminal prosecution and related penalties when dealing with war crimes, crimes against peace or crimes against humanity and freedom.

Lastly, the Code provides for other cases leading to extinguishment of liability, such as death of the perpetrator, amnesty or pardon.

III - It is acknowledged that the Special Part of Penal Codes is the part that causes the greatest impact on public opinion, insofar as it selects certain assets, interests and values that a given society and a certain time in history deem to warrant protection under criminal law, thus, raising the same to the category of criminal legal interests. In the specific case of the Penal Code of Timor-Leste, the legislature sought to base the articles adopted herein on options that the Constitution had already previously enshrined as being the collective will of Timorese society.

The systematization adopted in this Part is an affirmation of the moment in history of the country and reflects the fundamental interests and values that have constructed this fledgling nation.

It is therefore no surprise that the first title of this book respectively addresses protection of peace, humanity and freedom as cornerstone values in a democratic society, regarding the hierarchy of values described in the Fundamental Law whilst also addressing international obligations assumed by the country when it subscribed to and ratified the Statute of the International Criminal Court.

Title II describes crimes against individuals, providing special protection to eminently personal legal interests, particularly protection of life, physical integrity, personal freedom, sexual freedom and protection of privacy.

Voluntary termination of pregnancy is described as a punishable crime under the terms of provisions in article 145 of this Code.

This title in general and particularly in the provisions on crimes against physical integrity, special relevance is given to the introduction of crimes of mistreatment of minors and spouses, fundamental provisions to the affirmation of the rule of law and protection of human rights in Timorese society.

Equally highlighted is the qualification of the practice of slavery and human trafficking as a criminal offense, fruit of the humanist concept that guided the preparation of this Code.

Title III describes crimes against life in democratic society, highlighting crimes against public order, state security and life in society, as well as electoral crimes and crimes against public authority.

This Title in general, and within the scope of crimes against life in society, include provisions for specific definitions of crimes against the environment, a reflection of the increasing concern by society in preserving natural resources and protecting the environment, punishing unsustainably harmful practices involving fauna, flora and natural habitats.

Protection of assets is addressed in Title IV of this Book, where a system of standards is constructed upon the legal definition of the most common crimes found in diverse laws, such as larceny, theft, robbery, abuse of trust and property damage. These crimes are legally defined as being either simple or aggravated, weighing circumstances such as value, nature of the item taken, ways and means of commission, whether violence was present, and other circumstances that could significantly increase the guilt or unlawfulness of the perpetrator.

Crimes of obstruction of justice and crimes committed in performance of public office are listed in Titles V and VI where punishment for falsity in procedural acts, forms of obstruction of justice, failure to perform and to deny justice are provided for, as are others, such as bribery, malfeasance of magistrates or public servants and attorneys and public defenders. Other acts of assisting offenders within the domain of justice are criminalized, as are classic crimes of defamatory false information, simulation of crime and failure to report crime.

Within the general performance of public duties, the Code criminalizes conduct by public officials who commit crimes of corruption, embezzlement, abuse of power or public force or unlawful involvement in public affairs by anyone holding public office. This Penal Code broadens the concept of public official to include other analogous situations such as officials of international organizations, foreign public officials performing activities in the country or any person called to perform or participate in an activity included in public administrative or juridical office.

Title VII provides a legal definition of crimes of forgery of documents, technical reports, currency and stamps or franks, weights and measures, office stamps, currency plates and paper, describing the respective penalties according to the nature, evidentiary or trust value or public use or disposal of the forged objects, providing for seizure and forfeiture and loss of objects used for said purpose.

Lastly, Title VIII defines crimes against the economy, providing for criminalization of money laundering, following the most recent doctrine on criminalization of anti-economic activities, tax fraud and smuggling and evasion of duties, regarding customs or border issues. The Code maintains criminal punishment for disobedience of requisition of assets ordered by the Government as well as behavior likely to disturb, harm or hinder performance of certain public acts such as public competitive exams, tenders or court auctions.

Throughout this Code, there is an attempt to strike a balance between the abstract criminal framework, addressing the type of crime and its severity, with the hierarchy of legal interests protected by each article and the maximum limits established for prison sentences.

Another factor characterizing the legislative alternatives chosen in the Penal Code is the differentiated treatment given to more serious crimes, where, generally speaking, the only penalty provided is a prison sentence.

As a rule, for less serious crimes, on the other hand, the definition of the crime usually enables the court, according to the circumstances, to decide on either the alternative of imprisonment or penalty of fine, enshrining as criminal guidance policy the acknowledgment of a fine as an autonomous penalty and not complementary to the main penalty.

The approval of this present Code provides the Timorese State with yet another modern and adequate legal instrument to provide criminal law services of the highest quality whilst respecting fundamental rights of its citizens, obliging magistrates, public defenders, attorneys, court officers and other legal actors who make these legal instruments the tools of their daily work to engage in ongoing education, strengthening the national legal system and the Democratic Rule of Law.

## **BOOK I GENERAL PART**

### **TITLE I APPLICATION OF CRIMINAL LAW**

#### **SINGLE CHAPTER GENERAL PRINCIPLES**

**Article 1**  
**Principle of legality**

1. No act or omission may be qualified as crime unless it was defined as such by law before it was committed, with the respective punishment described.
2. Security measures may only be applied to cases of danger to self and others, with the conditions thereof previously determined by law.

**Article 2**  
**Prohibition of analogy**

No act or omission may be qualified as a crime, in defining danger to self and others or in determining the corresponding legal consequences, through the use of analogy.

**Article 3**  
**Applicability of criminal law over time**

1. No person may be punished for an act defined as a crime at the time of its commission if a subsequent law no longer considers it as such.
2. In such a case, if a decision convicting the person has already been rendered, execution of said decision and its penal effects shall cease, even when the decision rendered is final.
3. The law subsequent to the commission of the crime shall apply to previous conduct whenever the same proves to be more lenient to the perpetrator and, in the case of a final decision, if any benefit may still be obtained.

**Article 4**  
**Exceptional or temporary law**

Exceptional or temporary law shall remain applicable to acts committed while such law was in force, even though its duration has expired or its determinant circumstances have ceased.

**Article 5**  
**Time of commission of the act**

An act is considered as committed at the time of the act or omission, regardless of the time when the typical result occurs.

**Article 6**  
**Place of commission of the act**

An act is considered to have been committed in the place where, by any means, the action or omission occurred, wholly or in part, as well in wherever the typical result has or should have been caused.

**Article 7**  
**Principle of territorial applicability**

Except as otherwise provided in international treaties and conventions, and regardless of the nationality of the perpetrator, Timorese criminal law is applicable to crimes committed in the territory of Timor-Leste and aboard vessels and aircraft with Timorese registration or under Timorese flag.

**Article 8**  
**Crimes committed outside national territory**

Except as otherwise provided in treaties and conventions, Timorese criminal law is applicable to acts committed outside of the national territory of Timor-Leste in the following cases:

- a) They constitute crimes provided for in articles 196 to 206, 229 to 242 and 307 to 313;
- b) They constitute crimes described in articles 123 to 135, 161 to 169 and 175 to 178, as long as the perpetrator is found in Timor-Leste and cannot be extradited or a decision has been made not to do so;
- c) They are committed against Timorese nationals, so long as the perpetrator normally lives and is found in Timor-Leste;
- d) They are committed by Timorese or foreigners against Timorese nationals, so long as the perpetrator is found in Timor-Leste, the acts are equally punishable by the legislation of the place in which the acts were committed and they constitute a crime which allows for extradition and it cannot, in the particular case, be granted;
- e) They refer to crimes that the Timorese State has an obligation to try pursuant to any international convention or treaty.

**Article 9**  
**Restrictions on application of Timorese law**

1. The application of Timorese criminal law to acts perpetrated abroad only occurs when the perpetrator has not been tried with a final decision rendered in the place where the act was committed, or when the perpetrator has wholly or partially evaded execution of the sentence.
2. Though Timorese criminal law may be applied under the terms of the previous subarticle, the act shall be tried according to the law of the country where the act was committed whenever this is more lenient to the perpetrator.
3. In the cases referred to in the previous subarticle, the applicable punishment is converted to that which corresponds to the Timorese system or, if there is no direct correspondence, to that which the Timorese law provides for said act.
4. In the event the perpetrator is tried in Timor-Leste and has been previously tried in the place where the act was committed, the sentence already served outside of Timor-Leste shall be taken into consideration.
5. The provisions described in subarticle 2 are not applicable to crimes identified in lines a) and b) of previous article.

**Article 10**  
**Subsidiary application of the law**

Unless provided otherwise, provisions in this Code apply to acts made punishable in specific legislation.

**TITLE II**  
**ON CRIME**



**CHAPTER I  
GENERAL ASSUMPTIONS**

**Article 11  
Commission by action and omission**

1. Whenever a legal definition of a crime includes a certain result, the act comprises not only the specific action required to produce it, but the omission of any specific action that would avoid it as well, unless when intention of the law is otherwise.
2. A result caused by omission is only punishable when the perpetrator thereof is under a legal duty that personally obliges the perpetrator to avoid said result.
3. In the case described above, punishment may be extraordinarily mitigated.

**Article 12  
Criminal liability**

1. Only individuals are held criminally liable for offenses described in this Code and this is non-transferable.
2. Corporate entities are criminally liable only for offences provided in this Code or in specific legislation whenever and as expressly established in law.

**Article 13  
Liability for action on behalf of another party**

Any person who acts as the head of a corporate entity, even by mere de-facto association, or as a representative of another party, is punishable even if the conditions, description or relationships provided in the respective definition of a crime are not found in said person but rather in the person he or she represents.

**Article 14  
Intent and Negligence**

Only acts committed with intent, or, in cases specifically prescribed in law, with negligence, are punishable.

**Article 15  
Definitions of Intent**

1. Any person who commits an act with the intention to do so, and said act is defined as a crime, acts with intent.
2. Furthermore, any person who commits an act that constitutes a defined crime as the necessary consequence of his or her conduct, acts with intent.
3. Whenever an act that constitutes a defined crime is committed as a possible consequence of the conduct of a perpetrator, and the perpetrator acts while accepting said possibility, he or she acts with intent.

**Article 16**  
**Definitions of Negligence**

1. Any person who fails to proceed with caution to which, according to the circumstances, the same is obliged and capable of proceeding, acts with negligence, if the perpetrator:
  - a) acts in such a manner that commission of a defined crime is a possibility, yet acts without accepting said result; or
  - b) Does not even realize the possibility of committing said act.
2. The type of negligence referred to in the preceding subarticle shall take on the form of gross negligence whenever circumstances reveal that the perpetrator acted with levity or temerity and failed to observe elementary duties of prudence required in such a case.

**Article 17**  
**Error regarding circumstances of the act**

1. Error regarding elements of the law or acts related to a legally defined crime or prohibition that would reasonably be considered essential for the perpetrator to have knowledge of in order to comprehend the unlawfulness of the act excludes intent.
2. The system described in the previous subarticle includes error regarding existence of assumptions of a cause for exclusion of unlawfulness or guilt.
3. Negligent conduct shall be punishable whenever provided for by law and the respective assumptions are present.

**Article 18**  
**Error regarding unlawfulness**

1. Lack of knowledge of the law does not exclude the unlawfulness of any conduct that violates it.
2. An error regarding unlawfulness, if unavoidable, excludes guilt.
3. A penalty may be considered extraordinarily mitigated when the error regarding unlawfulness is avoidable.

**Article 19**  
**Aggravation due to results**

When the penalty applicable to an act is aggravated according to the result caused, said aggravation is always conditioned by the possibility of attributing said result to the perpetrator at least through negligence.

**Article 20**  
**Exemption from criminal liability by reason of age**

1. Minors under 16 are exempt from criminal liability.
2. For persons over 16 years of age and less than 21, the law shall determine specific provisions concerning application and execution of criminal penalties in any and all cases not provided for in specific legislation.

**Article 21**  
**Exemption from criminal liability by reason of insanity**

1. A person is exempt from criminal liability if, due to a mental disorder, he or she is incapable, at the time of committing the act, to comprehend its unlawfulness or to decide accordingly.
2. A person may be declared exempt from criminal liability when, by force of a mental disorder, has, at the time the crime is committed, significantly diminished capacity to appreciate the unlawfulness of such an act or to act accordingly.
3. The proven inability of the perpetrator to be influenced by penalties may be an indication of the situation provided for in the subarticle above.
4. Criminal liability is not excluded when the mental disorder was caused by the perpetrator with the intent to commit the act.

**CHAPTER II**  
**FORMS OF CRIME**

**Article 22**  
**Preparatory acts**

Preparatory acts are not punishable, except as otherwise provided in the law.

**Article 23**  
**Attempt**

A crime is attempted whenever the person who has decided to commit it initiates its execution by undertaking, wholly or in part, the acts objectively required to cause the result, which fails to take place only for reasons beyond the control of the perpetrator.

**Article 24**  
**Punishability of attempt**

1. An attempt is punishable only in connection with crimes of intent carrying a maximum prison sentence of more than 3 years and in all other cases expressly determined by law.
2. Except where otherwise provided, an attempt is punishable with an extraordinarily mitigated penalty in comparison to the consummated crime.

**Article 25**  
**Unpunishability of attempt**

An attempt is not punishable whenever the inappropriateness of the means employed or absence of an essential element to consummate the crime is manifest.

**Article 26**  
**Voluntary desistance**

An attempt ceases to be punishable if the perpetrator voluntarily desists from proceeding to perform the crime, prevents its consummation, or prevents obtaining its result, or who puts forth serious efforts to hinder either.

**Article 27**  
**Cases of joint commission**

In the event of joint commission, the attempt of a person shall not be punishable, if the same voluntarily desists from proceeding with commission of the crime, or hinders or voluntarily

desists in realizing its result, or earnestly endeavors to hinder either, even if other co-participants proceed with execution or commission of the act.

#### **Article 28**

##### **Remorse**

In crimes without violence or serious threat against persons, if the damage has been remedied, the object returned or the situation legalized before the crime is reported or the information or a complaint received, the penalty shall be extraordinarily mitigated or, depending on the circumstances, the agent shall be exempt from any penalty.

### **CHAPTER III PERPETRATORS OF CRIME**

#### **Article 29**

##### **Perpetrators**

Participation in the commission of a crime may take on the form of principal authorship, instigation or complicity and there can be various joint participants in the same act.

#### **Article 30**

##### **Authorship**

1. A principal is the person who commits the act either directly or through a third party who serves as an instrument for the former.
2. Coprincipals of an act are any persons who, by expressed or tacit agreement, take direct part in commission of a crime or join forces in commission of the same crime.

#### **Article 31**

##### **Instigation**

A person is punishable who, directly and maliciously, instigates another person to commit the crime, if said crime is actually committed or initiated.

#### **Article 32**

##### **Complicity**

1. A person is punishable as an accomplice who, with intent, materially or morally aids another person to commit a crime.
2. In the case of an accomplice, the penalty prescribed for the unlawful act is extraordinarily mitigated.

#### **Article 33**

##### **Guilt in joint participation**

Each individual participant is punishable according to his or her guilt, regardless of the penalty or degree of guilt of the others.

#### **Article 34**

##### **Unlawfulness in joint participation**

1. If the unlawfulness or degree of unlawfulness of an act is dependent on certain qualities or special relationships of the perpetrator, it is sufficient that such qualities or special relationships are reflected in any one of the joint participants, for the respective penalty to be applicable to them all, unless specific law provides otherwise.

2. Whenever, pursuant to the rule provided in the previous subarticle, a more serious penalty is applicable to any of the joint participants, said penalty may be replaced by the penalty that would apply if the rule had not intervened, depending on circumstances of the case.

## **CHAPTER IV JOINDER AND CONTINUOUS CRIMES**

### **Article 35 Joinder of crimes**

1. The number of crimes is considered the number of legally defined types of actually committed crimes, or by the number of times that the same type has been committed through the conduct of the perpetrator.
2. For the purpose of applying the following article, joinder is whenever the perpetrator, having committed a crime, commits another crime before final sentence is rendered.

### **Article 36 Penalty in case of joinder of crimes**

1. A single penalty shall be imposed in the case of joinder of crimes, the minimum limit corresponding to the highest penalty concretely imposed for those crimes, the maximum limit corresponding to the total sum of the different separate penalties.
2. Whenever the material sum of the separate penalties exceeds 600 days of fine or 30 years imprisonment, the maximum limit of the scope of joinder shall not exceed this legal limit.
3. In determining a single penalty, the court jointly considers the acts and personality of the perpetrator.

### **Article 37 Accumulation of penalties**

1. Whenever the penalties imposed consist in both fines and imprisonment, the separate nature of these is retained.
2. Accessory penalties and security measures are retained, even when provided in only one of the applicable laws or in only one of the previous decisions.

### **Article 38 Prison sentence with suspended execution in accumulation of penalties**

A prison sentence with suspended execution can only be cumulated with other prison sentences when:

- a) The other prison sentences are equally so suspended in their execution and said accumulation does not hinder continued suspension of the individual penalty;
- b) Accumulation is with effective prison sentences, and circumstances exist that determine revocation of suspended execution of the penalty, regardless of said accumulation;
- c) The cumulated suspended penalties have different suspension periods or, being equal, are at different stages of being served, the court shall establish a single suspension period pursuant to general prevention requirements and circumstances of the case.

**Article 39**  
**Subsequent disclosure of joinder of crimes**

Whenever, after a final decision has been rendered, but before the corresponding sentence is served, statute of limitations expires or is extinguished, it becomes known that the perpetrator fulfilled any of the circumstances described in the previous articles; the rules set out therein shall apply.

**Article 40**  
**Crime and other offences**

Whenever the same act simultaneously constitutes a crime and a lesser offense, the perpetrator shall be punished for having committed the crime, without prejudice to any applicable accessory penalties for the other offenses.

**Article 41**  
**Continuous crime**

1. Except in the event of crimes committed to protect eminently personal interests, the repeated commission of the same defined crime or various defined crimes to basically protect the same legal interests, executed in an essential homogeneous manner and prompted by the external situation that considerably diminishes the guilt of the perpetrator, constitutes one continuous crime

2. Continuous crime is punishable by the penalty applicable to the most serious conduct that comprises the continuum.

**Article 42**  
**Concurrence of provisions**

Except in the situations described above, whenever more than one legal provision may wholly or partially apply to an act that can be described as a crime, only one legal provision may be applied to the same, pursuant to the following rules:

- a) The specific provision shall apply with prejudice to the general provision;
- b) The main provision takes precedence over the subsidiary provision;
- c) The broadest and most complex provision supersedes that which provides for acts that can be subsumed thereunto.

**CHAPTER V**  
**CAUSES FOR EXCLUSION**

**SECTION I**  
**CAUSES FOR EXCLUSION OF UNLAWFULNESS**

**Article 43**  
**Exclusion of unlawfulness**

1. When the unlawfulness of an act, considered in its entirety, is excluded by the legal system, the same shall not be liable to criminal punishment.
2. Specifically, any act committed in exercise of a right or performance of a duty, in legitimate defense, a state of justifying need or with consent, is not unlawful.

**Article 44**  
**Legitimate defense**

An act constitutes legitimate defense when committed as the necessary means to repel an imminent or present unlawful attack on legally protected interests of the perpetrator or of a third party.

**Article 45**  
**State of justifying need**

An act is not unlawful when committed as an appropriate means to avert a present danger that threatens legally protected interests of the perpetrator or of a third party, if the following requisites are met:

- a) There is significant superiority of the interest to be safeguarded in relation to the interest sacrificed; and
- b) It is reasonable to impose the sacrifice of the interest of the victim, considering the nature or value of the interest endangered.

**Article 46**  
**Conflict of duties**

1. It is not unlawful for a person to commit, in the case of conflict in performance of legal duties or legitimate orders from an authority, a duty or order of equal or superior value to that sacrificed.
2. Duty to obey hierarchical superiors ceases when the same leads to commission of a crime.

**Article 47**  
**Consent**

1. In addition to special cases provided for in law, consent excludes unlawfulness when it refers to freely available legal interests and the act does not offend social mores.
2. Consent may be expressed by any means revealing a free, honest and informed will of the holder of the protected legal interest, and it may be freely withdrawn at any time before the execution of the act.
3. Consent is effective only if it has been given by someone who is over 16 years of age and has the necessary discernment to judge its meaning and scope, at the moment it is given.
4. If consent is not known to the perpetrator, he or she shall be punishable with the penalty applicable to attempt.
  
5. Effective consent will be considered equivalent to presumed consent, when the situation, in which the perpetrator is acting, reasonably permits one to suppose that the holder of the legally protected interest would have effectively given consent to the act, if the same had known the circumstances in which it was committed.

