

DRAFT PRESS LAW

Decree N° () -2011 dated March 2011 related to the promulgation of the Press Law

The Interim President of the Republic

Upon proposal made by the Higher Commission for the Realization of the Objectives of the Revolution and Democratic Transition created by decree N°06-2011 dated 18 February 2011 and following consultation with the Prime Minister

The following decree is promulgated:

ARTICLE 1:

The provisions contained herein and related to freedom of expression, the press, printing and the sale of books shall make up the Press Law which shall enter in force on.....

ARTICLE 2

With the entry in force of the provisions contained herein, shall be repealed any other previous law or provision in conflict namely the Law N°32-1975 dated 28 April 1975 related to the promulgation of the Press Law, ant of its subsequent amendments or supplements

Equally, shall be repealed articles.....of the penal law supplemented in accordance with law.....

ARTICLE 3:

This Decree shall be published in the Tunisian Official Gazette and shall be enforced as a state law

This decree was promulgated onMarch 2011

DRAFT DECREEN° -2011

**DatedMarch 2011 related to the general provisions for the enforcement of decree
N°.....2011-datedMarch 2011 for the promulgation of the Press Law**

CHAPTER I

GENERAL PROVISIONS

PART I: DEFINITIONS

ARTICLE I:

The following definitions shall be applicable in the enforcement of the aforementioned Decree
.....2011 dated March 2011

Print: any printed material regardless of method or means

Book: any non periodical publication containing a minimum of 49 pages at least excluding the cover
pages

Compact category (CC): a work recorded on CD ready for use or exchange for a price or free of charge
published in the form of writings, pictures or photographs or simple oral recordings including music
or not or any other means of expression.

Digital Category (DC): a work recorded on a digital support ready for exchange or communication for
a price or free of charge published in the form of writings, pictures or photographs or simple oral
recordings including music or not or any other means of expression.

A periodical: a periodical publication regardless of its shape published regularly under the same title
at close of distant intervals even irregularly on condition that its sequence shall be aimed to continue
without end in time and in numbering

Shall be namely considered periodicals daily newspapers, weeklies, bi-weeklies and other magazines
and periodicals written, containing photographs as well as journals.

PART II: PERIODICAL PAPERS

ARTICLE 2:

Any change in the data contained in the declaration provided for in Article 10 of Decree
N°.....2011 related to the promulgation of the Press Law shall require a new declaration of the
same aspect.

ARTICLE 3:

Any periodical paper that is not published within six month of the receipt of the declaration shall require submitting a new one. Each declaration shall be the subject of a new receipt.

CHAPTER II: LEGAL DEPOSIT

PART I: GENERAL PROVISIONS

ARTICLE 4:

The various deposits provided for by Article 3, 4 and 10 of Decree N° /2011 dated.....March 2011 shall be carried out with each of the relevant authorities.

PART II: OBLIGATORY INFORMATION

ARTICLE 5:

All the issues of published periodical or non periodical papers shall include the following information:

- 1- The name of the producer, publisher or director and location of the company
- 2- The printing house, its corporate name and location
- 3- The date of the work's production and publication
- 4- The statement "legal deposit" mentioning the year and term during which the legal deposit was carried out.
- 5- The number on the list of the publications of the editor or publisher
However, the producer of photographs, or anyone holding the right of it reproduction shall just mention the name or initials; the producers of compact or digital categories or those holding the right of reproduction or retail may provide the name and brand symbol on the folder as well as the name of the author or authors, the title and legal deposit as well as its year and term and list of the producer's entire works.

ARTICLE 7:

The republished issues shall bear the new date of publication as well as the information required by Article 6 here above besides the date of the first legal deposit.

ARTICLE 8:

The following information shall equally be provided:

- 1- For printed categories: on the title page of the work, paper or periodical or any of the previous pages, at the end of the text or any of the following pages
- 2- As for categories in the form of bond prints, photographs, maps, engravings subject to legal deposit for any of its sides
- 3- And the compacted or digital content, on both sides or at the back

PART III

WORK REGISTERS

ARTICLE 9:

Any print work or publication carried out in Tunisia subject to the legal deposit shall be registered according to the date of completion in the form of a list of order in registers held by the printers and publishers which contain the data available on all the copies of the work subject to legal deposit.

The receipt's reference provided for in Chapter 2 of the decree referred to here above N°....2011 datedMarch 2011 related to national categories or other similar documents delivered by the public attorney for any foreign work printed, published or reproduced in Tunisia.

The number on the list shall be the same one on the copy as per Article 6.

