

Law n° 2007-26 dated 7 May 2007, amending and completing some provisions of the penal procedures code (1).

In the name of the people,

The Chamber of Deputies and the Chamber of Advisors having adopted.

The President of the Republic promulgates the following law :

Article one - The provisions of paragraph one of article 261, paragraph one of article 262 and article 264 of the penal procedures code are repealed and substituted by the following provisions :

Article 261 (paragraph one new) : The appeal in cassation is made by a written petition lodged either personally or by a lawyer at the clerk office of the court having delivered the contested decision or judgment.

Article 262 (paragraph one new) : Except for cases of "force majeure", the appeal in cassation is not admissible, if it is not lodged at the clerk office of the court having delivered the contested decision or judgment within ten days as from the judgment after trial, or from the notification of the judgment after trial according to paragraph one of article 175, or from the expiry of the opposition period in case of a judgment by default, or from the notification of the judgment delivered by repeated default.

Article 264 (new) : The clerk of the cour of cassation shall communicate the file of the case to the attorney general in the cour of cassation who shall give personally or by one of the assistant public prosecutors at the cour of cassation his/her written findings. He shall not raise any issue not cited by the parties unless it deals with an issue of law and order. Then he/she shall submit his findings along with the file to the first president of the cour of cassation.

Art. 2 - Are added to the penal procedures code a third paragraph to article 261 and article 263 bis as the following :

Article 261 (third paragraph) : The clerk who receives the petition shall sign it, mentions its date of reception and registers it in a special book kept for this reason. He shall deliver an acknowledgment receipt including its date of reception and immediately informs the clerk office of the cour of cassation by any means keeping track by means of a written proof. Then he/she shall inform the defendant and send the file of the case to the clerk office of the cour of cassation accompanied by the petition and a copy of the contested decision or judgment.

Article 263 (bis) : Except for the department of the public prosecutor office, the appellant shall within thirty days at least as from the date of presenting its petition under penalty of forfeiture, lodge at the clerk office of the cour of cassation the following documents :

* A memorandum indicating the means of appeal in cassation and specifying the statement of ground of the appeal in cassation against the contested decision,

* A copy of the minutes of notification by the bailiff of the memorandum to the defendants, except for the public prosecutor office,

Should the defendant decide to answer the memorandum of appeal in cassation, he/she shall within thirty days at least as from the date of the notification, present through a lawyer a memorandum to the clerk office of the cour of cassation.

In criminal matters, the procedures referred to in these paragraphs shall be carried out by a lawyer.

Art. 3 - Transitional provisions :

The procedures referred to in the law herein shall be applicable in cassations lodged two months after coming into force.

The law herein shall be published in the Official Gazette of the Republic of Tunisia and implemented as law of the state.

Tunis, 7 May 2007.

Zine El Abidine Ben Ali

(1) preparatory works :

Discussion and adoption by the Chamber of Deputies during its session held on 2 April 2007.

Discussion and adoption by the Chamber of Advisors during its session held on 3 May 2007.