**SECTION II  
CAUSES FOR EXCLUSION OF GUILT**

**Article 48  
Excess of legitimate defense**

1. Means which, given their nature or extent of use, are excessive to those required for the defensive action taken by the perpetrator may result in special mitigation of the penalty that the crime would otherwise carry.
2. The perpetrator is not punishable if the excess of means used in legitimate defense are due to a justifiable disturbance, fear or surprise.

**Article 49  
Exculpatory state of need**

1. Any person who commits an unlawful act required to avert a real danger, which cannot be otherwise removed, which threatens the life, physical integrity, honor or freedom of the perpetrator or a third party, where, depending on the circumstances of the case, it is not reasonable to require any different behavior of the same, acts without guilt.
2. Whenever the danger threatens legal interests other than those referred to in the preceding subarticle, and the assumptions mentioned therein are met, the penalty may be extraordinarily mitigated or the perpetrator may be held exempt from punishment.

**Article 50  
Exculpatory undue obedience**

A public servant who obeys an order not knowing that it leads to commission of a crime, acts without guilt, if the unlawfulness of the act is not evident from the circumstances surrounding it.

**TITLE III  
CIRCUMSTANCES**

**SINGLE CHAPTER  
GENERAL RULES**

**Article 51  
Determination of the measure of penalty**

1. Measure of penalty is determined according to the perpetrator's guilt and prevention requirements, within limits defined by law.
2. In determining a specific penalty, the court shall consider all circumstances that are not part of the defined crime but that either aggravate or mitigate the perpetrator's acts.
3. The court ruling shall explicitly mention the grounds for the measure of penalty adopted.

**Article 52  
General aggravating circumstances**

1. General circumstances aggravating the responsibility of the perpetrator are all those prior to, during or after the fact that, although not part of the legal description of the act, yet reveal a higher degree of unlawfulness of the act, conduct or guilt of the perpetrator, thus increasing the need for punishment.
2. General aggravating circumstances may include the following:



- a) The crime is committed with disloyalty, as occurs in cases of betrayal, ambush, waiting or disguise
- b) The crime is committed against persons using means or ways that directly or indirectly seek to ensure execution without the danger that could result from possible defense of the victim.
- c) The crime is committed by fraud, deceit, abuse of power or authority, or by taking advantage of circumstances of place and time.
- d) The crime is committed for payment or to receive a sum or reward.
- e) The crime is motivated by racism, or any other discriminatory sentiment on grounds of gender, ideology, religion or beliefs, ethnicity, nationality, sex, sexual orientation, illness or physical disability of the victim.
- f) The perpetrator has the special duty to not commit the crime, to hinder its commission or to take action to punish the same, or takes advantage, for commission of the crime, of public authority that the same holds or invokes.
- g) Not being a case of recurrence, the perpetrator has committed one or more crimes of a similar nature in the course of three years prior to the time the crime for which the same is being tried was committed, regardless of the time when judgment is rendered.
- h) The crime is committed at the same time as another crime in order to facilitate the execution of one or more other crimes;
- i) Commission of the crime was facilitated by the perpetrator's entrance or attempted entrance into the victim's residence or using poison, flooding, fire, explosion; sinking or damaging a vessel or using a weapon;
- j) The commission of the crime or the use of its consequences having been facilitated by cooperation of two or more persons;
- k) The perpetrator intentionally and inhumanely increases the victim's suffering, causing the latter unnecessary suffering for consummation of the crime, or any other acts of theft, cruelty or destruction also unnecessary for commission of the crime.
- l) The victim is or was a spouse or is in a de-facto relationship identical thereto, or is a parent or descendant, sibling, adoptee or adopter of the perpetrator.
- m) The victim is particularly vulnerable by reason of age, illness or physical or mental disability, whenever said circumstance is not part of the definition of the crime itself.

### **Article 53 Recurrence**

1. Any person who commits a crime of intent individually or under any form of joint participation that is punishable with effective imprisonment superior to 6 months, after having received final sentence of an effective penalty of imprisonment superior to 6 months due to a previous crime of intent, and it be found that, according to the circumstances of the case, the previous sentence or sentences have failed to serve as sufficient warning against crime to the perpetrator, the same shall be considered a repeat offender.
2. There is no recurrence if, between the commissions of one and the other crime, more than four years have elapsed, not considering the time that the perpetrator has been subject to a procedural measure, penalty or security measure involving deprivation of liberty.

3. In the event of recurrence, the minimum limit of the penalty applicable to the crime is increased by one-third and the maximum limit remains unchanged, however the aggravation cannot exceed the measure of the heaviest penalty applied in previous convictions.

**Article 54**  
**Habitual criminality**

1. Whenever any person commits a crime of intent, and an actual prison sentence exceeding one year should be applied, and cumulatively, the following requirements are met:
  - a) The perpetrator has previously committed three or more crimes of intent and has been punished by effective imprisonment;
  - b) Less than three years having elapsed between each of the crimes;
  - c) Assessment of both the acts and personality of the perpetrator reveals a strong or dangerous tendency toward crime;

The applicable penalty will be that for the crime committed with its minimum and maximum limits increased by one-third.

2. Provisions of this law shall prevail over any specific rules for punishing recurrence.

**Article 55**  
**General mitigating circumstances**

1. Any circumstances that preceded, accompanied or occurred after commission of the crime and that reflect favorably on the perpetrator are considered general mitigating circumstances of the liability of the same.
2. General mitigating circumstances may include, inter alia, the following:
  - a) The causes of exclusion referred to in the previous chapter, whenever not all of the requirements provided are met for the cause for exclusion to produce effect.
  - b) The perpetrator acts in consequence of incidents that cause violent emotion, obsession or other emotional state of a similar passion, or reacts to provocation by means of an immediate act.
  - c) The perpetrator appears before the authorities voluntarily, before knowing of the existence of a criminal proceeding against him or her.
  - d) The perpetrator spontaneously confesses having committed the crime or decisively contributes to ascertaining the circumstances in which the criminal act occurred.
  - e) Presence of acts demonstrating sincere repentance of the perpetrator;
  - f) Low intensity of intent or negligence.
  - g) Reconciliation between victim and perpetrator.

**Article 56**  
**Extraordinarily mitigating circumstances**

1. Apart from the cases expressly provided in the law, the penalty provided in the definition of the crime is extraordinarily mitigated, whenever any circumstances have arisen prior to, concurrently with or after commission of the crime that, jointly or individually, reduce, to a large extent, the unlawfulness of the perpetrator's conduct, guilt or need for penalty.
2. The following circumstances may, among others, be considered for the purpose of the previous subarticle:

- a) The perpetrator's actions were influenced by a serious threat or orders from another person on whom the perpetrator is dependant or to whom obedience is due;
- b) The perpetrator's conduct was prompted by an honorable reason, by a strong solicitation or temptation from the victim him or herself or by unjust provocation or unwarranted offense;
- c) The perpetrator makes reparation of damage caused or diminishes its effects, at any time in the proceeding but before the date of the first trial hearing;
- d) The perpetrator has maintained good conduct long after the crime was committed;
- e) The perpetrator has a noticeably diminished criminal liability.

#### **Article 57**

##### **Degrees of extraordinarily mitigating circumstances**

1. Whenever special mitigation of the penalty occurs, it does so relatively to the limits of the applicable penalty:
  - a) The maximum limit of the penalty of imprisonment shall be reduced by one third;
  - b) If the minimum limit of imprisonment is equal to or greater than three years, said limit shall be reduced to one-fifth and, to the minimum established by law if the minimum limit of imprisonment less than three years;
  - c) The maximum limit of the penalty of fine shall be reduced by one third and the minimum limit reduced to the legal minimum;
  - d) If the maximum limit of the penalty of imprisonment does not exceed 3 years, the penalty of imprisonment may be replaced by a penalty of fine within general limits.
2. An extraordinarily mitigated penalty that was specifically set may generally be replaced or even suspended.

#### **Article 58**

##### **Concurrent circumstances**

1. Any circumstances that alter the abstract scope of the definition of the crime shall result in application of the extraordinary mitigation provided for in the article above.
2. If two or more de facto circumstances occur that alter the abstract scope of the type of crime, only one shall be considered pursuant to provisions of the subarticle above, the remaining circumstances being considered as circumstances of a general nature when determining the penalty.

**TITLE IV  
LEGAL CONSEQUENCES OF CRIME**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 59  
Penalties and security measures**

1. No death penalty or sentence of deprivation of liberty or security measure of a perpetual nature or unlimited or indefinite duration shall be applied.
2. Simultaneous application of a sentence and security measure involving incarceration in connection with the same act is prohibited.

**Article 60  
Limit of penalties and security measures**

1. The penalty shall never exceed the extent of guilt.
2. A security measure is grounded in the danger posed by the perpetrator of an act defined as a crime and lasts for the duration of such danger, and shall not have a duration exceeding the maximum limit of the penalty corresponding to said crime.

**Article 61  
Purpose of penalties and security measures**

The purpose of applying penalties and security measures is to protect legal interests essential to life in society and the perpetrator's reintegration into the same.

**Article 62  
Determination of penalties and security measures**

1. Whenever a sentence of deprivation of liberty and another penalty that does not involve deprivation of liberty are alternatively applicable, the court shall give preference to the latter, whenever the latter adequately and sufficiently fulfils the purpose of the penalty.
2. In determining the type of security measure to be applied to a perpetrator whose danger is procedurally established, the personality of the perpetrator and appropriate treatment of the case shall be considered.

**Article 63  
Effects of penalties and security measures**

No penalty or security measure results, as a necessary effect, in the forfeiture of civil, professional or political rights.

**Article 64  
Execution of penalties or imprisonment measures**

1. A perpetrator convicted and sentenced to effective imprisonment or subject to an internment measure may be granted parole or probation.
2. Except where otherwise provided, once the convict has served five-sixths of the imposed sentence, the same must be released on parole.
3. Except as described in the previous subarticle, parole cannot be granted without consent of the convict.

4. Specific legislation shall establish the pre-requisites and conditions for granting parole, as well as the rights and duties of inmates and pre-requisites and conditions under which an effective prison sentence may be served at large.

#### **Article 65**

##### **Accumulation of penalties and liberty-deprivation measures**

1. When a perpetrator is convicted and sentenced to effective imprisonment sentence and subject to an internment measure, the latter is first served and deducted from the prison sentence.
2. The court shall release the perpetrator on parole as soon as the internment measure is to cease, if the same has served a period corresponding to half of the sentence and release is demonstrated to be compatible with protecting legal order and maintaining social peace.

### **CHAPTER II**

#### **SENTENCE OF IMPRISONMENT**

#### **Article 66**

##### **Duration of a prison sentence**

1. A prison sentence shall have a minimum duration of 30 days and a maximum of 25 years.
2. In special cases provided for by law, the maximum duration of a prison sentence shall be 30 years.
3. Under no circumstances may the maximum duration referred in the above subarticle be exceeded.

#### **Article 67**

##### **Substitution of prison sentence for fine**

1. Application of a prison sentence not exceeding twelve months is substituted for a fine for equal length of time, not exceed the legal limit, whenever the requirement for preventing future crimes does not require that said prison sentence be served and, in light of the circumstances surrounding the case, the court believes that execution of the sentence should not be suspended altogether.
2. Unjustified failure to pay a substitute fine or any installment immediately implies serving the originally imposed prison sentence. Serving of the sentence may be suspended by immediately paying the fine or by designating property as a guarantee. Paid installments shall always be deducted.
3. The court shall provide grounds for any decision when substitution is not performed when the law allows it to do so.

#### **Article 68**

##### **Suspension of execution of a prison sentence**

1. Whenever the prison sentence applied does not exceed three years, the court may suspend execution thereof for a period to be set between one and five years, to be counted from the time the final decision was rendered.
2. The decision must contain the grounds for the suspension, such as the personality of the perpetrator, the circumstances under which the crime was committed, previous behavior and living conditions, and most importantly the perpetrator's likely conduct in the future.
3. The court shall provide grounds for any decision when substitution is not performed when the law allows it to do so.

## **Article 69**

### **Suspension of a prison sentence on condition that certain duties be performed**

1. The court may condition suspended execution of a prison sentence upon performance of certain non-humiliating duties destined to redress harm caused by the crime.
2. Suspension may be conditioned specifically upon the following duties:
  - a) To make or ensure reparation of the damage caused by the crime within a given deadline;
  - b) To publicly make apologies to the victim;
  - c) To perform certain tasks in connection with the crime committed;
  - d) To provide a sum of money to the State or to a charity institution of importance to the reintegration of the convict.
3. Duties imposed may not, under any circumstances, be those whose performance cannot reasonably be expected from the convict.
4. Any duties imposed may be modified at any time before completion of the suspension period whenever relevant supervening circumstances occur or of which the court only becomes aware of at a later date.
5. Subarticle 2 of the previous article is correspondingly applicable.

## **Article 70**

### **Rules of conduct**

1. The court may impose compliance with certain rules of conduct on the person sentenced for the duration of the suspension with a view to promoting the person's reintegration into society, namely:
  - a) To not exercise certain professions;
  - b) To not visit certain places;
  - c) To not reside in certain places or regions;
  - d) To not accompany, give abode or entertain certain persons;
  - e) To not visit certain associations or take part in certain meetings;
  - f) To not have in the person's possession, certain objects that can potentially facilitate the commission of crime;
  - g) To periodically appear before a court, social reintegration officer or non-police entities.
2. The court, having obtained prior consent from the convict, may further order that said person shall be subject to medical treatment or healing in an appropriate institution.
3. Subarticles 3 to 5 above are correspondingly applicable.

## **Article 71**

### **Suspension of a prison sentence with monitoring**

1. Whenever a simple or conditional suspension of prison sentence is insufficient to ensure rehabilitation of the delinquent and to maintain him or her from criminal activities, the court may order suspension and subject the convict to monitoring by reintegration services for the duration of the suspension period. Whenever possible, consent of the convict should be obtained.
2. It is incumbent upon reintegration services, the Office of the Public Prosecutor and the trial judge, once the convict has been heard, to prepare a social reintegration plan that shall, following approval by the court, be performed with assistance of said official or reintegration service.

3. The social reintegration plan must contain all duties to which the convict is subject and, the court may also impose duties and rules of conduct cited in articles 69 and 70 or other obligations of interest to the reintegration plan, specifically:
  - a) Obtain treatment or internment in an adequate establishment, whenever required by circumstances
  - b) Respond to notices from the magistrate responsible for execution of the sentence and the social reintegration officer
  - c) Receive visits from the social reintegration officer and inform the same regarding means of subsistence
  - d) Inform the social reintegration officer regarding change of residence and employment, as well as any travel from said residence for more than 8 days
  - e) Obtain prior consent from the responsible magistrate for traveling abroad
4. Subarticle 68.2 above is correspondingly applicable.

**Article 72**  
**Amendment to the suspension**

If, during the period that the prison sentence is suspended, the convict fails to perform the duties imposed or is tried and convicted of another crime, the court may, taking circumstances into account, amend the initially established suspended execution, alter the duties imposed or solemnly admonish the convict, according to circumstances of the case.

**Article 73**  
**Revocation of a suspension**

1. If, during the period that the prison sentence is suspended, the convict is tried and convicted of another crime or is a recurrent offender with intent, or fails to comply with the rules or duties imposed, and the amendment of the initially established suspended execution is either impossible or is shown to be insufficient, the court shall revoke the suspension.
2. Suspension shall always be revoked if, during its period of duration, the convict commits a crime of intent for which the same is punishable with an effective prison sentence.
3. Revocation of the suspension does not grant the convict the right to claim reimbursement of installments paid during and in connection with the suspension.

**Article 74**  
**Extinguishment of a prison sentence**

Unless suspension of a prison sentence is revoked, the sentence and its effects are extinguished, upon expiration of the period of suspension.

**CHAPTER III**  
**PENALTY OF FINE**

**Article 75**  
**Duration of the penalty of fine**

1. The penalty of fine ranges from a minimum of 10 to a maximum of 360 days, except where otherwise provided in law.

2. Each day of fine corresponds to an amount ranging from 50 cents to 200 US dollars, which the court shall determine depending on the economic and financial status of the convict and his or her personal expenses.
3. Whenever circumstances surrounding the case so justify, the court may authorize the payment of the fine within the period of 1 year, or allow payment in installments, with the final installment due no later than two years after the date of rendering of the final decision.

**Article 76**  
**Imprisonment as alternative to fine**

The decision that directly applies the penalty of fine shall determine imprisonment as an alternative to the length of time corresponding to the fine, reduced to two-thirds.

**Article 77**  
**Exemption or reduction of the penalty of fine**

1. If a convict punished with a penalty of fine fails to carry out the sentence due to circumstances occurring after conviction, that make compliance to the same impossible or difficult and said circumstances are not attributable to the convict, the court may order a reduction or exemption of the penalty.
2. The previous subarticle is applicable to the penalty of fine as a substitute for imprisonment.

**CHAPTER IV**  
**PENALTY OF COMMUNITY SERVICE**

**Article 78**  
**Community Service**

1. Community service consists in providing services free of charge to a public agency or other entity that the court deems to be of community interest, as long as consent of the convict has been obtained.
2. Duration of the work to be provided by the convict is determined by the court, substituting one day of incarceration set in the sentence for one hour of work that may never exceed 240 hours.
3. The work may be provided within or after regular business hours, whether on a continuous basis or otherwise, and may not exceed the allowed amount per day according to rules regarding overtime and always in such a manner that the livelihood of the convict and family members is not affected.
4. Unjustified refusal to perform the community service entails serving the originally imposed sentence, deducting the days already worked, pursuant to subarticle 78.2 above.

**Article 79**  
**Requirements**

1. The court may apply a sentence of community service as a substitute for a prison sentence not exceeding one year or for a sentence of a fine, whenever it is concluded that in this manner the purpose of the punishment is adequately and sufficiently achieved, and, in the case of imprisonment, crime prevention imperatives advise against suspended execution or substitution for a fine.



2. Application of community service always requires consent of the convict and, in the case of substitution for a fine, it may be ordered in the sentence or in a subsequent decision, provided this is made following a petition filed by the convict with attachment of property in an execution proceeding initiated in connection with failure to pay the fine.
3. Provisions in subarticle 67.3 are correspondingly applicable.

#### **Article 80**

##### **Exemption from or suspension or reduction of a penalty**

If the convict fails to perform the services due to circumstances that, after the alternative sentence was decreed, render performance difficult or impossible, and the same are not ascribable to the convict, the provisions of article 77 above shall be applicable.

#### **Article 81**

##### **Complementary legislation**

Specific legislation shall regulate all other conditions for application of the penalty of community services and performance of the same.

### **CHAPTER V**

#### **PENALTY OF ADMONISHMENT**

#### **Article 82**

##### **Admonishment**

If the perpetrator is found guilty of committing a crime that carries an abstract prison sentence not exceeding three years or a fine, the court may limit itself to admonishing the individual, provided that, cumulatively:

- a) Reparation has been made for the damage caused by the criminal conduct;
- b) The perpetrator is a first time offender;
- c) Admonishment is by itself sufficient to prevent crime and to rehabilitate the offender.

#### **Article 83**

##### **Execution of the penalty of admonishment**

Admonishment consists in a solemn and adequate oral reprimand made by the court to the convict, performed at a public hearing, once the final decision applying it has been rendered.

### **CHAPTER VI**

#### **ACCESSORY PENALTIES**

#### **Article 84**

##### **General Principle**

1. The law may determine that certain crimes result in the prohibition of exercising certain rights or practicing certain professions.
2. Accessory penalties are cumulative with one another and may only be applied concurrently with a primary penalty. Duration of the same must be set as a function of the degree of guilt.

**Article 85**  
**Temporary suspension from holding public office.**

1. The court that convicts a person who holds public office of a crime carrying an effective prison sentence shall order suspension of said person from office for the period in which the sentence is served, if the convict has not been removed as a disciplinary measure.
2. The effects provided in the respective legislation that accompany the disciplinary measure suspending the perpetrator from holding office remain in effect during the period the suspension is in force.
3. Provisions in the previous subarticles are correspondingly applicable to professions or activities the exercise of which depends on public title or authorization or homologation from a public authority.

**Article 86**  
**Prohibition from holding office**

1. A public officeholder, civil servant or Public Administration agent, who, while performing the duties for which they were elected or appointed, is convicted of a crime carrying a prison sentence exceeding three years, may be prohibited from holding such an office for a period from 2 to 5 years, whenever any of the following circumstances are present:
  - a) The act has been committed with blatant and serious abuse of that office and with clear and serious violation of the duties inherent to that office;
  - b) The perpetrator is manifestly undignified or unfit to hold such an office;
  - c) The nature of the act implies a loss of trust required to the holding of such an office.
2. The previous subarticle is correspondingly applicable to professions or activities the exercise of which depends on public title or authorization or homologation from a public authority.
3. The time during which the convict is deprived of liberty as a consequence of a coercive or security measure is not credited towards the period of prohibition.
4. The accessory penalty provided in this article is not applicable when the security measure under article 100 is applied in connection with the same acts.
5. Application of the provisions of this article requires the court to notify the public authority to which the official is answerable regarding the court conviction.