ARTICLE 10

To avoid multiple similar registrations, periodical papers shall be subject to a single registration valid for the rest of the year and shall receive a number to figure on all the issues of the paper during that period subject to renewal with the issuing of the first number the following year.

A new registration shall be required in case of change in the information provided in the initial declaration as per article 10 of the decree referred to here above N° 2011 datedMarch 2011

ARTICLE 11:

All the categories referred to in article 10 here above N° 2011 datedMarch 2011 shall be subject to legal deposit and shall be registered in accordance with the provisions of Article 9 here above.

ARTICLE 12:

Legal deposit shall include a declaration in triplicate dated and signed and containing the following data:

- 1- The name and address of the printer, producer or manufacturer
- 2- The name and address and position of the private individual or legal entity for whom the printing was carried out
- 3- The title of the work
- 4- The author of the work
- 5- The number of copies printed and the number of copies or reprints as well as the size in centimeters for books
- 6- The date printing is completed
- 7- The number of the work on the print and manufacturing register

As for periodical publications, the following information shall be sufficient:

- 1- Title of the paper
- 2- Number of copies printed
- 3- The number on the publication on the list or reprints

A copy of the three submitted for legal deposit shall be returned bearing the stamp of the authority with which legal deposit was carried out. This copy shall be considered as receipt for deposit

ARTICLE 13:

The printer, producer or publisher or retailer shall provide a list of for the works figuring on the register required by article 6 of Decree N° 2011 datedMarch 2011. Each category on the list shall have the number attributed to it

A duplicate of this list shall be submitted to the legal deposit authority every three months.

ARTICLE 14:

The publisher or anyone replacing him/her shall submit with each legal deposit three copies of a bibliographical list

ARTICLE 15:

The ministers of justice and culture shall be in charge of enforcing this decree to be published in the Official Gazette of the Republic of Tunisia

Issued in CarthageMarch 2011

Interim President of the Republic of Tunisia

Foued Mbazaa

THE PRESS LAW

CHAPTER ONE

GENERAL PROVISIONS

ARTICLE 1:

The freedom of expression, press and printing shall be guaranteed and practiced in accordance with the provisions of this Law.

ARTICLE 2:

All the printed categories issued in the form of writings, pictures, photographs, simple oral texts accompanied by music or any other means of expression printed on paper or any other support, stored in packages and burned on compact support or any other such means ready for exchange for a price or free of charge which shall bear the printer's, producer's or publisher's or distributor's name and stamp.

The provisions of this article shall exclude:

- Administrative printed material
- Commercial printed material
- Small size publications known as city publications
- Election cards and dividends

Publications of the regular periodicals type published regularly or irregularly shall be submitted to the provisions of Chapter 3 herein

CHAPTER 2: Intellectual, Literary and Art Works

ARTICLE 3:

All the printed categories referred to here above in Article 1, chapter 2 shall be registered on private registers held by the printer, producer, publisher or retailer depending on the cases; each registration shall be the subject of date, and number in an uninterrupted sequence.

ARTICLE 4:

Each printer, producer, publisher or retailer of any of the printed categories referred to here above in Article 1-Chapter 2 herein shall submit a declaration to the Public Attorney of the relevant administrative geographical zone. Such declaration shall be in writing, bearing a tax stamp, signed and stamped by the printer, producer, publisher or retailer according to the circumstances and shall

receive a receipt from the Public Attorney of the administrative geographical zone. In case such acknowledgment receipt is denied, submitting the declaration by means of acknowledged mail to the relevant legal authorities which shall act as receipt for declaration.

Anyone who has carried out the declaration shall equally submit a copy of each printed category to the Public Attorney and eight copies in accordance to the same conditions to the ministry of culture before offering such categories for sale to the public

If the matter is related to a printed category produced or reproduced in Tunisia, declaration shall be made by means of submitting one copy to the ministry of culture before offering it for sale to the public; in case more than one party is involved in the production, the last on the list shall carry out the declaration.

ARTICLE 5:

If the printed category is produced outside Tunisia, declaration and legal deposit in the form of one copy to be submitted to the Public Attorney before offering it to the public.

ARTICLE 6:

Publications referred to in Article 2 here above which are not submitted to the conditions and provisions contained herein, shall not be authorized to be distributed to the public. Any failure to comply with such provisions shall be fined five hundred to two thousand dinars, and in the case of recurrence, a fine from two thousand to four thousand dinars.

CHAPTER III

PERIODICALS

PART I: National publications

ARTICLE 7:

The publication of any daily, printed periodical or e-publication shall not be the subject of preliminary authorization with the obligation of compliance with the declaration referred to herein in Article 10.

