

decrees - laws

Decree-law n° 2011-13 dated 14 March 2011, relating to the confiscation of movable and real assets and properties (*).

The President of the Republic by interim,

On a proposal from the Minister of Finance,

Having regard to the opinion of the Minister of Justice,

Having regard to the opinion of the Minister of State Property and Land Affairs,

Having regard to the opinion of the governor of the Central Bank of Tunisia,

Issues the following decree-law :

Article one - Shall be confiscated, for the benefit of the Tunisian State, within the conditions fixed by the decree-law herein and this as of the date of its publication, all the movable and real properties and all the vested rights after 7 November 1987 and which returns to the ex-president of the Republic of Tunisia Zine El Abidine Ben Haj Hamda Ben Haj Hassen Ben Ali, his wife Leila Bent Mohamed Ben Rehouma Trabelsi, the other persons referred to in the list annexed to the decree-law herein as well as to any other person who has been proved to have movable and real properties through their relation with the aforesaid persons.

The confiscation decided according to the decree-law herein does not affect the right of the creditors to ask for the payment of their credits made before 14 January 2011, on condition to comply with the procedures fixed by the provisions of the decree-law herein.

Art. 2 - Every holder, whatever his quality is, of movable and real properties, rights, obligations and conventions returning directly or indirectly, to the persons referred to in article one of the decree-law herein as well any other debtor of amounts, values, holdings or properties, whatever their nature is, regarding the same persons, shall declare to the confiscation commission mentioned in article 3 of the decree-law herein within a deadline not exceeding two months as from the date of its publication, failing that, the failing person will be considered as debtor to the State for the properties, values, amounts and the non declared duties increased by the interests and penalties due in accordance with the legislation in force.

The declaration shall be carried out in writing and addressed to the confiscation commission through a registered letter with acknowledgement of receipt or directly deposited against a receipt.

The declarations shall be recorded in a numbered and initialized register opened for this purpose.

The declaration shall contain all the useful indications related to the declaring person, to the person whose properties are

confiscated as well as to the nature, kind and value of the declared properties.

It is prohibited for all the holders of the abovementioned properties to transfer them.

Art. 3 - It is established within the Ministry of State Property and Land Affairs a commission called the confiscation commission, composed as follows:

- A judge of 3rd degree: president,
- An advisor of Administrative Tribunal: member,
- An advisor of the Court of Auditors: member,
- The conservator of the land property or his representative: member
- The head of the litigation department of the State or his representative: member,
- A representative of the Ministry of the Finance: member,
- A representative of the Central Bank of Tunisia: member,
- A representative of the Ministry in charge of the State Property and Land Affairs: reporting member.

The commission president may call for any person whose presence is deemed useful to attend its meetings.

The Minister in charge of the State Property and Land Affairs ensures the commission secretariat.

The commission president and the members as well as its reporter shall be appointed by decree on a proposal from the concerned Ministries and institutions.

The commission president, members and reporter are bound to the professional secrecy.

Art. 4 - The seat of the confiscation commission is located in Tunis.

Art. 5 - The confiscation commission is entitled to ask any information enabling it to achieve its missions and to have access to all the documents that it requires from the administrative institutions, public or private establishments whatever their nature is and from all the courts whatever their degree is, without being opposed by the professional secrecy.

The commission may request the administrative authorities or the relevant court, as the case may be, to arrange all investigations or enquiries allowed by the legislation in force as well as the appointment of experts in order to reveal the movable and real properties and confiscated rights, mentioned in article one of the decree-law herein.

It may also ask the relevant court to order all procedures allowing the preservation of confiscated properties in accordance with the decree-law herein.

(*) The annex is published only in Arabic and French.

Art. 6 - All the creditors of the persons whose properties and rights are confiscated in accordance with the decree-law herein, holders of the credits made before 14 January 2011, shall, within a deadline not exceeding six months as from the date of its publication, declare their credits to the confiscation commission and produce the related proofs.

The confiscation commission shall record the aforesaid credits in a register, numbered and initialized, opened for this purpose.

At the expiry of the deadline mentioned in paragraph one of the article herein, the credits which have not been subject of a declaration in accordance with the previous paragraph, will be prescribed.

The declaration shall be carried out in writing and addressed to the confiscation commission through a registered letter with acknowledgement of receipt or directly deposited against a receipt.

The declaration shall contain all the useful indications concerning the declaring person, and the debtor as well as the nature, kind and value of the credit.

Art.7 - At the expiry of the deadline provided for in paragraph one of article 6 of the decree-law herein, the confiscation commission shall draw-up a report which comprises the following:

- A statement including all movable and real properties and rights confiscated according to the decree-law herein and that it had been able to determine and inventory in accordance with the procedures provided for by the decree-law herein.

- A statement identifying all the debtors of the persons whose properties and rights are confiscated according to the decree-law herein and who have made the declaration subject of the article 2 of the decree-law herein as well as the amount of the debt of each one of them.

- A statement identifying all the creditors of the persons whose properties and rights are confiscated according to the decree-law herein, who have declared their credits and rights in accordance with the provisions of article 6 of the decree-law herein and the amount of the credit of each of them.

Art. 8 - Without prejudice to the provisions of last paragraph of article one of the decree-law herein, the confiscation commission shall take, on the basis of the report mentioned in article 7, the necessary administrative and legal measures, in order to transfer for the benefit of the State the confiscated movable and real properties and rights.

Art. 9 - Are considered null and void, all the contracts whether free or onerous as well as all the contracted obligations and conventions as from 14 January 2011, having for subject the movable and real properties as well as rights mentioned in article one of the decree-law herein. These deeds, obligations and conventions are considered as non-invocable and without effect regarding the State which cannot be required for compensation, whatever the nature, or for the return of what has been paid at the time of their conclusion.

Art. 10 - The Ministry in charge of finance shall proceed in accordance with the procedures in force and within the limit of the product of the confiscated properties, to the payment of the debts regarding the persons mentioned in article one of the decree-law herein, rendered certain through final legal decisions.

Art. 11 - The head of the litigation department of the State represents the confiscation commission before the courts in accordance with law n° 88-13 dated 7 March 1988, relating to the representation of the State, the public establishments of administrative nature and the enterprises submitted to the supervision of the State before the courts.

Art.12 - The Minister of Justice, the Minister of Finance, the Minister of State Property and Land Affairs and the Governor of the Central Bank of Tunisia, each in his respective capacity, shall implement the decree-law herein which shall be published in the Official Gazette of the Republic of Tunisia and which shall come into force as from 14 March 2011.

Tunis, 14 March 2011.

The President of the Republic by interim

Fouad Mebazaâ