**Article 87**  
**Deportation**

1. Foreign citizens convicted of a crime with a corresponding prison sentence exceeding 3 years may be deported from national territory if they have resided therein for less than 15 years:
  - a) For a period of up to 2 years if resident for more than 10 years;
  - b) For a period of up to 5 years if resident for more than 5 years and less than 10;
  - c) For a period of up to 10 years if resident for less than 5 years.

2. The deportation described in the previous subarticle is applied whenever a specific case so requires for reasons of domestic security, public health, or to avert continued criminal activity.
3. The penalty of deportation shall be executed regardless of the partial or total enforcement of the primary sentence.

**Article 88**  
**Prohibition from driving**

1. A person may be prohibited from driving for a period to be determined between 3 months and 2 years if sentenced:
  - a) For committing any crime pursuant to articles 207 to 209,
  - b) For committing a crime with the use of a motor vehicle in which the commission was significantly facilitated by the use of said vehicle; or
  - c) For a crime of disobedience committed by refusal to undergo legally established tests for detection of driving motor vehicles under the influence of alcohol, narcotic, psychotropic drug or product with analogous effect that disturbs an individual's physical, mental or psychological fitness.
2. Provisions in subarticle 86.3 are correspondingly applicable.

**Article 89**  
**Cancellation of permit to carry a weapon**

1. In the event of conviction for a crime of intent committed with the use of a weapon, the court may, once the circumstances and gravity of such conduct have been weighed, order the cancellation of the license to use and carry a weapon for a period of 2 to 8 years.
2. Provisions in subarticle 86.3 are correspondingly applicable.

**CHAPTER VII**  
**DETERMINATION OF PENALTIES**

**Article 90**  
**General principles**

1. Whenever the law establishes a penalty, it refers to the crime in its consummated form.
2. The concrete extent of the penalty within the scope of the abstract penalty shall be determined in the following manner:
  - a) Any modifying aggravating circumstances of recurrence and habitual criminality, as described in articles 53 and 54, shall be applied to the abstract penalty corresponding to the consummated crime;
  - b) Any extraordinarily mitigating circumstances shall be taken into consideration, in the absence of any modifying circumstances, if provisions in the previous paragraph have been met or based on the abstract penalty for the consummated crime.

**Article 91**  
**Determination of a specific penalty**

1. Once the abstract scope of the penalty has been determined under the terms of the previous article, the court shall assess all circumstances that, not forming part of the legal definition itself nor having been weighed in light of the previous article, either aggravate or mitigate the liability of the convict.

2. Upon weighing these latter circumstances, the court shall determine the exact extent of the penalty deemed necessary to protect legal interests essential to life in society and to reintegrate the perpetrator into society within the limits established in the definition of the crime or resulting from application of the previous article.
3. Under no circumstance may the extent of the penalty applied to the convict exceed the limit befitting the guilt.

**Article 92**  
**Special case of the penalty of fine**

In the event of the penalty of fine, the provisions of this chapter are applicable in determining the duration of the fine without prejudice to provisions in subarticle 75.2 for calculating the amount corresponding to each day of fine.

**CHAPTER VIII**  
**SECURITY MEASURES**

**SECTION I**  
**INTERNMENT MEASURES**

**Article 93**  
**Assumptions**

Whenever an act described as a defined crime is committed by a person exempt from criminal liability under article 21, that person shall be interned in an appropriate establishment, whenever, due to a mental disorder and the nature and gravity of the act committed, the court has reason to believe that the perpetrator may commit other like acts corresponding to crimes against individuals or crimes posing collective danger.

**Article 94**  
**Duration**

1. If the act committed by a person exempt from criminal liability is punishable with imprisonment not exceeding three years, internment shall have a maximum duration of one year.
2. If the act committed by a person exempt from criminal liability corresponds to a crime against persons or a crime of collective danger punishable with imprisonment equal to or exceeding 5 years, internment shall have a minimum duration of 3 years except if release of said person is deemed compatible with safeguarding of law and order and maintaining social peace.
3. If the act committed by a person exempt from criminal liability corresponds to a crime punishable with imprisonment exceeding 8 years and the danger of new acts of the same type being committed is so grave that release is not advisable, internment may be extended for successive periods of 2 years until such time when it is verified that the initial criminal danger has ceased to exist.
4. Internment may not exceed the maximum limit of the penalty applicable in the description of the crime that was committed by the person exempt from criminal liability.

**Article 95**  
**Cessation of a measure**

1. A measure ceases with the end of the state of criminal danger which originated it or, should such a danger to self and others remain unchanged, when the maximum duration

limit of the measure is reached, except under circumstances described in subarticles 94.3 and 94.4.

2. Internment measures must be subject to review every 12 months.
3. The court may at any time review an internment decision should a justifiable cause for cessation of internment be submitted.

#### **Article 96**

##### **Substitution of the measure of internment**

1. Internment as a measure may be substituted for probation or deportation from the country when applied to foreigners.
2. In the event of deportation from the country, provisions in article 87 are correspondingly applicable.

#### **Article 97**

##### **Probation**

1. If the review referred to in article 95 above finds that there are reasons to believe that the purpose of the measure can be achieved at large, the court shall release the interned person on probation.
2. The period of probation shall be from a minimum of 2 years and a maximum of 5 years, and shall under no circumstances exceed the maximum limit provided for in article 94.4.
3. The decision to grant probation to an interned person entails rules of conduct that the person interned is obliged to follow, under terms corresponding to those described in article 70, aimed at preventing a situation of criminal danger, as well as the duty to submit to appropriate outpatient treatment and to examinations and observations at specified locations.
4. The perpetrator whose internment is suspended shall be placed under the ward and surveillance of social reintegration services.
5. If no motives exist to revoke the probation, once the probation period is over, the internment measure shall be declared void.
6. If, at the end of the probation period, another case or incident is found pending that could lead to its revocation, the measure shall be considered as concluded whenever the case or incident run their course and there is no longer any reason for revocation.

#### **Article 98**

##### **Revocation of probation**

1. Probation shall be revoked whenever:
  - a) The behavior of a person exempt from criminal liability shows that internment is indispensable; or
  - b) The person exempt from criminal liability is sentenced to internment and the requirements for suspension of execution pursuant to subarticle 68.1 are not met.
2. Revocation shall result in re-incarceration and provisions in articles 94 and 95 shall be correspondingly applicable.

#### **Article 99**

##### **Suspension of sentence of internment**

1. The court may decide to suspend internment if it can reasonably expect that such suspension may serve the purpose of the security measure and said suspension is compatible with upholding of law and order and maintaining social peace.

2. Provisions in subarticles 97.3 and 97.4 are correspondingly applicable to the suspension of internment.
3. Suspended execution of internment shall not be declared if the perpetrator is concurrently sentenced to internment and the pre-requisites for suspending execution of the latter, pursuant to subarticle 68.1, are not present.
4. Duration and termination of suspended internment shall be pursuant to provisions in articles 94 and 95, respectively.
5. Provisions of article 98 shall apply to revocation of the decision to suspend internment.

## **SECTION II OTHER SECURITY MEASURES**

### **Article 100 Measure barring the practice of a profession**

1. Whenever a person exempt from criminal liability by reason of insanity commits an act described as a defined crime related to the perpetrator's professional activity and whenever there are reasons to believe that the perpetrator may continue committing similar acts so long as he or she continues practicing such an occupation, the court may bar that person from exercising such an activity for a period from 1 to 5 years, considering the circumstances of the case and personality of the person exempt from criminal liability.
2. The term of the prohibition period is suspended during the time the freedom of the perpetrator is deprived due to a procedural coercion measure, penalty or security measure.

### **Article 101 Prohibition from driving and cancellation of license to carry a weapon**

1. Any person exempt from criminal liability who commits acts described in subarticle 88.1 may be subject to a prohibition from driving a motor vehicle for a period from 2 to 6 years, whenever the person's nature raises reasonable fears that the perpetrator may commit additional acts of the same nature.
2. In the event that a person exempt from criminal liability commits a crime using a weapon, the court may order the cancellation of the license to bear and use weapons for a period from 5 to 10 years, whenever the personality of the perpetrator raises reasonable fears that the same may commit additional acts of the same nature,
3. Provisions in subarticle 86.3 are correspondingly applicable.

## **CHAPTER IX OTHER CONSEQUENCES OF CRIME**

### **Article 102 Forfeiture of objects of the crime**

1. Objects that were used or destined to be used in the commission of a crime, or were results from the same, shall be forfeited to the State, whenever, due to their nature or the circumstances surrounding the case, the same may endanger the security of persons or public order, or pose serious risk of being used in the commission of further crimes.
2. Rights shall be safeguarded regarding objects belonging to any victim or third party, who has not participated in their use or production nor taken advantage thereof.

3. The court shall determine the disposal of objects declared forfeited whenever not specified in law, and may order the partial or complete destruction thereof or to remove them from circulation.
4. Provisions in subarticle 102.1 shall apply even when no specific person can be punished for the crime.

**Article 103**  
**Forfeiture of benefits**

1. All items, rights or benefits directly or indirectly acquired as a result of the commission of a crime shall be declared forfeited to the State, without prejudice to the rights of any victim or third parties acting in good faith.
2. If said items, rights or benefits cannot be appropriated in kind, their forfeiture shall be compensated through payment of their respective value to the State.

**Article 104**  
**Civil liability arising from crime**

1. Compensation for losses and damage resulting from a crime is obligatory and shall be assessed and arbitrated by the court, whenever the same have been appraised and quantified, except in the event the aggrieved party expresses, under terms of criminal procedural law, an intention to file suit separately.
2. The prerequisites and calculation of compensation are regulated by rules of civil law.
3. The person liable to pay compensation may effect the transaction for said compensation and report this to the court, under penalty of the act being declared null.

**Article 105**  
**Preferential credit of the aggrieved party**

Credit arising from the right of the aggrieved party to compensation for losses and damages resulting from a crime is given preference over any other arising after the act was committed, including the costs and amount related to the fine.

**TITLE V**  
**RIGHT TO FILE COMPLAINT**

**Article 106**  
**Nature of the crime**

1. For the purpose of exercising the right to file complaint, crimes may be of a public or semi-public nature.
2. Public crimes are those the criminal prosecution of which does not depend on a complaint being filed.
3. Semi-public crimes are those the prosecution of which may only be initiated after the right to file complaint has been exercised.
4. The right to file complaint consists in the right-bearer expressing the intent to initiate criminal proceedings.

**Article 107**  
**Bearerers of the right to file complaint**

Whenever criminal proceedings depend on the filing of a complaint, those described as bearing said right in criminal procedural law shall have standing to do so.

**Article 108**  
**Statute for exercising the right**

The statute for exercising the right to file complaint is six months and is counted separately for each person bearing the right to file complaint.

**Article 109**  
**Waiving or withdrawing a complaint**

Waiving or withdrawing a complaint or failure to exercise the right to file complaint against any joint participant in the crime benefits the others, in cases where these also cannot be prosecuted without a complaint being filed.

**TITLE VI**  
**PRESCRIPTION OF CRIMINAL LIABILITY**

**CHAPTER I**  
**EXPIRATION OF STATUTE OF LIMITATION ON CRIMINAL PROSECUTION**

**Article 110**  
**Statute of Limitation**

1. Criminal proceedings are prescribed, by effect of expiration of the statute of limitations, whenever the following limitations have expired counted from the date the crime was committed:
  - a) Twenty years, in the case of crimes punishable with a maximum prison sentence limit exceeding twelve years;
  - b) Fifteen years, in the case of crimes punishable with a maximum prison sentence exceeding seven, but not exceeding twelve years;
  - c) Eight years, in the case of crimes punishable with a maximum prison sentence exceeding three, but not exceeding seven years;
  - d) Four years, in all other cases.
2. Whenever the law establishes either a prison sentence or, alternatively, a fine for any crime, only the former is considered for the purpose of determining the limitations on respective criminal prosecution.

**Article 111**  
**Counting the limitation**

1. 1 – The statute of limitation for criminal prosecution runs from the date the act was committed or from the date of the last act of execution in the case of an unconsummated crime, continued crime or habitual crime.
2. 2 - Limitation in permanent crimes runs from the date the consummation ceases.
3. 3 - The act of the principal shall be considered in the case of complicity.



**Article 112**  
**Suspension of limitations**

1. Limitation for criminal prosecution is suspended, in addition to cases specifically provided for in law, whenever:
  - a) Prosecution may not legally be initiated or proceed due to lack of legal authorization or due to a sentence pronounced by a non-criminal court, or due to a return of a prejudicial matter to the non-criminal proceeding;
  - b) The delinquent serves, overseas, a sentence or security measure involving internment;
  - c) Criminal proceedings are pending, from the time the formal suspect is notified of the charges.
2. Limitation begins again from the date the cause for suspension ceases.
3. Under no circumstance may the cause for suspension exceed one half of the limitation provided for in article 110.

**CHAPTER II**  
**PRESCRIPTION OF SENTENCES AND SECURITY MEASURES**

**Article 113**  
**Prescriptions of sentences**

1. Statutes on sentences expire within the following limitations:
  - a) 25 years if the sentence exceeds 12 years imprisonment;
  - b) 20 years if sentence exceeds 8 but is less than 12 years imprisonment;
  - c) 12 years if sentence exceeds 4 but is less than 8 years imprisonment;
  - d) 8 years for all other prison sentences;
  - e) 4 years in cases with penalties of fine.
2. Prescription of a sentence counts from the date the final decision applying the same is rendered.

**Article 114**  
**Prescription of accessory penalties**

Prescription of accessory penalties is subject to the application of the primary penalty.

**Article 115**  
**Limitations on security measures**

Statutes on security measures expire in the following cases:

- a) 15 years in the case of sentences involving internment;
- b) 5 years in the case of sentences not involving internment;
- c) 2 years in all other cases.

**Article 116**  
**Suspension of limitations**

1. Limitation on sentences and security measures is suspended, in addition to cases specifically provided in law, during the period in which:
  - a) By force of law, execution of the penalty cannot begin or proceed;
  - b) Upon escape of the convict as long the same is not recaptured;

- c) The convict is serving another sentence or security measure involving internment;
  - d) There is a delay in paying the fine;
  - e) The convict is temporarily hindered from providing community services.
  - f) Execution has yet to occur.
2. Limitation begins again from the date the cause for suspension ceases.
  3. Provisions in subarticle 112.3 are correspondingly applicable.

### **CHAPTER III EXEMPTION FROM STATUTE OF LIMITATIONS**

#### **Article 117 Crimes of genocide, crimes against peace and humanity and war crimes**

There is no prescription on criminal prosecution and sentences relating to crimes of genocide, crimes against peace and humanity and war crimes.

### **CHAPTER IV OTHER CAUSES FOR EXTINGUISHMENT**

#### **Article 118 Other causes**

In addition to cases specifically provided in law, liability is extinguished upon death of the perpetrator, amnesty and pardon.

#### **Article 119 Death of the perpetrator**

The death of the perpetrator extinguishes the criminal proceeding, as well as any criminal sentence applied to the same.

#### **Article 120 Amnesty**

Amnesty extinguishes criminal prosecution and halts execution of a sentence yet to be served in whole or in part, as well as its effects and accessory penalties to the extent possible.

#### **Article 121 Amnesty and accumulation of crimes**

Except as otherwise provided, amnesty is applicable to each crime part of the joinder.

#### **Article 122 Pardon**

Pardon extinguishes the sentence in whole or in part, or replaces it with another provided for in law more lenient to the convict.

**BOOK II  
SPECIAL PART**

**TITLE I  
CRIMES AGAINST PEACE AND HUMANITY**

**CHAPTER I  
CRIMES OF GENOCIDE AND CRIMES AGAINST HUMANITY**

**Article 123  
Genocide**

1. Any person who, with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, commits any of the following:
  - a) Homicide or offence against the physical or mental integrity of members of the group;
  - b) By whatever means, acts that prevent members of the group from procreating or giving birth;
  - c) Rape, sexual enslavement, forced prostitution, forced pregnancy, forced sterilization or any other form of sexual violence of comparable seriousness;
  - d) Separation of members of the group into another group by violent means ;
  - e) Acts that prevent the group in a violent manner from settling or remaining in a geographic space that is, by tradition or historically, recognized as their own;
  - f) Subjection of the group to cruel, degrading or inhumane conditions of existence and treatment, which may cause its total or partial destruction;
  - g) Widespread confiscation or seizure of property owned by members of the group;
  - h) Prohibition of members of the group from carrying out certain trade, industrial or professional activities;
  - i) Spread of an epidemic that may cause the death of members of the group or offences to their physical integrity;
  - j) Prohibition, omission or hindrance by any means from providing members of the group with humanitarian assistance required to combat epidemic situations or severe food shortages;

Is punishable with 15 to 30 years imprisonment.

2. Any person who, publicly and directly, incites the commission of any of the aforementioned acts is punishable with 5 to 15 years imprisonment.

**Article 124  
Crimes against humanity**

Any person who, within the context of a widespread or systematic attack against any civilian population, commits acts that result in:

- a) Homicide or serious aggression to physical or mental integrity;
- b) Extermination, construed as subjection of the whole or part of a population to adverse living conditions, such as deprivation of access to food and medicine, apt to cause death of one or more persons;
- c) Enslavement;

- d) Forcible deportation or transfer of a population, construed as unlawful displacement of one or more persons to another State or place by expulsion or other coercive act;
- e) Imprisonment or any other coercive form of depriving a person of physical liberty, in violation of the standards and principles of international law;
- f) Torture, construed as infliction of severe pain or suffering, whether physical or mental, upon a person in custody or under control of the perpetrator;
- g) Rape, sexual enslavement, forced prostitution, forced pregnancy, forced sterilization or any other form of sexual violence of comparable seriousness;
- h) Persecution, construed as deprivation of the exercise of fundamental rights contrary to international law against a group or a collective entity due to politics, race, nationality, ethnicity, culture, religion, gender or for any other reason universally recognized as unacceptable under international law;
- i) Enforced disappearance of persons, construed as arrest, detention or abduction of persons by, or with authorization, support or acquiescence of, a State or political organization, followed by a refusal to acknowledge said deprivation of freedom or to provide information regarding the fate or whereabouts of said persons, with the intention of denying them protection of the law for a prolonged period of time;
- j) Apartheid, construed as any inhumane act committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
- k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health;

is punishable with 15 to 30 years imprisonment.

## **CHAPTER II WAR CRIMES**

### **Article 125**

#### **War crimes against individuals**

1. Any person who, within the context of an armed conflict of an international or non-international nature, commits against a person protected by international humanitarian law:
  - a) Homicide;
  - b) Torture or cruel, degrading or inhumane treatment, including biological experiments;
  - c) Acts causing serious suffering or serious aggression to physical integrity;
  - d) Taking of hostages;
  - e) Compels a person to serve in a hostile army or conscripts or enlists children under the age of 18 into the armed, military or paramilitary forces of a State, or into armed groups other than the armed, military or paramilitary forces of a State, or uses them to participate in hostilities;
  - f) Serious, prolonged and unjustified restrictions on the liberty of persons;
  - g) Deportation or transfer or unlawful confinement;
  - h) Unjustified appropriation or destruction of property of high value;
  - i) Renders and executes sentences, without previous fair and impartial trial;

- j) Commits acts offensive to human dignity, in particular by means of humiliating and degrading treatment;
- k) Kills or wounds a combatant who, having laid down his or her arms or having no longer any means of defense, has unconditionally surrendered or otherwise been removed from combat;
- l) Any of the acts described in paragraph (g) of the previous article;
- m) Subjects persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither motivated by any medical, dental or hospital treatment of the persons concerned, nor performed in their interest, and which cause death to or seriously endanger the health of such persons;

is punishable with 12 to 25 years imprisonment.

2. The limits of the sentence are increased by one-fifth whenever the acts referred to in the previous subarticle are committed against members of a humanitarian institution.
3. Any person who, within the context of an armed conflict of an international nature:
  - a) Transfers, directly or indirectly, as an occupying power, parts of its own civilian population into the territory it occupies, or transfers all or parts of the population of the occupied territory within or outside this territory;
  - b) Compels a prisoner of war or other protected person to serve in the armed forces of a hostile power;
  - c) Delays, after cessation of hostilities, and without a justified reason, repatriation of prisoners of war;

is punishable with 15 to 30 years imprisonment.