ARTICLE 8:

The periodical's director shall be mature and enjoying all his/her civil and political rights as well as a contact address in Tunisia. If the publication is managed by a legal entity, the manager shall be appointed among the members of the board of directors or managing committee

ARTICLE 9:

Each periodical shall have an editor in chief

The editor in chief shall be a Tunisian national aged at least 25 years and enjoying full civil and political rights, holding a university degree or its equivalent and an experience of at least five years, and a baccalaureate degree as a minimum level of education requirement.

If the editor in chief enjoys diplomatic immunity, the establishment owning the publication shall appoint another editor in chief within a period that does not exceed one month as from the date in which the former editor in chief acquires diplomatic immunity.

ARTICLE 10:

Before the publication of any periodical publication, a written declaration shall be submitted to the Public Attorney of the relevant administrative area. The declaration shall be on paper bearing a fiscal stamp and signed by the editor in chief. An acknowledgement receipt shall be provided for receipt of the publication. In case no receipt is delivered, such declaration shall be submitted by means of acknowledged mail the delivery receipt of which shall act as reception receipt.

This declaration shall contain:

- The publication's title and dates of publication
- Name and family name of the editor in chief, nationality and contact address
- The print house where the periodical is printed
- The language(s) of publication
- Place and number of registration in the trade register
- Name and family name as well as address of all the board members or managing committee and company managers

The Public Attorney shall be informed of any change in the information provided above within five days of its occurrence.

ARTICLE 11:

Failure to comply with the provisions of articles 10, 12, 13 and 14 herein shall expose the editor in chief or the printer to a fine ranging between one thousand and three thousand dinars and the periodical shall not be issued before complying with the conditions of the articles mentioned herein in article 11, any other persons shall be equally condemned for association if the periodical is published without declaration in accordance with the provisions here above and shall be fined three hundred dinars for any issue published without complying with the provisions and the sentence shall be enforced as from the date of the rule and as from the tenth day after declaration of the sentence if the rule is declared in absence. The court shall equally have the power to order ending the publication.

The rule may be appealed within ten days as from the sentence in presence or shall be the subject to objection or appeal as from reception of the sentence for in absence rule.

ARTICLE 12:

Legal deposit shall be two copies signed by the editor in chief for each periodical paper to be submitted to the office of the Public Attorney of the relevant administrative area and eight copies in accordance with the same conditions to ministry of culture. In case of failure to comply with these provisions, the people in charge mentioned here above shall be subject to sanctions provided for by article 12 herein

ARTICLE 13:

Each director of a periodical general information paper shall be able to prove at any time that s/he employs full time journalists whose number is not less than half of the editing team and who shall dispose of the national professional cards, hold diplomas in press recognized by the ministry of higher education.

ARTICLE 14:

Each copy shall mention at the bottom the name and location of the periodical paper printer. In case of failure to comply with this rule, the printer shall be subject to punishments provided for by article 11 herein.

CHAPTER TWO: TRANSPARENCY

ARTICLE 16:

Each periodical paper shall publish the names of its managers as well as the copies printed and shall equally publish its annual financial balance sheet and management books and results before the 1st of July of the year after the financial year.

Failure to comply with these provisions shall be subject to financial fines ranging from two hundred to five hundred dinars for each issue printed without compliance to these provisions.

ARTICLE 17:

Any person lending his or her name to the owner of a paper or its funder shall be fined ten thousand to forty thousand dinars and penal responsibility shall include the president of the board of directors, the manager or managers if the name borrowed is that of a legal entity.

ARTICLE 18:

Any general information paper shall fix for three months its advertizing rates and if necessary the rates jointly with another periodical or general information periodicals and shall inform the relevant parties of such decisions. Failure to comply with these provisions means a fine ranging between three hundred and two thousand dinars.

ARTICLE 19:

if the owner of a editor in chief of a general information receives funds or favors from a private individual or a foreign legal entity except those participation in the capital in accordance with the laws in force or advertizing as provided for by Article 18 here above, shall be fined five thousand to twenty thousand dinars.

ARTICLE 20:

Any advertizing shall be clearly stated as « advertisement » or « announcement » and shall be in different format to distinguish it from the reset of news and information content. Failure to comply with these provisions shall be subject to a fine ranging between two to six thousand dinars.

The owner of periodical general information paper or its director or editor in chief or employee shall have no right to receive funds or other favors of material value the purpose of which is pass advertisements as news or articles.

Failure to comply with this provision shall be subject to a fine the equivalent of received sums and shall in no case be less than fifty thousand dinars.

ARTICLE 21:

Any borrowed article, in total or in part, in its original language or translated shall include a statement mentioning its origin. Failure to comply with such conditions shall be subject to a fine ranging from two to three thousand dinars without consideration of the damage incurred by the owner which may be claimed.