## **Article 126**

### **War crimes committed using prohibited methods of warfare**

Any person who, within the context of an armed conflict of an international or non-international nature:

- a) Conducts widespread attacks against the civilian population or against individual civilians not taking direct part in hostilities;
- b) Attacks civilian assets, that is, assets that are not military objectives;
- c) Attacks by whatever means, human settlements, dwellings or buildings which are undefended and not military objectives;
- d) Launches an indiscriminate attack that affects a civilian population or assets in the knowledge that such an attack will cause excessive loss of human life or injury to civilians or damage to civilian assets;
- e) Utilizes the presence of civilians or other protected persons to shield certain points, areas or military forces from becoming targets of military operations;
- f) Intentionally uses starvation of civilians as a method of warfare by depriving them of goods indispensable to their survival;
- g) Declares or threatens, in the capacity of an officer, that no quarter will be given;
- h) Treacherously kills or injures hostile combatants;
- i) Launches an attack while capable of knowing that such an attack will cause widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

- j) Commits perfidy, construed as the act of killing, wounding or capturing an adversary by appealing to good faith, with the intention to deceive, leading the same to believe that he or she is entitled to, or is obliged to accord, protection under the rules of humanitarian international law;

is punishable with 15 to 30 years imprisonment.

#### **Article 127**

##### **War crimes committed using prohibited means of warfare**

1. Any person who, within the context of an armed conflict of an international or non-international nature, employs weapons, projectiles and materials and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or to cause indiscriminate effects, in violation of international law applied to armed conflict, is punishable with 12 to 25 years imprisonment:
2. The previous subarticle covers, namely, the use of:
  - a) Poison or poisoned weapons;
  - b) Asphyxiating, toxic or other similar gases, and all analogous liquids, materials or devices;
  - c) Projectiles that expand or flatten easily inside the human body, such as hollow-pointed jacketed bullets or those with incisions;
  - d) Antipersonnel landmines;
  - e) Chemical weapons;
  - f) Weapons whose major effect is to cause wounds with shrapnel which cannot be located by x-ray in the human body;
  - g) Incendiary weapons;
  - h) Laser weapons causing blindness;
3. The weapons, instruments and products referred to in the previous subarticle correspond to the definitions set out by international law.

#### **Article 128**

##### **War crimes against assets protected by insignia or distinctive emblems**

Any person who, in the context of an armed conflict of an international or non-international nature, directs attacks against:

- a) Personnel, facilities, material, units or vehicles involved in humanitarian assistance or peace-keeping missions in accordance with the Charter of the United Nations, whenever the same are entitled to protection given to civilians or civilian assets under international humanitarian law;
- b) Buildings, facilities, material, units or vehicles visibly displaying the distinctive emblems of the Geneva Conventions or personnel using such emblems;

is punishable with 10 to 20 years imprisonment.

#### **Article 129**

##### **War crimes against property**

Any person who, within the context of an armed conflict of an international or non-international nature:

- a) Seizes, destroys or damages property on a large scale or of high value, with no military need to do so or in an arbitrary or illegal manner;

- b) Attacks, destroys or damages buildings dedicated to religion, education, art, science or charitable purposes, historic or cultural monuments, archaeological sites, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
  - c) Pillages a town or site, even when taken by assault;
- is punishable with 5 to 15 years imprisonment.

**Article 130**  
**War crimes against other rights**

Any person who, within the context of an armed conflict of an international or non-international nature, declares any rights and proceedings of the nationals of the hostile party to be abolished, suspended or inadmissible in a court of law is punishable with 5 to 15 years imprisonment.

**CHAPTER III**  
**CRIMES AGAINST PEACE AND FREEDOM**

**Article 131**  
**Terrorist organizations**

1. A terrorist group, organization or association is the grouping of two or more persons who, in order to pursue political, ideological, philosophical or denominational goals, act in a coordinated manner with a view to undermining national integrity or independence; hindering, altering or subverting the operation of national or international institutions, intimidating or compelling public authorities, international organizations or certain persons, groups of persons or the population in general, to act, abstain from acting or tolerating the practice of an act, by means of the commission of serious crimes:
  - a) Against life, physical integrity or freedom of individuals;
  - b) Against the safety of transport and communications, including telegraphic, telephone, radio or television communications;
  - c) Of maliciously causing collective danger, through arson, explosion, release of radioactive substances or toxic or asphyxiating gases, flooding or avalanches, demolition of buildings, contamination of foodstuffs and drinking water or dissemination of disease, plague or dangerous plants or animals;
  - d) That use nuclear energy, firearms, explosive substances or devices, incendiary means of any kind, booby-trapped packages or letters;
  - e) Acts that temporarily or permanently, partly or totally, destroy or prevent operation or deviate from normal usage, means of communication, public service facilities or international installations or installations destined to provide and address vital needs of populations;
  - f) Research and development of biological or chemical weapons.
2. Any person who promotes or establishes a terrorist group, organization or association, joins, participates in or supports the same shall be punishable with 12 to 25 years imprisonment.
3. Any person who leads or directs a terrorist group, organization or association shall be punishable with 15 to 30 years imprisonment.
4. Whenever a terrorist group, organization or association, or the persons referred to in subarticles 131.2 and 131.3 possess any of the means listed in subarticle 131.1(d) above, the minimum and maximum limits of the penalty shall be increased by one-third.

5. The minimum and maximum limits of the penalty for preparatory acts to the establishment of a terrorist group, organization or association shall be reduced by one half.
6. The referred penalties may be extraordinarily mitigated, or punishment may not take place, if the perpetrator voluntarily abandons said activities, prevents or strives to prevent the dangers associated to it or the continuation of terrorist groups, organizations or associations, or informs the authorities about their existence so that the latter may prevent the commission of crimes.

### **Article 132 Terrorism**

1. Any person who commits any of the crimes provided for in subarticles 131.1(a) to (c) and (e), or any other crime by employing the means referred to in subarticles 131.1(d) or (f) with the intent referred therein, shall be punishable with 12 to 25 years imprisonment, or the penalty corresponding to the crime committed, with maximum and minimum limits thereof increased by one third, if said penalty is equal or longer.
2. The penalty may be extraordinarily mitigated, or punishment may not take place if the perpetrator voluntarily abandons said activities, removes or reduces considerably the dangers associated to it, prevents the outcome that the law aims to prevent, or actually assists in the gathering of decisive evidence for the identification and arrest of other elements responsible for the act.

### **Article 133 Funding of terrorism**

Any person who, by whatever means, directly or indirectly and with intent, supplies, collects or holds funds or assets of any type, as well as products or rights that may be converted into funds and attempts to do so, with a view to be used or knowing that they may be used, totally or partially, in the planning, preparation or commission of the acts referred to in subarticle 131.1, or commits such acts with the intent referred to in subarticle 132.1, shall be punishable with 12 to 25 years imprisonment.

### **Article 134 Incitement to war**

1. Any person who, by whatever means, publicly and repeatedly, incites hatred against a race, people or nation, with the intention to provoke war or prevent peaceful fellowship among different races, peoples or nations, is punishable with 2 to 8 years imprisonment.
2. Any person who induces or enlists Timorese or foreign nationals to, in the service of a foreign group or power, wage war against a State or overthrow the legitimate Government of another State through violent means, is punishable with 5 to 15 years imprisonment.

### **Article 135 Religious or racial discrimination**

1. Any person who establishes or constitutes an organization or develops activities of organized propaganda inciting or encouraging religious or racial discrimination, hatred or violence, or takes part in the organization or carrying out of the activities referred to in the previous paragraph, or provides assistance thereto, including funding, is punishable with 4 to 12 years imprisonment
2. Any person who, at a public meeting, through written medium destined for dissemination or in the media, provokes acts of violence against a person or group of people on grounds of race, color, ethnic origin or religion, with the intent to incite or encourage racial or religious discrimination, is punishable with 2 to 8 years imprisonment.



## **CHAPTER IV COMMON PROVISIONS**

### **Article 136**

#### **Responsibility of military commanders and other superiors**

1. A military commander or person acting as such, aware that the forces under his or her effective command and control or effective responsibility or control are committing any of the crimes provided in this law, fails to adopt all necessary and appropriate measures to prevent or deter the commission of such acts or to immediately report them to competent authorities, is punishable with the sentence corresponding to the crime(s) that has (have) actually been committed.
2. The provision of the previous subarticle is, *mutatis mutandis*, applicable to a superior in connection with control of subordinates under his or her effective authority and control.

### **Article 137**

#### **Definitions**

For the purposes of this Title, the following definitions are considered:

- a) "Armed conflict of an international character" is that which:
  - i) Occurs between States, even when there is no formal declaration of war, even though a state of war is not recognized by either State;
  - ii) Corresponds to a situation of partial or total occupation of the territory of a State, even if such an occupation finds no military resistance;
  - iii) Includes a situation in which peoples fight against colonial domination, foreign occupation or against a segregationist regime, in the exercise of the right of peoples to self-determination, as enshrined in the Charter of the United Nations and in the declaration relative to the principles of international law concerning friendly relations and cooperation among States.
- b) "Armed conflict of a non-international nature" is one which is fought within the territory of a State, is of a prolonged nature, where there is opposition between governmental authorities and organized armed groups, or a conflict fought among the latter, exception being made to situations of internal unrest or tension, such as sporadic or isolated acts of violence or others of a similar nature;
- c) "Protected persons"
  - i) In armed conflicts of an international character, it means protected persons in the sense of the 1949 Geneva Convention and the Additional Protocol I, namely those who are wounded, sick, shipwrecked, prisoners of war, health workers or religious staff and civilian population;
  - ii) In an armed conflict of a non-international nature, those who are wounded, sick, stranded, as well as persons who do not take an active part in the hostilities and are held by the enemy;
  - iii) In an armed conflict of an international nature and in an armed conflict of a non-international nature, members of the armed forces and combatants of the enemy side that have put down their weapons or do not have other means of defense.

**TITLE II**  
**CRIMES AGAINST INDIVIDUALS**

**CHAPTER I**  
**CRIMES AGAINST LIFE**

**Article 138**  
**Homicide**

Any person who kills another person is punishable with 8 to 20 years imprisonment.

**Article 139**  
**Aggravated homicide**

If homicide is committed under circumstances that are particularly reprehensible or reflect a particular degree of perversity:

- a) Through employment of poison, torture, asphyxia, fire, explosive or by another insidious means or that translates into the commission of a crime of collective danger or, with another act of cruelty to inflict greater suffering to the victim;
- b) Through treachery or disguise or another means or recourse that renders the defense of the victim difficult or impossible;
- c) Out of greed, pleasure in killing, seeking of excitement or satisfaction of a sexual nature, through payment or reward or promise of payment or reward, or for any other superfluous or insidious reason;
- d) For the purpose of preparing, executing or covering up another crime, facilitating escape or ensuring impunity of the perpetrator of a crime;
- e) Out of racial, religious or political hatred;
- f) With premeditation, construed as cold-bloodedness, giving forethought to the means of performing the crime or delaying intent to kill for more than 24 hours;
- g) If the victim is a spouse, descendant, parent, collateral or similar relation to the second degree, a person adopted by the perpetrator or a person living with the perpetrator under analogous conditions where a hierarchical, economic or labor dependency exists;
- h) If the victim is particularly vulnerable by reason of age, illness or physical or mental disability;
- i) If the victim is a member of an organ of national sovereignty and constitutional political body, member of a local government body, magistrate, public defender, attorney, court clerk, public servant or any other person responsible for a public service, provided that the crime is committed while performing or because of performance of his or her duties;
- j) If the victim is a witness, declarant, expert, aggrieved party or victim and the crime is committed with the purpose of impeding the deposition, informing or filing of a complaint or because of the person's involvement in the proceedings,

the perpetrator shall be punishable with 12 to 25 years imprisonment.

**Article 140**  
**Manslaughter**

1. Any person who, by negligence, kills another person is punishable with up to 4 years imprisonment or a penalty of fine.
2. In cases where the perpetrator has acted with gross negligence, the same is punishable with up to 5 years imprisonment.

**Article 141**  
**Termination of pregnancy**

1. Any person who, by any means and without consent of the pregnant woman, causes an abortion shall be punishable with a prison sentence between 2 and 8 years.
2. Any person who, by any means and with the consent of the pregnant woman, causes an abortion shall be punishable with a prison sentence not exceeding 3 years.
3. Any pregnant woman, who consents to an abortion committed by a third party or, by her own actions or those of a third party, causes an abortion, shall be punishable with a prison sentence not exceeding 3 years.
4. The provisions in the previous subarticles shall not be applicable in the event that the termination of pregnancy constitutes the only means of removing the pregnant woman or fetus from danger of death or serious and irreversible harm to body or physical or mental health, as long as performed pursuant to authorization and supervision of a medical panel, professional physician or health professional in a public health institution and with consent of the pregnant woman and/or the spouse.
5. Provisions in subarticle 4 of this present article are correspondingly applicable.

**Article 142**  
**Infanticide**

A mother who kills her child during childbirth or soon thereafter and while still under the disturbing influence thereof, is punishable with 3 to 10 years imprisonment.

**Article 143**  
**Abandonment or exposure**

1. Any person who, intentionally, endangers the life of another person by:
  - a) Exposing said person in a place where the same is placed in a situation where he or she is unable to protect him or herself single-handed; or
  - b) Abandoning the person defenseless by reason of age, physical impairment or illness, when the perpetrator is responsible for protecting, caring for or assisting said person;

Is punishable with 1 to 6 years imprisonment.

2. If the act results in:
  - a) Serious harm to physical integrity, the perpetrator is punishable with 2 to 8 years imprisonment;
  - b) Death, the perpetrator is punishable with 5 to 15 years imprisonment.
3. If the victim is a spouse, descendant, parent or collateral kin to the second degree, a person who has adopted or is adopted by the perpetrator or a person cohabiting with the perpetrator in conditions analogous to those of spouse, the limits to the penalties referred to in the previous subarticles shall be increased by one-third.

**Article 144**  
**Incitement or aiding suicide**

1. Any person who incites another person to commit suicide, or provides assistance for said purpose, if the suicide is actually attempted or consummated, is punishable with up to 3 years imprisonment or a penalty of fine.
2. If the acts described in the previous subarticles are committed against any of the persons referred to in subarticle 143.3 or a minor below the age of 17 or a person whose ability to assess and decide is significantly impaired, the same is punishable by up to 5 years imprisonment.
3. Any person who, by any means, repeatedly and publicly advocates suicide is punishable with up to 2 years imprisonment or a fine.

**CHAPTER II**  
**CRIMES AGAINST PHYSICAL INTEGRITY**

**Article 145**  
**Simple offences against physical integrity**

1. Any person who causes harm to the body or health of another person is punishable with up to 3 years imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

**Article 146**  
**Serious offences against physical integrity**

Any person who causes harm to the body or health of another person with the purpose of:

- a) Depriving such person of an important organ or limb;
- b) Seriously or permanently disfiguring said person;
- c) Seriously affecting, for a long period of time or definitively, a person's working capacity, intellectual faculties, or capacity to procreate;
- d) Causing permanent illness or incurable mental disorder to such a person; or
- e) Endangering the life of said person;

is punishable with 2 to 8 years imprisonment.

**Article 147**  
**Aggravation**

1. Any person who, with the sole intent to cause harm to the body or health of another person:
  - a) causes any of the results provided in article 146 is punishable with up to 5 years imprisonment;
  - b) causes death by negligence is punishable with 1 to 6 years imprisonment;
2. If, with intent to cause any of the offenses provided in article 146, causes death by negligence, is punishable with 4 to 12 years imprisonment;
3. If the victims of the crimes referred to in the two previous articles are any of the persons mentioned in article 139, paragraph (i), because of or while performing their

aforementioned duties, the limits of the penalty shall be increased by one-third, where no heavier penalty is applicable by force of another legal provision.

#### **Article 148**

##### **Negligent offences against physical integrity**

1. Any person who, by negligence, causes harm to the body or health of another person is punishable with up to 1 year imprisonment or a fine.
2. In the case of gross negligence, the penalty shall be up to 2 years imprisonment or a fine.
3. If the act results in serious bodily harm, the perpetrator shall be punishable with up to 3 years imprisonment or a fine.
4. Prosecution depends on the filing of a complaint.

#### **Article 149**

##### **Medical-surgical procedures and treatments**

1. Medical procedures and other treatments that the state-of-the-art and medical experience show to be adequate and are performed or provided according to the *leges artis* by a medical professional or another legally certified person with a view to preventing, diagnosing, curing or reducing a disease, suffering, lesion or bodily fatigue or mental disorder are not considered bodily harm.
2. If the violation of the *leges artis* results in danger to the body, health or life of the patient, the perpetrator is punishable with imprisonment of up to 3 years or fine.
3. Prosecution depends on the filing of a complaint.

#### **Article 150**

##### **Offences caused by poisonous substances**

1. Any person who causes harm to the body or health of another person by giving the same substances poisonous or harmful to his or her physical or mental health is punishable with up to 5 years imprisonment.
2. If any of the consequences provided in article 146 or the death of the victim occurs, the perpetrator is punishable with 2 to 6 years or 4 to 12 years imprisonment, respectively.

#### **Article 151**

##### **Reciprocal offences against physical integrity**

1. Whenever two persons cause reciprocal harm to the body or health of the other, with neither acting in legitimate defense and none of the effects provided in article 146 nor the death of any intervening party occurring, the same are punishable with up to 2 years imprisonment or a penalty of fine.
2. Prosecution depends on the filing of a complaint.

#### **Article 152**

##### **Affray**

1. Any person who intervenes or takes part in an affray involving two or more persons, which results in death or serious bodily harm, is punishable with up to 3 years imprisonment or a fine, if said results may not be imputed as being of malicious intent.

2. Participation in an affray is not punishable when the reason for said involvement is irreproachable, namely with the aim of responding to aggression, defending another person or attempting to separate the participants.

**Article 153**  
**Mistreatment of a disabled person**

1. Any person who has guardianship or custody, or is responsible for the education of a disabled person, even as a subordinate under employment, who is particularly vulnerable by reason of illness, advanced age, pregnancy, physical or mental impairment, and causes harm to said person's body or health, or inflicts physical or mental mistreatment or cruel treatment, is punishable with 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision.
2. If the victim is a descendent, collateral kin, family or similar to the second degree, a person who has adopted or been adopted by the perpetrator or person cohabiting with the perpetrator under similar conditions, the limits of the sentence shall be increased by one third.

**Article 154**  
**Mistreatment of a spouse**

Any person who inflicts physical or mental mistreatment or cruel treatment upon a spouse or person cohabiting with the perpetrator in a situation analogous to that of spouse is punishable with 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision.

**Article 155**  
**Mistreatment of a minor**

1. Any person who provides guardianship or custody, or is responsible for the upbringing of a minor aged less than 17 years, or does so under employment, and:
  - a) Causes harm to the minor's body or health, or inflicts physical or mental mistreatment or cruel treatment;
  - b) Subjects the minor to economic exploitation, hazardous work or work capable of compromising his or her education or physical, mental, spiritual, moral or social development;
  - c) Subjects the minor to any form of slavery or analogous practice;
  - d) Uses, recruits or offers the minor for purposes of prostitution, production of pornographic material or pornographic shows; or
  - e) Uses, recruits or offers the minor for practicing unlawful acts or activities, namely production and trafficking in narcotics as defined by international conventions,

is punishable with 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision.

2. Any person who, under similar circumstances, uses a minor for begging is punishable with up to 3 years imprisonment, if no heavier penalty is applicable by force of another legal provision.
3. If the victim is a descendant, collateral kin, relative or similar to the second degree, has adopted or been adopted by the perpetrator or a person cohabiting with the perpetrator under similar conditions, the limits to the penalties referred to in the preceding subarticles shall be increased by one third.

**Article 156**  
**Aggravation due to results**

If, as a consequence of mistreatment described in articles 153 to 155, any of the effects referred to in article 146 occurs, the perpetrator is punishable with 3 to 10 years imprisonment and if death is caused by such mistreatment, then the perpetrator is punishable with 5 to 15 years imprisonment.

**CHAPTER III**  
**CRIMES AGAINST PERSONAL LIBERTY**

**SECTION I**  
**PERSONAL AGGRESSIONS**

**Article 157**  
**Threats**

1. Any person who, by any means, threatens another person with commission of a crime in order to cause fear or unrest or to undermine that person's freedom of decision-making is punishable with up to 1 year imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

**Article 158**  
**Coercion**

1. Any person who, by means of violence or threat of serious harm, compels another person to commit an act or omission, or to accept an activity under duress is punishable with up to 2 years imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

**Article 159**  
**Serious coercion**

If the coercion is exercised:

- a) Through the threat of a crime punishable with penalty of imprisonment exceeding 3 years;
  - b) By an official seriously abusing his or her office;
  - c) Against a person who is particularly defenseless, by virtue of age, deficiency, illness or pregnancy;
  - d) Against any of the people referred to in subparagraph i) of article 139,
- the perpetrator is punishable with up to 3 years imprisonment or a fine.