CHAPTER III: PLURALISM

ARTICLE 22 :

Any individual, a private individual or legal entity, shall have the right to own, manage and (.....) a maximum of two general information periodical papers with the same issuing time and number of copies printed of the papers managed or controlled by one individual shall not exceed 20% of the global printed number of general information papers in Tunisia which has the same publication regularity.

ARTICLE 23:

Shares representing the capital of a printing or editing house as well as the shares of companies holding at least 20% of the capital or votes shall be nominal shares. The company's managers shall take the necessary provisions to ensure the compliance of the company's bylaws with these provisions within three months after the promulgation of this decree.

Any transfer of shares involving the capital of a publishing or printing house shall be approved by the board of directors. If such transfers or promise of transfers may lead to the direct ownership of 20% of the publishing or printing house, such information shall be published in the paper or papers owned by the house.

ARTICLE 24:

any person owning directly or indirectly at least 20% of the capital or votes in a printing or publishing house shall provide all the information related to the ownership, control and financing of the house requested by the Higher Information Commission established in accordance with decree datedMarch 2011.

Any publishing or printing house shall inform the aforementioned commission within a month of knowing of:

- 1- The name of the owner or owners holding 20% of the capital and shares if the company is a legal entity and in all cases shall provide the Commission with a list of names of the shareholders providing information on the number and value of these shares.
- 2- The name of the manager or directors
- 3- The minutes of the shareholders' meetings
- 4- All the transfer or promises of transfer operations by a person holding 20% at least of the printing or publishing company or resulting in obtaining a minimum of 20% of the company's capital.

Any person who has transferred the entire property of a newspaper shall inform the higher commission within ten days of the transfer operation and the name of the new owner.

The Higher Information and Communication Commission, within its activities, may request through its reporters or the members of the Competitiveness Office, any information needed for the control of the extent to which the media comply with the rules of plurality and transparency contained herein. In the absence of legal rule or reason, authorities and individuals involved with such procedures shall respect secrecy rule.

CHAPTER IV FOREIGN PUBLICATIONS

ARTICLE 25:

Shall be considered a foreign publication, any paper whether periodical or not published abroad regardless of the language.

ARTICLE 26: foreign papers shall not be published or distributed in Tunisia if its content is found disrespectful of moral order and ethics. Legal decisions may equally forbid the publication and distribution of foreign papers in case they contain photos or news or articles that do not respect moral values and ordre public or state security

CHAPTER V: CORRIGENDA AND THE RIGHT TO ANSWER

ARTICLE 27

The editor in chief of any paper shall be obliged to publish free of charge in the front pages of the following issue any corrigenda addressed by any of the representatives of the public authorities for any matter concerning his/her function if exposed erroneously. Such corrigenda shall not be the double size of the original article subject of the rectification. Failure to comply with this provision shall be punishable with a fine of one to two thousand dinars.

ARTICLE 28:

The editor in chief of any paper shall publish any of response by an individual who has been overtly or indirectly mentioned in a published material. Failure to comply with this provision shall be punishable with a fine of five hundred to one thousand dinars regardless of other sanctions, fines and compensations resulting therein.

The response shall be published within three days as from the day after informing the editor in chief in writing by means of an acknowledged registered letter or any other proven means of the targeted person's intention to enjoy the right of response. Such response shall be published on the same page, using the same font size and within the same length of the article responded to excluding the title, greetings, preambles and signature.

The response shall not exceed 200 lines even if the original article is longer than that. Such provisions shall equally apply to comments if the article's author has published new comments on the same article.

The First Instance Court of the relevant administrative area of the paper shall have be empowered to rule in the cases related to denying the right of response in accordance with the provisions of articles 57 to 69 of this law. This court shall equally be empowered to rule on ending the right to respond if such response does not comply with the law or contains immoral material or if it endangers others' legal rights, affects the article author's reputation or position.

The court shall rule in less than 10 days as from the date of bringing the case to the court. It may equally rule for the enforcement of a sentence to include in the draft regardless of objections or appeals but for the part to be included in the draft, while the appeal shall be subject of a rule within ten days as from the date of registering the appeal application by the court's clergy.

The inscription time referred to in paragraph two herein shall be reduced to 24 hours during the elections for dailies. Under this condition, the editor in chief shall receive the response at least six hours before printing the paper which published the article subject of the response. As from the beginning of electoral campaigns, the editor in chief shall inform the public attorney of the time at which the paper is printed otherwise will be exposed to sanctions provided for by paragraph one herein, and shall be summoned to attend the trial from time to time by order of the chief judge of the first instance court. The court may rule for the inscription in draft regardless of the oppositions or appeals but will involve only the part related to inscription. The condemned shall be subject to three months imprisonment and a fine of 6000 TND if s/he fails to comply with such rule if s/he does not accept the sentence of inscription within twenty four hours of its proclamation.