**Article 160**  
**Kidnapping**

1. Any person who, apart from cases provided in criminal procedural law, detains, arrests, maintains in detention or confinement another person, or otherwise deprives said person of liberty, is punishable with up to 3 years imprisonment or a fine.
2. The penalty is 2 to 8 years imprisonment if the deprivation of liberty:

- a) lasts for more than seventy-two hours;
- b) is committed by means of an offence against physical integrity, torture or any other cruel, degrading or inhumane treatment;
- c) causes, by negligence of the perpetrator, the death of the victim or leads the latter to commit suicide;
- d) is imposed upon a victim who exercises public, religious or political authority;
- e) Is promoted, authorized or endorsed by a public perpetrator or member of a political organization.

**Article 161**  
**Abduction**

1. Any person who, by means of violence, threat or deceit, transfers another person from one place to another with the intention to:
  - a) Subject the victim to extortion;
  - b) Commit crime of sexual exploitation, assault or abuse;
  - c) Obtain ransom or reward; or
  - d) Compel public authorities or any third party to commit or refrain from committing an act, or to coercively accept an activity,is punishable with 4 to 12 years imprisonment.
2. If any of the circumstances provided in subarticle 2 of article 160 occurs, the applicable penalty is 5 to 15 years imprisonment.

**Article 162**  
**Enslavement**

1. Any person who, by any means, places a fellow human being in a situation of enslavement or makes use of a person in such a condition is punishable with 8 to 20 years imprisonment.
2. The consent of the victim is irrelevant if any of the means referred to in the following article were used.
3. For purposes of application of provisions in this article, a person is considered to be in a condition of enslavement whenever, even if only de facto, said person is under submission to powers corresponding to those of property rights, or to any concrete right, or is bound to the disposal of any thing.

**Article 163**  
**Human trafficking**

1. Any person who recruits, assigns, purchases, transports, transfers, houses or receives persons, through use of threats, force or other forms of coercion, kidnapping, fraud, trickery, abuse of power or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, to obtain the consent of a person with authority over another, for purposes of exploitation, shall be punishable with 8 to 20 years imprisonment.
2. The penalty referred to in the subarticle above shall apply to any person who recruits, transports, transfers, houses or receives a minor under the age of 17 for the purpose of exploiting the same, even if none of the means referred to in the subarticle above are involved.



3. For the purpose of applying the provisions of this article, exploitation shall include but is not limited to exploitation through prostitution of another person or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or extraction of organs.
4. Consent of the victim is irrelevant, if any of the means referred to in subarticle 1 were employed.

#### **Article 164 Aggravation**

If the acts described in articles 162 and 163 are committed:

- a) As a means to facilitate sexual exploitation or use of the victim, by the perpetrator or a third party;
- b) The victim is a minor under the age of 17;
- c) The victim is in a foreign country or travelling to a foreign country;
- d) The victim is used, against his/her will, in the commission of crimes; or
- e) The perpetrator is engaged in an activity that grants the same public or religious authority before a group, region or entire country;

Said perpetrator shall be punishable with 12 to 25 years imprisonment.

#### **Article 165 Trafficking in human organs**

1. Any person who obtains, sells, assigns, purchases, transports or transfers tissues, organs, substances or parts of the human body of third parties without consent or through use of threats, force or other forms of coercion, kidnapping, fraud, deceit, abuse of authority or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, or assists in the collection, transaction, transport or storage of the above shall be punishable with 3 to 10 years imprisonment.
2. If commission of any of the acts mentioned in the subarticle above results in any of the effects provided for in article 146 or the death of the victim, the perpetrator shall be punishable with 4 to 12 years imprisonment and 5 to 20 years imprisonment, respectively.
3. Consent of the victim is criminally irrelevant, if any of the means referred to in subarticle 1 were used.

#### **Article 166 Sale of persons**

1. Any person who, apart from the cases provided in article 163, by any act or other means of transaction, transfers a person, or group of persons, to another person or group of persons against payment of any sum or any other exchange, reward or advantage, is punishable with 2 to 8 years imprisonment.
2. If the acts referred to in the previous subarticle are committed:
  - a) Against a minor aged less than 17 years;
  - b) Through abuse of authority arising from a family relationship, ward or guardianship, or hierarchical, economic or labor-related dependence;
  - c) Through taking advantage of any office or authority held, in any capacity, in a prison, educational or correctional establishment, hospital, mental institution, rest

home, clinic or other health establishment or establishment intended to provide assistance or treatment; or

- d) Upon an unconscious or incapable person who is particularly vulnerable by virtue of disease, physical or mental deficiency;

Said perpetrator is punishable with 4 to 12 years imprisonment.

- 3. Consent of the victim or third party who exerts any form of power over the victim is criminally irrelevant.

#### **Article 167**

#### **Torture or other cruel, degrading or inhuman treatment**

- 1. Any person who, having the duty to prevent, investigate and decide on any types of offence, and to enforce the respective penalties, or to protect, guard, conduct surveillance on or monitor any persons who have been detained or arrested and commits torture or cruel, degrading or inhumane treatment, in order to

- a) obtain from that person or from another person a confession, deposition, statement or information;
- b) punish that person for an act actually or allegedly committed by the same or another;
- c) intimidate that person or another person

is punishable with 2 to 8 years imprisonment.

- 2. The penalty provided for in the preceding paragraph shall also be imposed to any person who, on his or her own initiative, orders from a superior or in accordance with any authority competent to perform the duties described in the previous subarticle, commits any of the acts described therein while de facto assuming performance of these duties.

- 3. Torture or cruel, degrading or inhumane treatment means any act consisting in inflicting severe physical or psychological suffering, acute physical or mental strain or employing chemical products, drugs and other means, whether natural or artificial, with the intent to disrupt the victim's decision-making capacity or free expression of will.

#### **Article 168**

#### **Aggravation**

- 1. Any person who, under the terms and conditions described in the previous article:

- a) Causes serious bodily harm as provided for in article 146;
- b) Employs means or methods of torture which are particularly grievous, namely beatings, electric shock, simulated execution, hallucinogenic substances, sexual abuse or serious threat against family members;
- c) Commits such acts as a means of hindering or rendering difficult the free exercise of political or trade union rights established by the Constitution;
- d) Habitually commits the aforesaid acts;

is punishable with 5 to 15 years imprisonment.

- 2. If the acts referred to in this article or in the preceding article result in the suicide or death of the victim, the perpetrator is punishable with 5 to 20 years imprisonment.

#### **Article 169**

#### **Failure to denounce**

1. Any hierarchical superior who, aware of the commission, by a subordinate, of any of the acts described in articles 167 and 168, fails to inform of such an act within three days from the date of becoming aware of the commission thereof, is punishable with 1 to 6 years imprisonment.
2. Any person who, in his/her professional capacity, becomes officially aware of any of the acts described in articles 167 and 168 and fails to immediately report the same to his/her immediate superior, or to denounce it, is punishable with the penalty, extraordinarily mitigated, as determined in the previous subarticle.

**Article 170**  
**Freedom of assembly or demonstration**

1. Any person who interferes with a lawfully authorized gathering or demonstration being held in a public place or open to the public by hindering or attempting to hinder it from being held is punishable with up to 2 years imprisonment or a fine.
2. Any law enforcement official who hinders or attempts to hinder, outside of legal limits, the exercise of the right to assembly or to demonstrate described in the preceding subarticle is punishable by up to 3 years imprisonment.

**SECTION II**  
**SEXUAL AGGRESSION**

**Article 171**  
**Sexual coercion**

Any person who, by means of violence, serious threat, or after having made, for the purpose of compelling another person to endure or to practice with the same or a third person any act of sexual relief, such a person unconscious or placed the same in a condition where resistance is impossible, is punishable with 2 to 8 years imprisonment.

**Article 172**  
**Rape**

Any person who, by the means referred to in the previous article, practices vaginal, anal, or oral coitus with another person or forces the same to endure introduction of objects into the anus or vagina is punishable with 5 to 15 years imprisonment.

**Article 173**  
**Aggravation**

If the sexual offenses referred to in articles 171 and 172 are committed:

- a) Through abuse of authority arising from a family relationship, ward or guardianship, or hierarchical, economic or labor-related dependence;
- b) Through taking advantage of duties exercised or office held, in any capacity, in a prison, educational or correctional establishment, hospital, mental institution, rest home, clinic or other health establishment or establishment intended to provide assistance or treatment; or
- c) Upon an unconscious or incapable person who is particularly vulnerable by virtue of disease, physical or mental deficiency;
- d) Against a victim aged less than 17 years;

The perpetrator is punishable with 4 to 12 years imprisonment in the case of article 171 and 5 to 20 years imprisonment in the case of article 172.

**SECTION III  
SEXUAL EXPLOITATION**

**Article 174**

**Sexual exploitation of a third party**

1. Any person who, with intent to derive profit or any person who makes a livelihood from, promotes, facilitates, or by any other means, contributes toward engaging another person in prostitution or other sexual acts, is punishable with 3 to 10 years imprisonment.
2. The perpetrator is punishable with 4 to 12 years imprisonment, if any of the following circumstances arises:
  - a) Exploitation of the situation of abandonment or economic necessity of the victim;
  - b) Use of violence, serious threat or coercion over the victim;
  - c) Displacing the victim to a country different from where the victim was born or was resident;
  - d) Withholding any identification document belonging to the victim.

**Article 175**

**Child prostitution**

1. Any person who, even with consent of the victim, practices any of the acts of sexual exploitation referred to in the preceding article against a minor aged less than 17 years, is punishable with 4 to 12 years imprisonment in the case of subarticle 1 and 5 to 15 years imprisonment in cases where any of the circumstances described in subarticle 2 occur.
2. Any person who offers, obtains, seeks or delivers a minor aged less than 17 years for purposes of child prostitution is punishable with 4 to 12 years imprisonment if no heavier penalty is applicable by force of another legal provision.

**Article 176**

**Child pornography**

1. Any person who, for predominantly sexual purposes, uses, exposes or represents a minor aged less than 17 years performing any sexual activity, whether real or simulated, or by any other means, exhibits the sexual activity or sexual organs of a minor, is punishable with 3 to 10 years imprisonment;
2. The same penalty is applicable to any person who produces, distributes, disseminates, imports, exports, offers, sells or possesses any medium of communication, instrument, document or record for the purposes referred to in the previous subarticle or with the aim of disseminating such acts.

**SECTION IV  
SEXUAL ABUSE**

**Article 177**

**Sexual abuse of a minor**

1. Any person who practices vaginal, anal or oral coitus with a minor aged less than 14 years is punishable with 5 to 20 years imprisonment.
2. Any person who practices any act of sexual relief with a minor aged less than 14 years is punishable with 5 to 15 years imprisonment.

**Article 178**  
**Sexual acts with an adolescent**

Any person who, being an adult and apart from situations provided in this section, practices any relevant sexual act with a minor aged between 14 and 16 years, taking advantage of the inexperience of the same, is punishable with up to 5 years imprisonment.

**Article 179**  
**Sexual abuse of a person incapable of resistance**

Any person who practices any relevant sexual act with an unconscious or incapable person particularly vulnerable by virtue of illness, physical or mental deficiency, taking advantage of said situation of incapacity, is punishable with 4 to 12 years imprisonment.

**Article 180**  
**Sexual fraud**

1. Any person who fraudulently takes advantage of mistaken identity, and practices vaginal, anal or oral coitus with another person, is punishable with up to 3 years imprisonment.
2. Prosecution depends on the filing of a complaint.

**Article 181**  
**Sexual exhibitionism**

1. Any person who publicly disturbs another person by committing acts of a sexual nature is punishable with up to 3 years imprisonment or a fine.
2. Any person who, in the presence of others, practices vaginal, anal or oral coitus, against the will of the latter, even if this occurs in private, incurs the same penalty.
3. The attempt is punishable.
4. Prosecution depends on the filing of a complaint.

**SECTION V**  
**COMMON PROVISIONS**

**Article 182**  
**Aggravation**

1. The penalties prescribed from Section II to Section IV of this chapter shall have their minimum and maximum limits increased by one third if:
  - a) The victim is less than 12 years of age at the time the act was committed;
  - b) The perpetrator has transmitted to the victim any venereal disease, syphilis or AIDS;
  - c) Due to the act, the victim attempts or commits suicide or the same results in death.
  - d) The victim is a descendent, collateral, relative or similar to the second degree, a person adopted by or who has adopted the perpetrator or a person cohabiting with the perpetrator under similar conditions or there is a hierarchical, economical or work-related dependence;

2. Whenever more than one of the circumstances described in the preceding subarticle are present, only one may be evoked as a modifying circumstance and those remaining shall be weighed in determining a specific penalty.

## **CHAPTER V VIOLATION OF PRIVACY**

### **Article 183**

#### **Public disclosure of private information**

1. Any person who, by any means, even if lawful, becomes privy to facts regarding the private or sexual life of another person and, without consent of the latter, publicly circulates the same without just cause, is punishable with up to 1 year imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

### **Article 184**

#### **Breach of secrecy**

1. Any person who, without consent, discloses a secret of a third party which he or she became privy to by reason of status, occupation, employment, profession or art, is punishable with up to 1 year imprisonment or a fine.
2. If the secret is relating to any commercial, industrial, professional or artistic activity, which the perpetrator became privy to under the circumstances described above, and causes loss to another person or to the State, the penalty is 2 years imprisonment or a fine.
3. Prosecution depends on the filing of a complaint.

### **Article 185**

#### **Unlawful entry**

1. Any person who, without consent, enters the dwelling of another person, or having been authorized to do so, remains therein once requested to leave, is punishable with up to 2 years imprisonment or a fine.
2. If the perpetrator, in order to more easily commit the crime, takes advantage of night, the fact that the dwelling is located in a secluded area, or that the act is being committed by 3 or more persons, or uses a weapon, resorts to violence or threat of violence or uses scaling, breaking into or employs a lockpicking device, the same is punishable with up to 3 years imprisonment or a fine.
3. If there are people inside the dwelling when the perpetrator commits the crime, the limit to the penalty provided for in previous subarticle shall apply, increased by one third.
4. The attempt is punishable.
5. Prosecution depends on the filing of a complaint.

### **Article 186**

#### **Trespassing on sites restricted from public access**

1. Any person who practices any of the acts described in subarticles 1 and 2 of the previous article in connection with any other place closed to or restricted from public access or not freely open to public access, is punishable with, respectively, the penalties referred to in those subarticles, with their maximum limits reduced by one half.
2. Prosecution depends on the filing of a complaint.

### **Article 187**

#### **Tampering with correspondence or telecommunications**

1. Any person who, without consent or apart from any procedurally admissible case, opens a parcel, letter or any other written document addressed to another person, or becomes privy to its contents, or prevents it from being received by its addressee, is punishable with up to 2 years imprisonment or a fine.
2. Any person who, under the same circumstances, tampers with or becomes privy to contents of a communication made by telephone, telegraph or by any other means of telecommunication, incurs the same penalty.
3. Any person who discloses the contents of a letter, parcel, closed written document, telephone call or any of the other communications referred to in the previous subarticles, is punishable with up to one year imprisonment or a fine, even if said person became privy to its contents in a lawful manner.
4. If any of the acts referred to in the previous subarticles is committed by an employee of a post office or telegraph, telephone or telecommunication service, the limits of the penalties shall be increased by one third.
5. Prosecution depends on the filing of a complaint.

### **TITLE III**

#### **CRIMES AGAINST DEMOCRATIC PRACTICE**

### **CHAPTER I**

#### **CRIMES AGAINST PUBLIC PEACE**

### **Article 188**

#### **Criminal association**

1. Any person who promotes or establishes a group, organization or association the purpose or activity of which is the commission of crimes, is punishable with 2 to 8 years imprisonment.
2. Any group, organization or association shall be considered criminal if it consists of two or more persons who, for a period of time and in a concerted manner, seek to commit or incite the commission of crimes with intent to disturb public order or directly or indirectly obtain benefit or advantage.
3. Any person who joins, supports or participates in any of the activities conducted by said criminal group, organization or association is punishable with 2 to 6 years imprisonment.
4. The head or leader of any group, organization or association referred to in the previous subarticles is punishable with 4 to 12 years imprisonment.
5. The penalties referred to in the preceding subarticles may be extraordinarily mitigated if the perpetrator hinders or makes serious efforts to hinder continuation of the group, organization or association, or communicates to authorities regarding existence of such a group so as to prevent the commission of crime.

### **Article 189**

#### **Instigation to commit a crime**

1. Any person who, publicly and by any means, incites the commission of a crime, is punishable with up to 3 years imprisonment or a fine.

2. Any person who, in private or publicly, commends or rewards a person who has committed any crime in order to, through such conduct, incite the commission of identical crimes, is punishable with up to 2 years imprisonment or a fine.
3. Whenever, in the case of the previous subarticles, the crime instigated by the perpetrator is actually committed, the applicable penalty, unless said crime carries a heavier penalty by force of another legal provision, is 2 to 5 years imprisonment.

**Article 190**  
**Participation in a riot**

1. Any person who participates in a public riot, during which violence is collectively committed against persons or property, is punishable with up to 1 year imprisonment or a fine, if no heavier penalty for participation in the crime committed is applicable.
2. If the riot was prompted or directed by the perpetrator, the same is punishable with a penalty of up to 3 years imprisonment.
3. In the event of an armed riot, the limits to the penalties referred to in the previous subarticles are doubled.

**Article 191**  
**Hindering the exercise of political rights**

Any person who hinders, by means of violence or threat, the exercise of a person's political rights is punishable with up to 1 year imprisonment or a fine.

**Article 192**  
**Traffic of influence**

1. Any person who, directly or through a third person, and with his or her consent or endorsement, asks for or accepts, for him or herself or a third party, any material or other gain or promise thereof, to abuse his or her influence, whether actual or supposed, in relation to any public entity, is punishable:
  - a) With 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision, if the purpose is to obtain any unlawful favorable decision;
  - b) With up to 1 year imprisonment or a fine, if no heavier penalty is applicable by force of another legal provision, if the purpose is to obtain any favorable lawful decision.
2. Any person who, directly or through a third person, and with his or her consent or endorsement, gives or promises material or other gain to the persons referred to in the preceding subarticle for the purposes described in subparagraph a) of the preceding subarticle, is punishable with up to 4 years imprisonment or a fine.

**Article 193**  
**Disobedience to an order of dispersal**

1. Any person who fails to obey a lawful order to withdraw from a public gathering or meeting issued by a competent authority, with the warning that failure to obey constitutes a crime, is punishable with up to 2 years imprisonment or a fine.
2. If the disobedient person is the promoter of the meeting or gathering, the same is punishable with up to 3 years imprisonment or a fine.



#### **Article 194**

##### **Abuse of public signals or uniform**

1. Any person who abusively utilizes a warning or distress signal or call, or pretends that outside assistance is needed due to a disaster, danger or situation of collective necessity, is punishable with up to 1 year imprisonment or a fine.
2. Any person who unduly or abusively uses a uniform, attire or insignia which identifies a public or international activity, authority or institution, as a means to more easily commit any unlawful act, incurs the same penalty.

#### **Article 195**

##### **Usurpation of office**

1. Any person who, without authorization, holds any office or performs any acts expected to be exercised or performed solely by a public official, military commander or law enforcement officer, assuming said office to him or herself either expressly or tacitly, is punishable with up to 3 years imprisonment.
2. The same penalty shall apply to any person who exercises a profession for which law requires title or fulfillment of certain requirements, assuming to him or herself, either expressly or tacitly, the holding of such a title or fulfillment of said requirements when, in fact, they do not.
3. The same penalty shall be applied to any person who continues to exercise public duties after having been officially notified of dismissal or suspension from office.

### **CHAPTER II**

#### **CRIMES AGAINST STATE SECURITY**

#### **Article 196**

##### **High Treason**

Any person who, by means of violence, threat of violence, usurpation or abuse of office of sovereignty, hinders or attempts to hinder the exercise of national sovereignty on the whole or part of the territory of Timor-Leste or poses danger to the integrity of national territory as a form of subjecting or delivering it to foreign sovereignty, is punishable with 15 to 30 years imprisonment.