Cases related to compulsory inscription shall be the subject of perdition after one year of the date of publication of the article subject of the opposition.

ARTICLE 29:

The right of response provided for in article 28 herein by associations, within the limits of their social purposes, and in case an individual or a group of people are targeted by a publication of one of the papers in the form of allegations likely to affect their reputation or integrity or attacks them on the basis of race, ethnicity, religion, nation or region. No association shall enjoy such a right if the allegation involves someone's own person.

CHAPTER FOUR: POSTING, TRANSPORT AND SALES

PART I: POSTING

ARTICLE 30

The mayor, for municipal areas, and the governor for non municipal areas, shall provide and define places especially designed for posting of printed material of the public authority. Private and personal announcements shall not be posted in such places.

Posts by the public authorities shall be on white paper and the posting of advertizing material on white paper if containing texts or photos in different colors.

Failure to comply with such provisions shall be punishable with a fine of 200 to 500 dinars and 500 to 1000 TND in the case of recurrence.

ARTICLE 31:

Public authorities shall define the places where electoral announcements will be posted in accordance with the conditions and the laws related to all types of elections.

ARTICLE 32:

Anyone who intentionally removes covers or destroys the posted material in anyway affecting the content of the poster in the place allocated to it and making its material inaccessible shall be subject to a fine of 200 to 500 TND and if the posts have to do with electoral campaign material the fine shall be 500 to 1000 TND. In case such offense is attributed to a public officer or an employee of the public authority, the fine shall be 1000 to 1500 TND.

PART II

TRANSPORT AND SALES

ARTICLE 33

Anyone wishing to sell papers in the streets or paper vendor in public areas or private premises for the sale of books, papers, photographs, engravings, stone prints, compact and digital discs, films and CDs shall inform the municipal services or the governorate's office of his/her place of residence.

The declaration shall include the name, family name, nationality, occupation, date and place of birth to be submitted against a receipt, and shall be punished anyone exercising such paper sales activity without declaration, or a false declaration, or failure of providing the receipt upon request, with a fine of 200 TND.

ARTICLE 34:

Shall be subject to prosecution in accordance with the provisions of the law if found intentionally guilty of transporting, distributing books, writings, papers, magazines, engravings, stone prints, compact content, films and CDs whose distribution is considered a crime regardless of the punishments provided for by Article 33 herein.

CHAPTER V: CRIMES AND OFFENSES COMMITTED BY JOURNALISTS OR THROUGH PUBLICATION

PART I: INCITATION TO COMMIT A CRIME OR AN OFFENSE

ARTICLE 35:

Anyone inciting someone directly to commit what is defined as a crime or offense such as theft, murder, robbery, fire or any other crime punishable by criminal law shall be subject to punishment of prison sentences of one to five years and a fine of one thousand to two thousand dinars if such incitation is not followed by action without prejudice to the provisions of article 32 of the Criminal Law.

Such provisions shall equally be applicable to anyone who incites others using the means referred to above to commit a crime against the state's domestic and foreign security provided for in articles 60, 61, 62, 63, 64, 67, 68, 69, 71, 72, 74, and 75 to 80 of the Penal Law.

Shall be equally subject to the same punishments anyone who uses the same means to extol crimes of murder, theft, fire, robbery, or crimes provided for by articles 304, 305 and 306 of the Penal Law or crimes of war, against humanity or cooperation with the enemy.

Shall be punished equally as participant in these crimes as defined in the preceding three clauses any person who incites directly another person or other persons to commit what has been mentioned followed by act through the press or any other information means intentionally which shall equally be applicable if the incitation is followed by but an attempt to commit a crime provided for by Article 59 of the Criminal Law.

ARTICLE 36:

Any person calling openly using the means mentioned here above in article 35 of this law to incite hatred between races, ethnicities, religions, citizens or the dissemination of ideas based on racism, religious extremism or committing crimes as provided for by article???????? In this law or urges citizens to transgress the laws and shall be punishable by two months to three years of prison and a fine of five thousand to ten thousand dinars.

ARTICLE 37:

Anyone using places of prayer through speeches or the posting of prints calling for support to legal or illegal political parties shall be punished by one month to six months of prison and a fine of five hundred to one thousand dinars, these punishments shall increase during the electoral campaign from three months to one year prison and from one thousand to two thousand dinars.