#### **Article 197**

##### **Providing services to or collaborating with hostile armed forces**

1. Any Timorese citizen who collaborates with a foreign country or group or representatives thereof, or who serves under the flag of a foreign country during a war or armed action against Timor-Leste, is punishable with 12 to 25 years imprisonment.
2. Preparatory acts relating to any of the cases described above carry a penalty of 5 to 15 years imprisonment.
3. Any person who, being a Timorese national or resident of Timor-Leste, commits any acts required to aid or facilitate any armed action or war against Timor-Leste by a foreign country or group, is punishable with 10 to 20 years imprisonment.

#### **Article 198**

##### **Sabotage against national defense**

Any person who, with intent to harm or endanger national defense, totally or partially destroys, damages, or renders unserviceable:

- a) Works or materials pertaining or assigned to the armed forces;
- b) Roads or means of communication or transport;
- c) Any other facilities related to communications or transportation; or
- d) Factories or depots,

is punishable with 5 to 15 years imprisonment.

**Article 199**  
**Campaign against peace efforts**

Any person who, being a Timorese national or resident of Timor-Leste, at a time of preparation for war or being at war, by any means disseminates or makes public, rumors or statements, of his or her own or of another party, in the knowledge that these are wholly or partially false, seeking to disrupt peace efforts being made by Timor-Leste or to assist a hostile foreign power, is punishable with 5 to 15 years imprisonment.

**Article 200**  
**Breach of State secrets**

1. Any person who, jeopardizing interests of the Timorese State concerning its foreign security or conduct of its foreign policy, conveys or renders accessible to an unauthorized person or makes public any fact, document, plan, object, knowledge or any other information that should, due to said interest, have been maintained in secret, is punishable with 3 to 10 years imprisonment.
2. Any person who collaborates with a foreign government or group with intent to commit any of the acts referred to in the previous subarticle or to enlist or aid another person charged with committing the same, is punishable with the same penalty provided for in the previous subarticle.
3. If the perpetrator of any of the acts described in the previous subarticles holds any political, public or military office who should have, due to the nature thereof, refrained said person from committing such an act more than any ordinary citizen, the same is punishable with 5 to 15 years imprisonment.

**Article 201**  
**Diplomatic disloyalty**

Any person who, officially representing the Timorese State, with intent to harm national rights or interests:

- a) Conducts State affairs with a foreign government or international organization; or
- b) Makes commitments on behalf of Timor-Leste without being duly authorized to do so;

is punishable with 5 to 15 years imprisonment.

**Article 202**  
**Violation of the Rule of Law**

1. Any person who, by means of violence, threat of violence or incitement to civil war, attempts to overthrow, change or subvert constitutionally established rule of law, is punishable with 5 to 15 years imprisonment.
2. If the act described above is committed by means of armed violence, the penalty is 5 to 20 years imprisonment.
3. Public incitement or distribution of weapons to be used for committing any of the acts described above carries, respectively, the penalty that corresponds to an attempt.

### **Article 203**

#### **Attempt against the highest representative of an organ of national sovereignty**

1. Any person who attempts against the life, physical integrity or liberty of the highest representative of an organ of national sovereignty or any person substituting the same pursuant to the Constitution or any person elected or appointed to said organ, even if not yet sworn in, is punishable with 8 to 20 years imprisonment.
2. In the case of a consummated crime against life, physical integrity or liberty, the perpetrator is punishable with 12 to 25 years imprisonment.
3. The penalties provided in the previous subarticles are correspondingly applicable, whenever the acts described therein are committed against foreign persons in the situation referred to subarticle 1 above, ambassadors and heads of international organizations while in Timor-Leste.

### **Article 204**

#### **Coercion against constitutional bodies**

1. Any person who, by means of violence or threat of violence, hinders or restricts the free performance of duties of an organ of national sovereignty is punishable with 3 to 10 years imprisonment.
2. If the acts described in the preceding subarticle are conducted against a district or local government authority, the penalty is 2 to 6 years imprisonment.
3. If said acts referred in subarticle 1 above are committed against members of those agencies, limits to the penalty provided for in subarticles 1 and 2 shall be reduced by one half.

### **Article 205**

#### **Disrupting operation of a constitutional body**

Any person who, by means of riot, disorderly conduct or jeering, unlawfully disrupts the operation of any organ referred to in the previous article or performance of duties of any person member of the same, is punishable with up to 1 year imprisonment or a fine.

### **Article 206**

#### **Disrespect for national symbols**

Any person who publicly, by word, gesture or dissemination of writing, or by another means of public communication, disrespects the national flag or anthem, coat of arms or emblems of Timorese national sovereignty or fails to show due respect to the same, is punishable with up to 3 years imprisonment or fine.

## **CHAPTER III**

### **CRIMES AGAINST LIFE IN SOCIETY**

#### **SECTION I**

#### **CRIMES POSING COLLECTIVE DANGER**

### **Article 207**

#### **Driving without a license**

Any person who uses a motor vehicle without having a license as required by law, is punishable with up to 2 years imprisonment or a fine.

## **Article 208**

### **Driving under the influence of alcohol or psychotropic substances**

1. Any person who, at least by negligence, drives a motor vehicle with more than 1.2 mg of alcohol per liter of blood, is punishable with up to 2 years imprisonment or a fine.
2. The same penalty shall apply to any person who, at least by negligence, drives a motor vehicle unable to do so safely due to being under the influence of any narcotic, psychotropic substance or product with analogous effect likely to disturb the person's physical, mental or psychological fitness.

## **Article 209**

### **Hazardous driving**

1. Any person who drives any vehicle on a public road and, being unable to do so safely or doing so in gross violation of road traffic rules, thereby posing danger to the life or physical integrity of another party is punishable with 1 to 4 years imprisonment.
2. Negligence regarding said conduct or danger carries a penalty of up to 2 years imprisonment or a fine.

## **Article 210**

### **Attempt against public transportation safety**

1. Any person who commits any act likely to diminish or cause lack of safety in a means of public transportation, thereby posing a danger to the life or physical integrity of another party, is punishable with 2 to 8 years imprisonment.
2. Subarticle 2 of the previous article is correspondingly applicable.

## **Article 211**

### **Prohibited weapons**

1. Any person who, except under legal circumstances, manufactures, imports, transports, sells or assigns to another party any firearm, chemical, biological weapon or nuclear weapon, munitions of said weapons, substances to manufacture or operate the same or any other type of explosive, is punishable with 2 to 6 years imprisonment.
2. Whenever the acts described in the previous subarticle are for the purpose of warfare, the penalty is 2 to 8 years imprisonment.
3. Mere possession, use or bearing of firearms without lawful authorization is punishable with up to 2 years imprisonment or a fine

## **Article 212**

### **Drunkenness and intoxication**

1. Any person who, at least by negligence, places him or herself in a state of incapacity due to ingestion or consumption of alcoholic beverage or toxic substance and, in such a state, commits any act defined as unlawful, is punishable with up to 5 years imprisonment or a fine.
2. The penalty cannot be higher than the one provided for the unlawful act committed.
3. Prosecution depends on the filing of a complaint.

## **Article 213**

### **Qualification for the practice of certain activities**

1. Any person who, not being legally authorized to do so, habitually sells, administers, prescribes or by any other means provides to any other person, pharmaceutical or other

products that may only be sold or prescribed by health professionals or other duly licensed authorities, is punishable with up to 3 years imprisonment or a fine.

2. If the life of another person is endangered from any of the above acts, the penalty is 1 to 4 years imprisonment.

#### **Article 214**

##### **Tampered or deteriorated products**

1. Any person who sells, administers or provides, by any means, any person with food or pharmaceutical products that, due to being either deteriorated, tampered with, or contaminated, are likely to endanger life, is punishable with 2 to 8 years imprisonment.
2. Whenever death is caused by commission of the acts described above due to consumption of said products, the penalty is 3 to 12 years imprisonment.

### **SECTION II**

#### **CRIMES AGAINST THE ENVIRONMENT**

#### **Article 215**

##### **Crimes against the environment**

1. Any person who, failing to comply with legal or regulatory provisions intended to protect the environment, directly or indirectly causes or is responsible for emissions, dumping, radiation, mining or excavations, grounding, noise, vibrations, injections or deposits in the atmosphere, soil, subsoil or river, sea or underground waters, including in transnational zones, or at water intake points, in such a manner that may seriously harm the equilibrium of natural ecosystems, is punishable with up to 3 years imprisonment or a fine.
2. If the perpetrator intentionally releases, emits or introduces ionizing radiation or other substances in the air, on land or in river, ocean, surface or underground waters in quantities that ultimately cause death or serious bodily harm to any person to an extent that requires medical or surgical treatment or produces irreversible consequences, is punishable with 2 to 8 years imprisonment and if death occurs, the sentence shall be from 5 to 15 years in prison.

#### **Article 216**

##### **Aggravation**

1. If any of the acts or activities described in the preceding article are committed by an industrial or commercial establishment and any of the following circumstances occur:
  - a) The industry or commercial activity operates clandestinely without the required license or administrative authorization;
  - b) When the perpetrator has failed to comply with expressed orders from competent administrative authorities to correct or suspend the activities referred to in the preceding article;
  - c) When security rules or procedures described in legal or regulatory provisions have not been heeded;
  - d) When, by any means, the inspection process by the competent administrative authority has been intentionally hindered or information on environmental consequences of industrial or commercial activity has been omitted or falsified;
  - e) When a situation of irreversible or catastrophic environmental deterioration has been caused

the minimum and maximum limits of the penalties in the preceding subarticle are increased by one third.

2. Pursuant to the preceding subarticle, the individual owner, legal representatives, or those acting in representation of the corporate body responsible for the industrial or commercial establishments, including shareholders or members who authorize them to act, in the event the same is not lawfully incorporated, are criminally liable.

#### **Article 217**

##### **Crimes against fauna or flora**

1. Any person who causes serious harm to the environment through slashing, burning, uprooting, collecting or illegally trafficking any species of flora or seeds thereof, classified as endangered or at risk of extinction, destroying or seriously altering their natural habitat, is punishable with up to 3 years imprisonment or a fine.
2. The same penalty shall apply to any person who introduces or facilitates the entry of exotic species of flora or fauna so as to harm the biological equilibrium, violating laws or general legal provisions intended to protect fauna or flora species.

#### **Article 218**

##### **Crimes against endangered species or species at risk of extinction**

1. Any person who hunts or fishes endangered species or species at risk of extinction or performs any activity that hinders their development or renders reproduction difficult, violating laws or general legal provisions to protect wild fauna species, or trades or trafficks such species, in whole or in part, is punishable with up to 3 years imprisonment or a fine.
2. If the acts referred to in the preceding subarticle are committed:
  - a) In land or maritime areas declared to be natural protected areas;
  - b) Against species or subspecies classified as being endangered of extinction,the perpetrator is punishable with up to 5 years imprisonment or fine.

#### **Article 219**

##### **Illegal fishing**

1. Any person who fishes in national maritime waters without a duly authorized fishing permit obtained from the competent administrative organ is punishable with up to 3 years imprisonment or a fine.
2. If the perpetrator is a corporation, under the terms of the preceding subarticle, the legal representatives or those who act in representation of said corporation, including shareholders or members who authorize them to act, if unlawfully established, shall be held criminally liable.
3. Fishing practiced for household subsistence is not punishable under the terms of subarticle one.

#### **Article 220**

##### **Unlawful means of fishing**

Any person who uses firearms, explosives, toxic substances or other similar instruments or devices of a destructive nature to maritime fauna for fishing in national river or ocean waters is punishable with up to 5 years imprisonment or a fine.

#### **Article 221**

##### **Prohibited burning**

1. Any person who sets fire during prohibited burning season or without an administrative permit when required, resulting in destruction of forest cover, plantation or cropland, is punishable with up to 2 years imprisonment or a fine.
2. If the fire is legally set but, by negligence, the perpetrator causes damage referred to in the previous subarticle, the penalty is up to 1 year imprisonment or a fine.

### **SECTION III OTHER CRIMES**

#### **Article 222**

##### **Hindering or disturbing a funeral procession, ceremony or worship**

1. Any person who hinders or disturbs a funeral procession or ceremony or a religious worship service by means of violence or threat of violence or any other means of coercion, is punishable with up to 2 years imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

#### **Article 223**

##### **Profane an object or place of worship**

1. Any person who, in order to cause alarm or social unrest, profanes an object of worship or religious veneration, is punishable with up to 2 years imprisonment or a fine.
2. Any person who offends or insults another person on grounds of religious belief or office in order to cause alarm or social unrest incurs the same penalty.
3. Prosecution depends on the filing of a complaint.

#### **Article 224**

##### **Destruction, theft, hiding or profaning of a corpse**

1. Any person who, against or without the will of the party concerned and except for cases authorized by law, steals, destroys or hides cadavers or parts thereof, or ashes of a deceased person, is punishable with up to 2 years imprisonment or a fine.
2. The same penalty shall apply to any person who profanes cadavers, parts thereof, or ashes of deceased persons by committing acts that are offensive to the respect due the deceased.
3. The attempt is punishable.
4. Prosecution depends on the filing of a complaint.

#### **Article 225**

##### **Failure to fulfill an obligation to provide food assistance**

1. Any person who has an obligation to provide food assistance, and being in a position to do so fails to fulfill such an obligation, in such a manner that jeopardizes the basic food security of the beneficiary, is punishable with up to 3 years imprisonment or a fine, even if assistance provided by another party removes said danger.
2. Prosecution depends on the filing of a complaint.

#### **Article 226**

##### **Abduction of a minor**

1. Any person who abducts or refuses to deliver a minor to the person entrusted with custody of the same, or who orders the minor to run away, is punishable with up to 3 years imprisonment or a fine.

2. Whenever any of the acts above is committed with violence or threat of violence, the penalty is 1 to 4 years imprisonment.
3. Prosecution depends on the filing of a complaint.

#### **Article 227**

##### **Failure to provide assistance**

1. Any person who, in the event of serious need, namely caused by disaster, accident, public calamity or situation of collective danger threatening the life, physical integrity or freedom of another person, fails to provide the same with necessary assistance to remove said danger, be it by personal action, or calling for rescue, is punishable with up to 1 year imprisonment or a fine.
2. If the situation referred to in the preceding subarticle has been prompted by the person who fails to provide necessary assistance, said person is punishable with up to 2 years imprisonment or a fine.
3. Failure to assist is not punishable if a serious risk to the life or physical integrity of the person failing to assist exists or where, for another relevant reason, the assistance to be provided cannot be demanded from said person.
4. Prosecution depends on the filing of a complaint.

#### **Article 228**

##### **Refusal to provide medical assistance**

Any medical doctor or health professional who refuses to provide assistance in his or her professional capacity in a case involving risk of life or serious danger to the physical integrity of another person that cannot be otherwise addressed, is punishable with up to 3 years imprisonment or a fine,

### **CHAPTER IV ELECTORAL CRIMES**

#### **Article 229**

##### **Registration fraud**

1. Any person who hinders another person from registering, knowing that said person has the right to do so, records facts knowing the same to be untrue, omits facts that should be recorded, or otherwise falsifies electoral registration, is punishable with up to 3 years imprisonment or a fine.
2. If a person is hindered from registering or persuaded to register by means of violence or cunningly devised deceit, the applicable penalty is 2 to 6 years imprisonment.
3. The attempt is punishable.

#### **Article 230**

##### **Obstructing a candidacy**

Any person who, by any means, hinders another person, political party or force from running in an election, knowing that the same has the right to do so, is punishable with 2 to 8 years imprisonment.

#### **Article 231**

##### **Ineligible candidate**

1. Any person who, knowing that he or she is ineligible to run for election, presents his or her candidacy, is punishable with up to 1 year imprisonment or a fine.
2. The attempt is punishable.



**Article 232**  
**Lack of electoral rolls**

Any person who, in order to hinder the holding of an election, being responsible for preparing or correcting an electoral roll, fails to do so or hinders their legal substitute from doing so, is punishable with up to 3 years imprisonment or a fine.

**Article 233**  
**Unlawful electoral canvassing**

1. Any person who uses a means of canvassing prohibited by law, or continues canvassing beyond the set deadline or at a prohibited place is punishable with up to 1 year imprisonment or a fine.
2. Any person who hinders the exercise of the right to electoral canvassing or unlawfully destroys canvassing material, is punishable with up to 2 years imprisonment or a fine.

**Article 234**  
**Obstructing freedom of choice**

1. Any person who, by means of violence, threat of violence or through fraudulent deceit, compels another person to not vote or to vote in a certain manner or to buy or sell votes, is punishable with up to 3 years imprisonment or a fine.
2. Any person who, having been asked to aid a sight-impaired person to vote, or having the legal right to do the same, disregards the choice of the vote communicated by said person, incurs the same penalty.
3. The attempt is punishable.

**Article 235**  
**Disrupting an election**

1. Any person who, by any means, disrupts the operation of a voting center, is punishable with up to 1 year imprisonment or a fine.
2. The perpetrator is punishable with 2 to 6 years imprisonment if the disturbance results from:
  - a) Violence or threat of violence;
  - b) Riot or gathering of a mob near a voting center;
  - c) Intentional cut of electrical power;
  - d) Absence of someone indispensable to the election and that seriously affects the initiation or continuation of the same.
3. The previous subarticles are correspondingly applicable if the acts are committed at the time of tallying the results after voting has been concluded.

**Article 236**  
**Obstructing the monitoring of an election**

1. Any person who, by any means, hinders the representative of any political party or force, legally established and running in the election, from exercising monitoring duties, is punishable with up to 3 years imprisonment or a fine.
2. The attempt is punishable.

### **Article 237**

#### **Voter fraud**

1. Any person who votes without the right to do so or votes more than once in the same election is punishable with up to 3 years imprisonment or a fine.
2. Any person who intentionally allows the acts referred to in the previous subarticle to be committed incurs the same penalty.
3. The attempt is punishable.

### **Article 238**

#### **Vote-counting fraud**

1. Any person, who, by any means, alters the counting of votes while electoral results are being tallied or published, is punishable with 2 to 6 years imprisonment.
2. Any person who, with fraudulent intent, replaces, destroys, suppresses, removes, tampers with, biases or forges ballot papers or vote tallying records, or documents relating to the election, incurs the same penalty.

### **Article 239**

#### **Refusing an electoral post**

Any person who is appointed to serve as an electoral official and unjustifiably refuses to assume or ceases to perform said duties, is punishable with up to one year imprisonment or a fine.

### **Article 240**

#### **Breach of voting secrecy**

Any person who, in an election held by secret ballot, breaches said secrecy, either by becoming privy to or making others privy to the voting intention of another person, is punishable with up to 1 year imprisonment or a fine.

### **Article 241**

#### **Duty of neutrality and impartiality**

Officials of the electoral administration or those collaborating with the same who breach the duties of neutrality and impartiality are punishable with up to 2 years imprisonment or a fine.

### **Article 242**

#### **Aggravation**

Any person who commits any of the crimes described in this chapter and holds public office, namely in the Government, Parliament, the Armed Forces, as a judicial magistrate or Public Prosecutor, in any law enforcement or other administrative organ, shall have the limits to the penalties provided herein doubled.

## **CHAPTER V**

### **CRIMES AGAINST PUBLIC AUTHORITY**

### **Article 243**

#### **Obstructing public authority**

1. Any person who, by means of violence or serious threat of violence against an officer or agent of military, militarized or police forces, acts to oppose performance of his or her duties or compels the same to commit any act contrary to said duties is punishable with 2 to 6 years imprisonment.
2. If the act referred to in the previous subarticle is effectively committed or prevented, the penalty is 2 to 8 years imprisonment.

**Article 244**  
**Disobedience**

1. Any person who fails to obey or persists in disobeying a lawful order or warrant properly communicated and issued by a competent authority, is punishable with up to 3 years imprisonment or a fine if:
  - a) Any legal provision so determines; or
  - b) If said person has been warned that his or her conduct is criminally liable and the authority or government official has duly communicated the same.
2. Whenever any legal provision defines the act as a specifically defined disobedience, the penalty is from 1 to 4 years imprisonment.
3. Disobedience to a specific prohibition or interdiction ordered in a criminal sentence, as well as to any accessory penalty or commitment-related order not involving deprivation of liberty, is punishable by the penalty referred to in subarticle 1 above.

**Article 245**  
**Release of prisoners**

1. Any person who, by unlawful means, releases or, by any means, aids in the escape of a person lawfully deprived of liberty, is punishable with 2 to 6 years imprisonment.
2. If the acts are committed using violence, employing weapons or with collaboration of more than two persons, the penalty is 2 to 8 years imprisonment.

**Article 246**  
**Escape**

1. Any person who escapes, being lawfully deprived of liberty, is punishable with 1 to 4 years imprisonment.
2. If the escape is made possible by using any of the means described in subarticle 2 above, the penalty is 2 to 6 years imprisonment.