[No article 38]

ARTICLE 39:

Shall be imprisoned from one to five years and fined five thousand to ten thousand dinars any person inciting through the means listed in articles 35 and 36 soldiers to neglect their military duties and abandoning duties towards their superiors and neglecting their orders, the laws and military rules or

encouraging young people not to join the army service, postpone it or discourage those who have not been summoned to serve or likely to be summoned to serve in accordance with the military service law.

ARTICLE 40:

If the court issues a penal or criminal rule without right to appeal or postponement and depriving of liberty and is related to the implementation of a crime or offense as provided for by articles 35 and 39 of this law, this same rule can equally deprive the offender of the right to vote or to be elected for a period that does not exceed five years and as soon as the sentence is proclaimed, the sentenced person shall lose the right to serve in an elected position during the electoral period covered by such rule.

PART II: OFFENSES AGAINST INDIVIDUALS AND OFFICIAL BODIES

ARTICLE 41:

Shall be considered defamation any overt claim that may affect the reputation or dignity of a person or official body.

Announcing that claim or attribution directly or reportedly shall be punishable even if happening in the form of hypothesis aimed at an individual or official body not overtly named but hinted at and understood from the speech content, calls, threats, writings, posts, drawings or announcements which have been the subject of objection.

Shall be punishable with prison from one to three years and a fine from one to five thousand dinars anyone found guilty of defamation using the means referred to here above in article 35 against the army, the navy, air force, official bodies or public office.

ARTICLE 42:

a person guilty of defamation shall be liable to the same punishment if not proven by the same means mentioned herein to a member or members of the government in relation to their functions and responsibilities or a member or members of the legislation council, a public officer or a person enjoying public authority or a member or members of the public authority, a citizen in charge of office or representing public authority temporarily or permanently or a witness for the purpose of his/her witness.

Punishment shall not be less than what is provided for by the previous clause.

Besides, the court shall publish the sentence on one of the dailies' columns and in one of the weeklies at the expense of the sentenced person or entity.

ARTICLE 43:

Defamation of individuals shall be subject to punishments provided for in article 35 herein by prison from one to six months and a fine from one thousand to five thousand dinars or one of both sentences only without prejudice to Article 87 of the Contracts and Obligations Law.

Shall be sentenced to prison from one month to one year and a fine of one thousand to five thousand dinars any person guilty of defamation according to the methods and means referred to herein against any other category of people not referred to herein in terms of race, sex and religion if the objective of the defamation is incitation to hatred among citizens and inhabitants.

ARTICLE 44:

Shall be considered an insult any utterance affecting the dignity or expressing derision or insults using the means referred to herein in chapter 35 targeting official instances or individuals referred to herein in article 42 and thereafter, and shall be punishable of one to six months prison and a fine from one thousand to five thousand dinars if the aggression is preceded by provocation. Punishment shall not be less than the minimum required by the precedent clause. The same offense committed using the same means against a group of people on the basis of their religion or sex the purpose of which is the incite hatred among citizens or against foreigners resident in Tunisia shall be punishable by prison for a maximum period of one year and a fine from two to five thousand dinars.

ARTICLE 45:

The provisions of articles 41, 42, 43, and 44 herein shall not be applicable to defamation of dead persons unless the purpose of such defamation is to affect the reputation or integrity of heirs, partners and living progeny.

Living heirs, partners and progeny shall have the right to response referred to in article 27 herein whether the purpose of defamation is to affect or not to affect their reputation.

ARTICLE 46:

Defamation can be proven using traditional means if it is related to functions as in the case of official instances, the army, the navy, the air force, public office and individuals referred to in article 42 here above.

Defamation shall equally be proven if it is related to the function only targeting a director or a manager of an industrial, commercial, or financial entity which explicitly relies on savings and lending.

Defamation cannot be proven in the following cases:

- a- If the question is related to the individual's private life
- b- If the question is related issues dating back to over ten years
- c- If the question is related to a crime terminated by amnesty, perdition or punishment involving restitution of rights

In the cases referred to herein in paragraphs one and two, a counter proof shall be provided if defamation is proven, legal action is suspended

If the accusation contained in the defamation is subject of legal action by order of the public attorney or based on a plaint by the suspect, legal action and prosecution for defamation shall be suspended until investigations required are completed.

ARTICLE 47:

Any transfer of an attributed matter and proven legally as defamation shall be considered as bone fide if nothing else proves the contrary.

PART III: OFFENSES AGAINST PRESIDENTS OF STATES AND FOREIGN DIPLOMATS

ARTICLE 48:

Overt attacks affecting the reputation of presidents of states and foreign members of governments and heads of diplomatic missions accredited to Tunisia shall be punishable by six months to one year of prison and a fine of one thousand to five thousand dinars or one of both.