**Article 247**  
**Aid by an officer in escape**

1. Any correctional officer who helps commit any of the acts described in the previous articles is punishable with the penalty prescribed therein, with the limits increased by one third.
2. If the correctional officer was responsible for guarding or surveillance of the escaped detainee and, nonetheless, aided in commission of any of abovementioned acts, the limit of the penalty described shall be increased by one half..

3. If the escape results from gross negligence on the part of the correctional officer charged with watching over the escapee, the penalty is up to 3 years imprisonment or a fine.

#### **Article 248**

##### **Prison riot**

1. Any person who, in a situation of lawful incarceration, concertedly and jointly with another person in the same situation, attacks or threatens with violence the person charged with guarding or watching over them, in order for them or a third person to escape, or to commit, or refrain from committing any act, is punishable with 2 to 8 years imprisonment.
2. If commission of the acts described above achieves the intent of escape of the person or any other, the penalty is 3 to 10 years imprisonment.

#### **Article 249**

##### **Purloining or destruction state-owned assets**

Any person who wholly or in part destroys, causes damage to or renders unserviceable, or by any means misappropriates any document or other moveable property owned or held by the State or subject to the same, including any seized or attached property or object of a provisional remedy, is punishable with 2 to 6 years imprisonment, whenever no heavier penalty is applicable by force of another provision.

#### **Article 250**

##### **Tampering of marks, seals and notices**

1. Any person who wholly or partially breaches or defaces any mark or seal lawfully posted by a competent official, to identify or maintain inviolable any object, or to certify that the same has been either attached, seized or under provisional remedy, is punishable with up to 3 years imprisonment or a fine.
2. Any person who, by any means, intentionally hinders an addressee from becoming informed of a notice posted by a competent official is punishable with up to 2 years imprisonment or a fine.

### **TITLE IV**

#### **CRIMES AGAINST ASSETS**

##### **CHAPTER I**

#### **CRIMES AGAINST PROPERTY**

#### **Article 251**

##### **Larceny**

1. Any person who, with unlawful intent to appropriate for him or herself or another party, takes a moveable object belonging to another, is punishable with up to 3 years imprisonment or a fine.
2. The attempt is punishable.
3. Prosecution depends on the filing of a complaint.

#### **Article 252**

##### **Aggravated larceny**

1. Any person who commits the acts referred to in the preceding article is punishable with 2 to 8 years imprisonment if:

- a) The moveable property belonging to the other party is of high scientific, artistic or historical value or is of importance to economic or technological development;
  - b) The moveable property belonging to the other party is a vehicle, is carried in a public transportation vehicle or by a passenger in a public transportation vehicle, or is at a pier or departure or arrival terminal;
  - c) The moveable property belonging to the other party is used for religious worship or veneration of the memory of the deceased and is found at a place of worship or a cemetery;
  - d) The perpetrator commits the act at night to more easily commit the act of larceny;
  - e) The victim suffers considerable loss as a result of said appropriation;
  - f) The perpetrator enters a home, public facilities, commercial or industrial establishment with the intent to commit larceny;
  - g) The perpetrator employs lockpicking, scaling or breaking in to achieve said purpose;
  - h) The perpetrator takes advantage of a situation of special vulnerability of a victim of a disaster, accident or calamity;
  - i) The perpetrator takes advantage of the existence of a special relationship of trust with the victim or with the owner of the site where the property to be stolen is located;
  - j) The perpetrator commits larceny as a livelihood;
  - k) The crime is committed by 3 or more persons, including the perpetrator;
  - l) The value of the property stolen exceeds US\$ 1,000.00, but is less than US\$ 5,000.00.
2. If the value of the property taken exceeds US\$ 5,000.00, the penalty shall be 3 to 10 years imprisonment.
  3. Whenever more than one of the circumstances described in the previous subarticles occur, only one shall be considered for effectively determining the applicable scope of the specific crime defined in law, and it shall be the one having the greatest effect, while the others shall be weighed as general circumstances in determining the penalty.
  4. If the value of the stolen object is less than US\$ 50.00, the circumstances referred to in subarticle 1 above shall only be considered as aggravating circumstances of a general nature.

### **Article 253**

#### **Robbery**

1. Any person who, with unlawful intent to appropriate for him or herself or any other person, takes someone else's moveable property or compels said person to deliver the same, by means of violence against said person or threat of imminent danger to said person's life or physical integrity, or makes it so that said person is unable to resist, shall be punishable with a penalty of 3 to 10 years imprisonment.
2. If any of the circumstances described in subarticle 1 of the previous article are present, during conduct of said perpetrator, the penalty shall be from 4 to 12 years imprisonment.
3. If the conduct of the perpetrator endangers the life of the victim or causes serious harm to the victim's physical integrity, the perpetrator is punishable with 5 to 15 years imprisonment.
4. If the act results in death of the victim, the perpetrator is punishable with 5 to 20 years imprisonment.

**Article 254**  
**Violence during commission of larceny**

Any person who, if caught in the act of larceny, reacts by any of the means described in the preceding article for the purpose of retaining the appropriated object or hindering restitution thereof, is punishable with the penalties respectively corresponding to the crime of robbery.

**Article 255**  
**Vehicle theft**

1. Any person who uses a car or other motor vehicle, aircraft, vessel or bicycle without authorization of the owner thereof, is punishable with up to 2 years imprisonment or a fine.
2. The attempt is punishable.
3. Prosecution depends on the filing of a complaint.

**Article 256**  
**Appropriation through abuse of trust**

1. Any person who unlawfully appropriates moveable property placed in his or her custody yet without transfer of title to said property, is punishable with up to 3 years imprisonment or a fine.
2. The attempt is punishable.
3. Prosecution depends on the filing of a complaint.

**Article 257**  
**Aggravated appropriation through abuse of trust**

1. Whenever the moveable property is valued at more than US\$ 1,000.00, the perpetrator is punishable with 2 to 8 years imprisonment.
2. The minimum and maximum limits to the penalties provided for in the previous subarticle and in article 256 are increased by one third if the perpetrator has received the property under trusteeship by order of law, due to occupation, employment or profession, or in any capacity as custodian, curator or trustee.

**Article 258**  
**Property damage**

1. Any person who wholly or partially destroys, causes damage to, defaces or renders unusable the property of another is punishable with up to 3 years imprisonment or a fine.
2. The attempt is punishable.
3. Prosecution depends on the filing of a complaint.

**Article 259**  
**Aggravated property damage**

Any person who wholly or partially destroys, damages, defaces or renders unusable the property of another:

- a) Destined for public use or utility;
- b) Possessing high scientific, artistic or historical value or is of great importance to technological or scientific development;
- c) Is a means of communication or transportation of great social importance;

- d) Causes losses over US\$ 1,000.00;
- e) Pertains to another and is used for religious worship or venerating the memory of the deceased and is at a place of worship or in a cemetery, is punishable with 2 to 8 years imprisonment.

**Article 260**  
**Property damage with use of violence**

If the acts described in articles 258 and 259 are committed with violence against a person or with threat of imminent danger to the life or physical integrity of said person, placing the same in a situation where he or she cannot resist, said conduct is punishable with 4 to 12 years imprisonment.

**Article 261**  
**Usurpation of property**

1. Any person who, by means of violence or serious threat against another person, invades or occupies property of another person with the intent to exercise right of ownership, possession, use or easement not granted by law, sentence, agreement or administrative act, is punishable with 1 to 4 years imprisonment.
2. If the means employed constitute a crime punishable by a penalty heavier than that prescribed in the previous subarticle, the heavier penalty shall apply.

**Article 262**  
**Alteration of property boundary markings**

1. Any person who, with the intent to wholly or partially appropriate property of another, for him or herself or another party, removes or changes the position of boundary markers or any other sign destined to set the boundaries of any property is punishable with up to 1 year imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

**Article 263**  
**Arson**

1. Any person who, intentionally sets fire to a house, building, establishment, means of transportation, forest, plantation or any other property, imperiling the life or physical integrity of any person or any property valued at over US\$ 5,000.00, is punishable with 2 to 8 years imprisonment.
2. If the acts described in the preceding subarticle relate to public property or in which public services are provided, the penalty is 2 to 10 years imprisonment.
3. The perpetrator is punishable with up to 3 years imprisonment or a fine if the acts are committed with negligence, whenever no heavier penalty is applicable by virtue of another legal provision.
4. If the danger referred to in subarticle 1 is caused by negligence, the penalty is 2 to 6 years imprisonment.
5. In cases provided for in subarticle 4, prosecution depends on the filing of a complaint.

**Article 264**  
**Active repentance**

Whenever, after commission of any of the crimes described in articles 251, 252, 256 to 261 and 263.4, but before trial hearings are initiated, the perpetrator performs any act aimed at fully or partially restituting the property or repairing the damage caused, the penalty may be extraordinarily mitigated.

**Article 265**  
**Definitions**

For the purposes of the provisions in this present Code:

- a) "Breaking and entering" means totally or partially breaking, cracking or destroying any device designed to lock or prevent entrance to a house or an enclosed place annexed to the same, whether said device be inside or outside the premises.
- b) "Scaling" means entering a house or an enclosed place annexed to the same, through a passage not normally used as an entrance or through any other device designed to lock or prevent entrance or passage.
- c) "Lockpicking" means:
  - i) Any imitation, counterfeit or forged key;
  - ii) The genuine key whenever the same is by chance or design, not in possession of its rightful user; and
  - iii) Any passkey or tool that may be used to open locks or any other security devices.

**CHAPTER II**  
**CRIMES AGAINST ASSETS IN GENERAL**

**Article 266**  
**Fraud**

1. Any person who, with intent to obtain unlawful gain for him or herself or a third party, by means of error or deceit over acts he or she has cunningly committed, and thus leads another person to act in such a manner that causes property loss to said person or any third party, is punishable with up to 3 years imprisonment or a fine.
2. The attempt is punishable.
3. Provisions in article 264 are correspondingly applicable.
4. Prosecution depends on the filing of a complaint.

**Article 267**  
**Aggravated fraud**

1. Any person who, as a result of conduct described in the preceding article:
  - a) Causes loss in excess of US\$ 2,000.00;
  - b) Makes his or her living from practicing fraud;
  - c) Places the aggrieved party in a situation of economic difficulty;Shall be punishable by 3 to 10 years imprisonment.
2. Provisions in article 264 are correspondingly applicable.



**Article 268**  
**Computer fraud**

1. Any person who, with intent to obtain unlawful gain for him or herself or a third party, causes loss to the property of another by interfering with the results of computer data processing or through improperly structuring a computer program, improperly or partially using data, using unauthorized data, or by any other unauthorized tampering with data processing, is punishable with up to 3 years imprisonment or a fine.
2. The attempt is punishable.
3. Prosecution depends on the filing of a complaint.

**Article 269**  
**Aggravated online fraud**

A perpetrator is punishable with 3 to 10 years imprisonment if any of the circumstances described in article 267.1 above occur as a result of the conduct described in the preceding article.

**Article 270**  
**Extortion**

1. Any person who, with intent to obtain unlawful gain for him or herself or a third party, compels another, by means of violence or threat of serious harm, to dispose of any property, thus causing loss to said or to any other party, is punishable with 2 to 6 years imprisonment.
2. Whenever any of the circumstances described in article 252 occurs, the conduct of the perpetrator is punishable with the penalty prescribed therein.
3. Prosecution depends on the filing of a complaint.

**Article 271**  
**Simple reception of stolen goods**

1. Any person who, without ensuring in advance the lawful origin thereof, acquires or receives, in any capacity, any goods that, given the nature or capacity of the person holding or offering them or, given their sale value or conditions under which such goods are being sold or offered, raise suspicion to a reasonably diligent person that they originate from criminal conduct against the property of a third party, is punishable with up to 2 years imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

**Article 272**  
**Aggravated reception of stolen goods**

1. Any person who, with intent to obtain any material benefit for him or herself or for a third party, hides goods obtained by another through a crime against property, receives, pledges, acquires by any means, holds, retains, conveys or helps convey said goods, or otherwise secures, for him or herself or a third party, possession of the goods or the amount or proceeds directly arising therefrom, is punishable with 2 to 8 years imprisonment.
2. The perpetrator is punishable with 3 to 10 years imprisonment for the acts described above if:
  - a) The same makes his or her living from reception of stolen goods or practices it habitually;
  - b) The goods, amounts or proceeds are valued at over US\$ 2,000.00;

- c) At the time of reception of the stolen goods, the person receiving them is aware that the crime was committed with any of the circumstances referred to in article 253.1 having occurred.

**Article 273**  
**Aiding a criminal**

1. Any person who, after a crime has been committed against property, aids the perpetrator of said crime to make use of any asset thus obtained or any benefit directly arising from the appropriated asset, is punishable with up to 1 year imprisonment or a fine.
2. Prosecution depends on the filing of a complaint.

**Article 274**  
**Intentional mismanagement**

1. Any person who is in charge of disposing of or managing interests, services or assets of another party, even though partner of the company or corporate entity that owns said assets, interests or services, and does intentionally violate rules of control and management or act in serious breach of the duties inherent to his or her office, causing significant economic equity loss, is punishable with 1 to 4 years imprisonment.
2. If the assets, interests or services referred to in the preceding subarticle are owned by the State, a public utility company, cooperative or people's association, the perpetrator is subject to an applicable penalty of 2 to 6 years imprisonment.
3. The same penalties are applicable to any person who misappropriates, or allows misappropriation of property that were only to be disposed of within the scope and for the specific purposes of managing property of a third party.

**Article 275**  
**Negligent mismanagement**

1. Any person who, being under the conditions described in subarticle 1 of the previous article, causes serious equity loss for having failed to act diligently as obligated to and capable of, is punishable with up to 1 year imprisonment or a fine.
2. A penalty of up to 2 years imprisonment or a fine is applicable if any of the situations described in subarticle 2 of the preceding article relate to said assets or interests.
3. Prosecution depends on the filing of a complaint.

**Article 276**  
**Intentional bankruptcy or insolvency**

1. Any person who, by any means, leads a company to bankruptcy or places him or herself in a situation of insolvency with the intent to cause loss to creditors, is punishable with 2 to 8 years imprisonment if said bankruptcy or insolvency is declared.
2. If the acts described in the preceding subarticle relate to public companies or cooperatives, the minimum and maximum limits to the penalty are increased by one third.

**Article 277**  
**Negligent bankruptcy or insolvency**

1. Any person who causes bankruptcy or insolvency by serious recklessness or imprudence, waste or excessively high expenses, or through gross negligence in performance of his or her duties, is punishable with up to 2 years imprisonment or a fine if bankruptcy or insolvency is declared.
2. Prosecution depends on the filing of a complaint.

**TITLE V**  
**CRIMES OF OBSTRUCTION OF JUSTICE**

**Article 278**

**Perjury or providing false information**

1. Any person who is called to depose as party to a legal proceeding, and provides false information regarding acts on which he or she is to depose, after having taken an oath and having been warned of the criminal consequences arising from such an act, is punishable with up to 3 years imprisonment or a fine.
2. The same penalty shall apply to suspects or defendants regarding statements on their identity and criminal record.
3. If any person is deprived of liberty as a consequence of the perpetrator committing any of the acts described above, the same is punishable with 2 to 8 years imprisonment.

**Article 279**

**Bearing false witness, providing false expert opinion, interpretation or translation**

1. Any person who, acting as a witness, expert, technician, translator or interpreter before a court or competent official that is to receive any statement, report, information or translation as evidence, and provides a false statement, reports, information or translation, is punishable with up to 4 years imprisonment or a fine.
2. The same penalty shall apply to any person who, without just cause, refuses to make a statement, present a report, information or translation.
3. If the perpetrator commits the act referred to in subarticle 1 after having taken an oath and having been warned of the criminal consequences arising from such an act, the penalty is up to 5 years imprisonment.
4. If any person is deprived of liberty as a consequence of the perpetrator committing any of the acts described above, the same is punishable with 2 to 8 years imprisonment.

**Article 280**

**Equivalence to desistance**

Repentance or retraction on the part of the perpetrator who has committed any of the acts described in the preceding article before the effects of the falsity have been considered in the ruling or caused loss to another person, is equivalent to desistance.

**Article 281**

**Bribery**

1. Any person who persuades or attempts to persuade another person by means of a gift or promise of material or other gain to practice any of the acts referred to in articles 278 or 279 is punishable with up to 4 years imprisonment or a fine, if such an act is committed.
2. Whenever the acts referred to in articles 278 and 279 do not actually occur, the perpetrator is punishable with up to 3 years imprisonment or a fine.

**Article 282**  
**Denial of justice**

1. Any official who, within the scope of a procedural inquiry or court proceeding regarding a disciplinary matter or contravention, willfully decides or fails to decide, promotes or fails to promote, investigates or fails to investigate, or to practice any act in performance of his or her duties, that is against justice, is punishable with up to 3 years imprisonment or a fine.
2. If the act described in the preceding subarticle is committed with intent to cause harm or benefit to any person, said official is punishable with up to 5 years imprisonment.
3. If the conduct described in the preceding subarticles results in deprivation of liberty of a person, the penalty is 2 to 8 years imprisonment.
4. If the conduct described above is committed with gross negligence, the minimum and maximum limits penalties are reduced by half.

**Article 283**  
**Coercion against a magistrate**

1. Any person who, by means of violence, threat to cause serious harm, or by any other means, acts in such a manner as to prevent a judge or public prosecutor from freely performing his or her duties, is punishable with 1 to 4 years imprisonment.
2. If the perpetrator commits the act by taking advantage of holding a political, public, military or law enforcement office, the penalty is 2 to 8 years imprisonment.
3. If, as a consequence of any conduct described in the previous subarticles, the magistrate commits any omission or act in blatant violation of the law resulting in harm to any third party, the penalty is 3 to 10 years imprisonment.

**Article 284**  
**Obstruction of a judicial act**

1. Any person who, by any means, opposes, renders difficult or hinders execution or enforcement of any final decision issued by a court of law, is punishable with 2 to 5 years imprisonment.
2. If the perpetrator who has committed any act described above holds a political, public or military office, and, due to the nature of the office, he or she should refrain from committing such acts, the same shall be punishable with 2 to 8 years imprisonment.

**Article 285**  
**Defamatory false information**

1. Any person who, by any means, before authorities or publicly, and aware of the falsity of the accusation, informs or casts suspicion on a certain person regarding commission of a crime, with the intent of having criminal proceedings initiated against said person, is punishable with up to 3 years imprisonment or a fine.
2. Whenever the false accusation refers to an unlawful act of an administrative or disciplinary nature, the penalty shall be extraordinarily mitigated.
3. Whenever any of the acts described above are intentionally promoted by an official charged with initiating said proceeding, the maximum limit of the applicable penalty shall be increased by one third.

**Article 286**  
**Failure to report**

Any person who, being aware of the commission of a public crime, and having the obligation to report it, fails to do so, is punishable with the penalty that corresponds to said unreported crime with its minimum and maximum limits decreased by two thirds.

**Article 287**  
**Malfesance by a magistrate or official**

1. Any judge, public prosecutor or official who, at any stage of a court proceeding, and with intent to benefit or cause harm to any other person, willfully and unlawfully performs an act within the scope of the official powers invested in the same or fails to do so, being required to perform it, is punishable with 2 to 6 years' imprisonment.
2. If any of the acts described above result in deprivation of liberty of any person or cause a situation of unlawful arrest or detention, the penalty is 3 to 10 years imprisonment.

**Article 288**  
**Malfesance by an attorney or public defender**

1. Any attorney or public defender who intentionally compromises a case entrusted to him or her is punishable with 1 to 4 years imprisonment.
2. Any attorney or public defender who, in said case, serves as a defender or counsel to parties in a dispute, with intent to act for the benefit or detriment of any of the same, is punishable with 2 to 6 years imprisonment.

**Article 289**  
**Crime simulation**

1. Any person who, without accusing a particular person of a crime, either informs competent authorities or raises suspicion that a crime has been committed, while knowing that it has not, is punishable with up to 2 years imprisonment or a fine.
2. If the act refers to an infringement or unlawful act of an administrative or disciplinary nature, the perpetrator is punishable with up to 1 year imprisonment or a fine.
3. If any of the acts described in the previous subarticles is committed by an official charged with initiating the respective proceeding, the minimum and maximum limits of the applicable penalty shall be increased by one third.

**Article 290**  
**Assisting a criminal**

1. Any person who, wholly or partially hinders, frustrates or misleads investigative or preventative action by competent authorities with knowledge or intent to avert enforcement of a penalty or security measure upon a person who has committed a crime, is punishable with up to 3 years imprisonment or a fine.
2. The attempt is punishable.
3. If said assistance is provided by an official involved or with power of involvement in the case or responsible for executing said penalty or security measure, or to order execution thereof, the same is punishable with 2 to 5 years imprisonment.
4. The commission of the crimes described in subarticle 1 shall not be punishable whenever:
  - a) In committing the act, the perpetrator seeks simultaneously to avoid enforcement of a penalty or security measure on him or herself;

- b) The perpetrator is a spouse, descendent, parent, has adopted or been adopted by, relative or similar to up to the second degree of the person for whom the act was committed or with whom the perpetrator lives in a situation analogous to that of spouse.

#### **Article 291**

##### **Violation of judicial confidentiality**

1. Any person who, in violation of a legal order and without just cause, discloses contents of a criminal proceeding protected by confidentiality or where a decision has been issued to forbid disclosure, is punishable with 1 to 4 years imprisonment.
2. If the violation is committed through any media service, the penalty is 2 to 6 years imprisonment.

#### **TITLE VI**

#### **CRIMES COMMITTED IN THE PERFORMANCE OF PUBLIC FUNCTIONS**

#### **Article 292**

##### **Passive corruption for an unlawful act**

1. Any official who, directly or through a third party endorsed by the former, requests or accepts, for him or herself or any third party, any undue material or immaterial benefit, or promise thereof, in exchange for an act or omission contrary to the duties attached to the office, even if prior to said request or acceptance, is punishable with 3 to 15 years imprisonment.
2. Whenever the perpetrator, before commission of the act, voluntarily repudiates the offer or promise accepted, or returns the benefit, or, when a fungible item, restitutes its value, the same shall not be punished.
3. The penalty is extraordinarily mitigated whenever the perpetrator assists in collection of decisive evidence for identification or capture of other persons responsible.

#### **Article 293**

##### **Passive corruption for a lawful act**

1. Any official who, directly or through a third party endorsed by the former, requests or accepts, for him or herself, any undue material or immaterial benefit, or promise thereof, in exchange for an act or omission not contrary to the duties attached to the office, even if prior to said request or acceptance, is punishable with up to 3 years imprisonment or a fine.
2. The same penalty shall apply to any official who, directly or through a third party endorsed by or with consent of the former, requests or accepts, for him or herself or a third party, any undue material or immaterial benefit from a party who has, has had or will have any interest that depends on performance of the his or her official duties.

#### **Article 294**

##### **Active corruption**

1. Any person who, directly or through a third party with consent or endorsement of the former, gives or promises an official or third party who knows the official, any material gain or other benefit not due to said official, for the purpose described in article 292, is punishable with 3 to 10 years imprisonment.
2. If the purpose of the conduct described in the preceding subarticle is identical to that described in article 293, the perpetrator thereof is punishable with up to 2 years imprisonment or a fine.

**Article 295**  
**Embezzlement**

1. Any official who unlawfully appropriates, for his/her own use or that of another, money or any moveable property, public or private, which has been placed in his/her custody, possession or is accessible by virtue of his or her office, is punishable with 3 to 10 years imprisonment if no heavier penalty is applicable by virtue of another legal provision.
2. If any official lends, pledges or, by any other means, encumbers said value or property referred to in the preceding subarticle, the same is punishable with up to 3 years imprisonment or a fine if no heavier penalty is applicable by virtue of another legal provision.
3. If the value or property referred to in the previous subarticles exceeds US\$ 5,000.00, the penalties shall respectively be from 4 to 12 years or 2 to 5 years imprisonment.
4. If the value or property referred to in subarticle 1 is less than US\$ 50, the perpetrator is punishable with up to 3 years imprisonment or a fine.

**Article 296**  
**Misappropriation of public assets**

Any official who uses or allows another to use any vehicle or other moveable asset of significant value in his or her responsibility or possession or to which he or she has access due to the office held, for purposes other than those intended, to obtain for him or herself or any third party, any unlawful benefit or to cause loss to another, is punishable with up to 2 years imprisonment, if said assets were in possession of the official or accessible by reason of his or her office.

**Article 297**  
**Abuse of power**

Any official who abuses powers or violates duties inherent to his or her office, with intent to obtain, for him or herself or any third party, any unlawful benefit or to cause loss to another, is punishable with 1 to 4 years imprisonment if no heavier penalty is applicable by virtue of another legal provision.

**Article 298**  
**Abusive use of public force**

Any official who, having authority to employ, requisition or order deployment of a public force, does so to hinder enforcement of the law, a valid warrant from the court or lawful order issued by a public authority, is punishable with up to 3 years imprisonment, if no heavier penalty is applicable by virtue of another legal provision.

**Article 299**  
**Economic involvement in business**

1. Any official who, due to holding public office, should be involved in a contract or other transaction or activity, and takes advantage of said position to obtain, for him or herself or another, directly or through a third party, any material gain or any other unlawful economic share, thereby harming public interests that he or she is charged to manage, oversee, protect or perform, is punishable with 2 to 8 years imprisonment.
2. If the conduct above results in losses to the State exceeding US\$ 10,000, the penalty is 3 to 15 years imprisonment.

**Article 300**  
**Refusal to cooperate**

An official who, having been lawfully requested by competent authorities to provide due cooperation to enforce justice or provide any other public service, refuses to do so or fails to do so without justification, is punishable with up to 3 years imprisonment or a fine.

**Article 301**  
**Aggravation**

1. If the crimes referred to in this Title are committed by political officeholders or magistrates, the maximum limit of the applicable penalty shall be increased by one third.
2. Specific legislation shall determine non-criminal and procedural effects regarding situations described in the preceding subarticle.

**Article 302**  
**Concept of official**

1. For the purposes of the criminal law, an official shall be considered as any of the following:
  - a) Civil servant;
  - b) Administrative officer;
  - c) Member of the armed and law enforcement forces;
  - d) Any person who, even provisionally or temporarily, with or without remuneration, voluntarily or compulsorily has been called to perform or to participate in performance of an activity within civil administrative or court service or, under similar circumstances, performs duties or participates in any agency of public utility.
  - e) A foreign public servant who holds a legislative, executive, administrative or judicial position in a foreign country, having been assigned or taken office or any person holding a public office for a foreign country, including in a public agency or state-run company.
  - f) Employee of a public international organization to whom said organization has authorized to act on its behalf
2. For effects of criminal law, the provisions in this Title apply to anyone performing political, government or legislative duties.

**TITLE VII**  
**CRIMES OF FORGERY**

**CHAPTER I**  
**FORGERY OF DOCUMENTS**

**Article 303**  
**Forgery of documents or technical report**

1. Any person who, with intent to cause loss to another person or the State, or to seek unlawful benefit for him or herself or another person:
  - a) Forges a document or technical report, falsifies or alters a document or another person's signature to produce a false document;
  - b) Falsely includes any legally relevant fact in a document or technical report;



- c) Falsely bears witness, based on his or her professional, technical or scientific knowledge, to the mental or physical condition or fitness of another person, animal or object;
  - d) Uses any document or technical report or recording referred to in the previous paragraphs that have been produced, forged, counterfeited or issued by another,is punishable by up to 3 years imprisonment or a fine.
2. Any action that disrupts any automatic reporting or recording device, thereby influencing the results of the same, shall be considered equal to forgery of said recording or report.
3. The attempt is punishable.

**Article 304**  
**Aggravated forgery**

1. If the acts described in subarticle 1 of the preceding article pertain to an authenticated document or one with equal force, a closed will, postal money order, bill of exchange, check, other commercial document tradable through endorsement or technical report regarding complete or partial identification of a motor vehicle, aircraft or vessel, the perpetrator is punishable by imprisonment from 2 to 6 years.
2. If the acts described in the previous subarticle or subarticle 1 of article 309 are committed by an official while in the performance of his or her duties, the penalty is from 2 to 8 years imprisonment.

**Article 305**  
**Forgery of a public document**

Any official who, in the exercise of his or her duties, with intent to cause loss to another person or the State, or to obtain unlawful benefit for him or herself or another party:

- a) Omits any fact that a document considered legally valid is meant to certify or authenticate; or
- b) Inserts any act or document in an official record, register or book without complying with legal procedures,

shall be punishable by 2 to 6 years imprisonment.

**Article 306**  
**Use of another person's identification document**

Any person who, with intent to cause loss to another person or the State, uses an identification document belonging to another, shall be punishable by imprisonment not exceeding 1 year or a fine.

**CHAPTER II**  
**FALSIFICATION OF CURRENCY**

**Article 307**  
**Counterfeiting of currency**

1. Any person who counterfeits currency or alters metallic currency of legal tender, with intent to place it into circulation as true currency shall be punishable by imprisonment from 3 to 10 years.
2. Whenever the perpetrator, in addition to committing any of the acts described in the preceding subarticle, actually places such counterfeit currency into circulation, the maximum limit of the penalty shall be increased by one third.

3. Any person who, by agreement with the counterfeiter, offers for sale, places into circulation or otherwise disseminates said counterfeit currency, shall be punishable by between 3 and 10 years imprisonment.

#### **Article 308**

##### **Circulation of counterfeit currency**

Any person who, outside of the cases provided for in the preceding article, acquires counterfeit or altered currency with intent to place the same in circulation, or actually does so, sells or otherwise disseminates it as if it were true currency, shall be punishable by between 2 and 6 years imprisonment.

#### **Article 309**

##### **Counterfeiting of stamps and franks**

1. Any person who, with intent to sell or use stamps or franks or by any other means places the same into circulation as legitimate stamps or franks, counterfeits or falsifies stamps or franks, the production and supply of which are exclusive to the Timorese State, shall be punishable by 2 to 8 years imprisonment.
2. Any person who commits any of the described acts in connection with postage stamps or any other means of postage used by the Postal Service of Timor-Leste shall be punishable by up to 3 years imprisonment or a fine.
3. Any person who uses any of the forged items described in the previous subarticles, knowing them to be counterfeit, shall be punishable by up to 2 years imprisonment or a fine.
4. The attempt is punishable.

#### **Article 310**

##### **Counterfeiting of seals, stamps, marks or watermarks or similar**

1. Any person who acquires, counterfeits or falsifies a seal, office stamp, mark or watermark or signet of any authority or public service, with intent to use the same as authentic or valid, shall be punishable by 2 to 6 years imprisonment.
2. Any person who, knowingly or without proper authorization, uses any of the items cited in the previous subarticle, with intent to cause loss to another person or the State, shall be punished by up to 3 years imprisonment or a fine.
3. If the person using any of said items is the actual forger, the maximum limit of the penalty under subarticle 1 shall be increased by one third.
4. The attempt at committing the acts described in subarticle 2 is punishable.

#### **Article 311**

##### **False weights and measurements**

1. Any person who, with intent to cause loss to another or the State, falsifies or by any other means alters or uses, after said alteration, weights, measurements, scales or other measurement devices, is punishable by up to 3 years imprisonment or a fine.
2. The attempt is punishable.

**Article 312**  
**Seizure and forfeiture**

Any and all counterfeited, forged or altered coins and similar items, as well as weights, measurements or other devices designed to commit any of the crimes described in this Title shall be seized and removed from circulation or destroyed.

**TITLE VIII**  
**CRIMES AGAINST THE ECONOMY**

**Article 313**  
**Money laundering**

1. Any person who, knowing that assets or products are proceeds from any form of participation in the commission of crimes of terrorism, trafficking in arms or nuclear products, human trafficking, child pornography, corruption, fraud or extortion, tax fraud, trafficking in protected species or human organs or tissues or any other serious crime carrying a maximum sentence of over 4 years imprisonment:

- a) Converts, transfers, assists or facilitates any transaction of conversion or transfer of said assets or products, wholly or in part, directly or indirectly, with the aim of hiding or disguising their illicit origin or aiding any party involved in the commission of any of said crimes to avoid the legal consequences of his or her acts; or
- b) Hides or disguises the true nature, origin, location, disposition, movement or properties of said assets or proceeds or rights related thereto;
- c) Acquires or receives said gain under any wise or uses or holds or maintains the same,

shall be punishable by 4 to 12 years imprisonment.

2. Punishment for the acts described in subparagraphs a) to c) of the preceding subarticle are applicable even when the acts related to the originating crime were committed outside Timor-Leste or where the place of commission of the act or identity of the principals are unknown.
3. Knowledge, intent or purpose, required as elements constituting the crime, may be construed from effective and concrete factual circumstances.
4. No prior sentencing of the perpetrator for committing the originating crime is required to prove illicit origin of the proceeds.
5. Originating crime shall include any crime committed outside Timor-Leste whenever said act is considered a crime in the State where committed and within Timor-Leste.
6. The person who committed the originating crime shall not be punishable for crime of money laundering.
7. Attempted money laundering is punishable and may be subject to a reduced penalty under general terms.
8. The punishment provided for commission of unlawful acts described in subparagraphs a) to c) of the preceding subarticle shall not exceed the maximum limit provided for the corresponding originating offences.

**Article 314**  
**Tax fraud**

1. Any person who, with intent to evade payment or enable a third party to evade payment, wholly or in part, of any tax, fee or other pecuniary tax obligation due to the State, by:
  - a) Failing to declare taxable items or facts required for the payment of said tax;

- b) Inaccurately declaring facts used as the basis for assessment; or
  - c) Hinders, by any means, or withholds necessary information for proper monitoring of any activity or fact subject to taxation,
- shall be punishable by 2 to 6 years imprisonment.
2. If the amount due and unpaid exceeds US\$ 5,000.00, the perpetrator shall be punishable by 2 to 8 years imprisonment.

### **Article 315**

#### **Illegal import and export of goods or merchandise**

1. Any person who, without a license, exports or imports, goods or merchandise for which, by law, a license is necessary from any agency or, any person who avoids having said goods or merchandise pass through customs, is punishable by up to 3 years imprisonment or a fine.
2. If said acts are committed through negligence, the penalty shall not exceed 1 year of imprisonment or a fine.

### **Article 316** **Smuggling**

1. Any person who imports or exports goods or merchandise without clearing the same through customs or other mandatory control systems for said goods or merchandise entering or exiting Timor-Leste, shall be punishable by 2 to 6 years imprisonment or a fine.
2. Whenever the value of said goods or merchandise exceeds US\$ 10,000.00, or the perpetrator habitually commits any of the acts described in the previous subarticle, the penalty shall be 2 to 8 years imprisonment or a fine.
3. Whenever the conduct described in the preceding subarticles pertain to goods or merchandise that require a license or for which import or export is prohibited, the maximum limit of the penalty described in the previous subarticles shall be increased by one third.

### **Article 317**

#### **Avoidance of customs duties**

1. Any person who imports or exports goods or merchandise and fully or partially avoids payment of customs duties or fees due for entry or exit of the same is punishable by 1 to 4 years imprisonment or a fine.
2. If the value of said goods or merchandise exceeds US\$ 10,000.00, or if the perpetrator commits any of the acts described in the preceding subarticle habitually, the penalty is 2 to 6 years imprisonment or a fine.

### **Article 318**

#### **Exemption from punishment**

The perpetrator of any of the acts described in the preceding articles may be exempted from punishment if the same voluntarily pays the assessed customs duties or fees, and said conduct is an isolated case.

**Article 319**  
**Mismanagement of public funds**

1. Any person who uses public funds differently than as established by law is punishable by up to 2 years imprisonment or a fine.
2. If funds are misused for other than public purposes established by law, the penalty is 2 to 6 years imprisonment.

**Article 320**  
**Failure to comply with a requisition of goods**

1. Any person, who fails to comply with a government requisition for goods considered as indispensable for continuance of economic activities or for public consumption, is punishable by 1 to 4 years imprisonment or a fine.
2. Negligent conduct is punishable by up to 1 year imprisonment or a fine.

**Article 321**  
**Destroying assets relevant to the economy**

1. Any person who, by any means, destroys, damages or renders unusable any assets of inherent relevance to the national economy, or otherwise prevents the same from fulfilling any legal duties imposed by virtue of the national economy, is punishable by up to 3 years imprisonment or a fine.
2. Negligent conduct is punishable by up to 1 year imprisonment or a fine.

**Article 322**  
**Illegal gambling**

1. Any person who, by any means, exploits games of fortune or chance outside of locations legally authorized and without due legal authorization to operate the same, or ensures the outcome of the same through illicit intervention, deceit or use of any equipment, shall be punishable with up to 3 years imprisonment or a fine.
2. Games of fortune or chance are those whose outcomes are uncertain due to being wholly or essentially based on luck.

**Article 323**  
**Disruption of a public act**

Any person who, with intent to hinder or negatively impact a court-ordered auction or results of the same or any public examination or tender, through gift, promise, violence or threat, manages to prevent another from offering a bid or participating or, if offering a bid or participating, does so not under free conditions, is punishable by up to 3 years imprisonment or a fine.

## SYSTEMATIC TABLE OF CONTENTS

### BOOK I – General part

**Title I – Application of criminal law (Articles 1 to 10)**

**Title II – On Crime (Articles 11 to 50)**

Chapter I – General Assumptions (Articles 11 to 21)

Chapter II – Forms of crime (Articles 22 to 28)

Chapter III – Perpetrators of crime (Articles 29 to 34)

Chapter IV – Joinder and continued crimes (Articles 35 to 42)

Chapter V – Causes for exclusion (Articles 43 to 50)

Section I – Causes for exclusion of unlawfulness (Articles 43 to 47)

Section II – Causes for exclusion of guilt (Articles 48 to 50)

**Title III – Circumstances (Articles 51 to 58)**

**Title IV – Legal consequences of crime (Articles 59 to 105)**

Chapter I – General provisions (Articles 59 to 64)

Chapter II – Prison sentence (Articles 65 to 73)

Chapter III – Penalty of fine (Articles 74 to 76)

Chapter IV – Penalty of community service (Articles 77 to 80)

Chapter V – Penalty of admonishment (Articles 82 and 83)

Chapter VI – Accessory penalties (Articles 84 to 89)

Chapter VII – Determination of the penalty (Articles 90 to 92)

Chapter VIII – Security measures (Articles 93 to 102)

Section I – Internment Measures (Articles 93 to 99)

Section II – Other security measures (Articles 100 and 101)

Chapter IX – Other consequences of crime (Articles 102 to 106)

**Title V – Right to file complaint (Articles 107 to 109)**

**Title VI – Expiration of Statute of limitations of criminal liability (Articles 110 to 123)**

Chapter I – Prescription of limitations of criminal prosecution (Articles 110 to 112)

Chapter II – Prescription of sentences and security measures (Articles 113 to 116)

Chapter III – Exemption to Statute of Limitations (Article 117)

Chapter IV – Other causes for extinguishment (Articles 118 to 123)

### BOOK II – Special part

**Title I – Crimes against peace, humanity and freedom (Articles 123 to 137)**

Chapter I – Crimes of genocide and crimes against humanity (Articles 123 and 124)

Chapter II – War crimes (Articles 125 to 130)

Chapter III – Crimes against peace and freedom (Articles 131 to 135)

Chapter IV – Common provisions (Articles 136 and 137)

**Title II – Crimes against persons (Articles 138 to 187)**

Chapter I – Crimes against life (Articles 138 to 144)

Chapter II – Crimes against physical integrity (Articles 145 to 156)

Chapter III – Crimes against personal liberty (Articles 157 to 182)

Section I – Personal assault (Articles 157 to 170)

Section II – Sexual assault (Articles 171 to 173)

Section III – Sexual exploitation (Articles 174 to 176)

Section IV – Sexual abuse (Articles 177 to 181)

Section V – Common provisions (Article 182)

Chapter V – Crimes against private life (Articles 183 to 187)

**Title III – Crimes against democratic practice (Articles 188 to 250)**

Chapter I – Crimes against public peace (Articles 189 to 195)

**Chapter II – Crimes against State security (Articles 196 to 206)**  
**Chapter III – Crimes against social life (Articles 207 to 228)**  
    **Section I – Crimes posing collective danger (Articles 207 to 214)**  
    **Section II – Crimes against the Environment (Articles 215 to 221)**  
    **Section III – Other crimes (Articles 222 to 228)**  
**Chapter IV – Electoral crimes (Articles 229 to 242)**  
**Chapter V – Crimes against public authority (Articles 243 to 250)**  
**Title IV – Crimes against assets (Articles 251 to 277)**  
    **Chapter I– Crimes against property (Articles 251 to 265)**  
    **Chapter II – Crimes against assets in general (Articles 266 to 277)**  
**Title V – Crimes of obstruction of justice (Articles 278 to 291)**  
**Title VI – Crimes committed in performance of public functions (Articles 292 to 302)**  
**Title VII – Crimes of forgery (Articles 303 to 312)**  
    **Chapter I – Forgery of documents (Articles 303 to 306)**  
    **Chapter II – Counterfeiting (Articles 307 to 312)**  
**Title VIII– Crimes against the economy (Articles 313 to 323)**