PART IV: ILLEGAL PUBLICATIONS AND THE DEFENSE'S IMMUNITY

ARTICLE 49:

Shall be sentenced to one year prison and a fine from one to five thousand dinars or one both, any person who publishes and disseminates information on crimes of rape and aggressions which do not comply with the moral order by any means and deliberately mentioning the name of the victim or any information which may help identify the victim unless the victim provides written consent.

ARTICLE 50:

Shall be sentenced to a fine of one to five thousand dinars an person who deliberately unveils by any means the identity of members of the security forces including the police, the national guard and the army, members of the customs appointed by the authorities to carry out secret missions.

ARTICLE 51:

Shall be sentenced one month to one year of prison and a fine from one to three thousand dinars any person who intentionally transports, sells and distributes forbidden works or to publish and disseminate forbidden works under different titles.

ARTICLE 52:

The publication of accusation and other matters related to legal procedures shall not be published before their public announcement; non compliance with this rule shall be subject to fine from one to five thousand dinars.

The same punishment shall be applicable to dissemination of such information through transfers using mobile phones, photographs, engravings, photos of individuals or films, all or part of the conditions of a crime or offense provided for by articles 201 and 240 of the penal law.

There shall be no crime if the publication is carried out on submission of a written request to the judge in charge of investigation; such application shall be included in the investigation file.

ARTICLE 53:

Defamation crimes as defined in clauses a, b, and c in article herein shall not be published neither the deliberations related to the confirmation of progeny, divorce and abortion. This shall not be

applicable to cases which can be published at any time by order of the judiciary; in all civil cases, councils may forbid the publication of the cases' details and shall equally be forbidden the publication of secret deliberations of the courts and councils

The use of recorders, cameras and camcorders inside the courts and deliberations rooms shall be forbidden unless authorization of the relevant judiciary authority is provided. Any failure to comply with these provisions shall be subject to sentences of fines from one to five thousand dinars and the confiscation of the equipment.

ARTICLE 54:

Opening subscriptions or announcing subscriptions aimed at refunding fines, expenses, or compensations as decided by the rule of law shall be subject to sentences of one to six months prison and a fine of one to five thousand dinars or one of both.

ARTICLE 55:

Defamation accusations shall not be valid for unfair description or other as *bone fide* act in legal defense or speeches delivered in courts and in written texts submitted to them.

However, judges in charge of a case may reject speeches containing insults, belittling or defamation and to rule for compensation to damage incurred.

Any person affected by defamation outside Tunisia shall have the right to a civil case if courts have kept such right, others shall equally in all matters have the right to civil cases in courts.

ARTICLE 56:

If a sentence confirms an offense, the relevant court shall have the right to order the confiscation of books, printed material, posts, engravings, announcements, CDs, compacted or digital content subject of accusation and trail and shall have the power to confiscate, cancel, or destroy the copies exposed for sale or offered to the public and may just order the removal of parts of the content of the confiscated copies.

Any recurring punishment for threats or other shall forbid the publication subject of trial regardless of the provisions of the penal law related to crimes of threats and defamation.

CHAPTER VI: PROSECUTION AND PUNISHMENTS

PART I: INDIVIDUALS RESMPONISBLE FOR CRIMES AND OFFENSES COMMITTED THORUGH THE PRESS

ARTICLE 57:

Shall be sentenced as initial offenders for crimes and offenses committed through the press the following:

First, the editor in chief and the publishers regardless of their functions and appellations

Second, in the absence of the preceding, the authors;

Third, in the absence of an author, the printer and producer

Fourth, in the absence of persons in charge of printing and production, the sellers, distributors and those in charge of posting.

ARTICLE 58:

If the editors in chief or publishers are included in the prosecution, the authors shall be trailed as participants and shall equally be trialed in the same way all persons on whom provisions of article 32 of the penal law are applicable which shall not be applicable to the printer in matters related to printing.

The printer may equally be prosecuted as participant in the case of proclamation of absence of legal responsibility for the editor in chief, in such case the printer may be the subject of legal prosecution within a period of three months as from the date of the offense or within a maximum period of three months as from the date of canceling the responsibility of the editor in chief.

ARTICLE 59:

The owners of printed categories, voice recordings, and visual material shall have civil responsibility, shall equally have civil responsibility the persons defined in the two previous articles and shall be namely liable for payment of fines as part of joint liability with the condemned. Such fines and compensations may be payable from the company's assets in accordance with the provisions of article 8 herein.

ARTICLE 60:

No civil case shall be carried out independently from public ones in cases of defamation as provided for in articles 41, 42 and 43 herein except in the case of death or enjoying amnesty.

ARTICLE 61:

Any association founded at least five years before committing the act, on condition that its bylaws provide for fighting against all forms of discrimination based on origin, sex, ethnicity or religion and assisting victims of such offenses, may be part in the cases provided for herein. If the offenses concern private individuals for private matters thereof, this association can be part only if authorized in writing by these individuals.

ARTICLE 62:

Prosecutions for crimes and offenses committed through the press or any other information means shall be carried out in accordance with the following procedures:

First, in the case of defamation caused to individuals as provided for by article 41 herein, and in the case of insults provided for by article 44 herein, prosecution shall be carried out only in the case of complaints by the victim of defamation or insults; when the victims of defamation or insults are a group of people because of their origin, race or religion the purpose of which is to incite hatred among citizens or citizens and foreigners living in the country, prosecution can be carried out the

public attorney or the relevant associations empowered to be part in such disputes as provided for by the provisions of article 62 herein;

Second, in the case of insults and defamation against judiciary bodies or courts or official bodies, public administrations, the prosecution shall be naturally by the public authorities;

Third, in the case of defamation or insults involving a member or members of the legislative council, prosecution shall be carried out only upon plaint by the victim or victims;

Fourth, in the case of defamation or insults involving public officers or employees holding public authority other than the members of the government or against citizens in charge of office or public authority, prosecution shall be carried out through a plaint by them or through the head of the department to which they belong;

Fifth, in the case of defamation involving a witness, prosecution shall be carried out upon plaint by the witness victim of the defamation

Sixth, in the case of aggression and insults affecting dignity and reputation as provided for by article 44 herein, prosecution shall be carried out upon request by the victim; such request shall be submitted to the ministry of foreign affairs which shall transfer it to the ministry of justice.

ARTICLE 63:

In the case of prosecution as per articles 62 to 69 herein, the court dealing with the case after hearing the relevant sides shall deliberate within eight days on the possibility of suspending the paper for a period that does not exceed three months for the daily paper and a maximum of six months for any other periodical.

The court's decision shall be subject to temporary execution regardless of any opposition through appeal. The court of appeal shall rule within ten days as from the date of submitting the request to the court's secretariat.

The daily paper shall be suspended and shall be considered as suspended even if it is published under another name as concluded from facts namely the participation of all or part of the staff as in effect a continuation of the same suspended paper.

This suspension shall have no impact on employment contracts which shall remain binding of the employer in terms of contract and legal obligations contained therein.

Anyone continuing the publication of a suspended paper shall be sentenced to one to six months prison and fined five hundred to three thousand dinars.

ARTICLE 64:

The act subject of prosecution shall be detailed in the official summoning and if the request is carried out by the plaintiff, the description shall contain contact address in the city where the case will be dealt with. Such information shall be submitted to both the accused and the public attorney otherwise the prosecution shall be considered as null and void.

The time from summoning to presence to the court shall be twenty days while the time allowed for turning before the court shall be 48 hours in the case of defamation or insult targeting a candidate for elections during the electoral campaign.

The session shall not be postponed later than the day preceding the elections day and in such cases the provisions of articles 63 and 64 shall not be applicable.

ARTICLE 65:

If the accused wished to be given the opportunity to prove his/her innocence in the case of a defamation case in accordance with the provisions of Article 46 herein, s/he shall submit to the public attorney by means of written statement to the court's secretariat or the plaintiff at the address on the summoning request depending on the request's issuing side within a maximum period of ten days as from the reception of the request:

First, a statement of the acts as detailed in the warrant or request which she/he seeks to prove;

Second; a copy of the related documents;

Third, the names of witnesses, their occupations and addresses;

The accused shall equally provide his/her contact address in the area of the court's administrative authority or shall lose any rights thereof.

ARTICLE 66:

The plaintiff and the public attorney, depending on the context, shall inform the accused within five days and in all circumstances three days before the meeting, through a bailiff for the first and through administrative procedures for the second, that the copies and documents and names of witnesses through whom the testimonials will be provided as well as their occupations and addresses have been provided and available at the court's secretariat.

ARTICLE 67:

The court, in penal matters, shall proclaim the sentence within a maximum period of one month as from the date of the first session

ARTICLE 68:

The plaint shall be lost by perdition and so shall the two civil case resulting thereof, crimes or offenses provided for herein after three months from the date of occurrence or as from the last working day in the prosecution procedures.

ARTICLE 69:

Article 53 of the penal law may be applicable in all circumstances contained herein.