

## DECREE NUMBER 17-73

### THE CONGRESS OF THE REPUBLIC OF GUATEMALA,

#### CONSIDERING:

That it is necessary and urgent to issue a new Penal Code, in accordance with the Guatemalan reality and the advances in criminal science;

#### CONSIDERING:

Furthermore, at the time when the Penal Code currently in force was issued, it was necessary to incorporate, through partial reforms, new rules that affected its unity and made its application and study difficult,

#### THEREFORE,

Based on Article 156 of the Constitution of the Republic and in compliance with the powers assigned to it by paragraph 1 of Article 170 thereof,

#### DECREE

The next one

#### CRIMINAL CODE

#### BOOK ONE

#### GENERAL PART

#### TITLE I

#### OF THE CRIMINAL LAW

Of legality

**ARTICLE 1.** No one may be punished for acts not expressly classified as crimes or misdemeanors by a law prior to their commission; nor shall penalties other than those previously established by law be imposed.

#### **Extractivity**

**ARTICLE 2.-** If the law in force at the time the crime was committed is different from any subsequent law, the law whose provisions are favorable to the offender shall apply, even if a final judgment has been issued and the offender is serving his sentence.

#### **Exceptional or temporary law**

**ARTICLE 3.-** The exceptional or temporary law shall apply to acts committed under its validity, even if it has ceased at the time of the ruling, except as provided in Article 2.

#### **Territoriality of criminal law**

**ARTICLE 4.-** Except as provided in international treaties, this Code shall apply to any person who commits a crime or misdemeanor in the territory of the Republic or in places or vehicles subject to its jurisdiction.

#### **Extraterritoriality of criminal law**

**ARTICLE 5.-** This Code shall also apply:

1. For a crime committed abroad by an official in the service of the Republic, when he has not been tried in the country where the crime was committed.
2. For a crime committed on a ship, aircraft, or any other means of Guatemalan transportation, when the person has not been tried in the country where the crime was committed.
3. For a crime committed by a Guatemalan, abroad, when his extradition has been denied.
4. For a crime committed abroad against a Guatemalan national, when the accused has not been tried in the country where it was committed, provided that there is an accusation from a party or the Public Prosecutor's Office and the accused is in Guatemala.
- 5th. For a crime that, by treaty or convention, must be punished in Guatemala, even if it was not committed in its territory.
6. For crimes committed abroad against state security, the constitutional order, the integrity of its territory, as well as forgery of the signature of the President of the Republic, counterfeiting currency or banknotes, legal tender, bonds, and other securities and credit documents.

#### **Foreign judgment**

**ARTICLE 6.-** In the cases described in paragraphs 1 and 6 of the previous article, the accused shall be tried according to Guatemalan law, even if he or she has been acquitted or convicted abroad. Any sentence, or part of it, served, as well as any time spent in custody, shall be credited to the accused.

In other cases, if there is a conviction, the most lenient law will apply. A foreign judgment will result in *res judicata*.

#### **Exclusion of analogy**

**ARTICLE 7.-** By analogy, judges may not create criminal offenses or apply sanctions.

#### **Extradition**

**ARTICLE 8.** Extradition may only be attempted or granted for common crimes. In the case of extradition covered by international treaties, it may only be granted if there is reciprocity.

In no case may extradition be attempted or granted for political crimes or for common crimes related to them.

#### **Special laws**

**ARTICLE 9.-** The provisions of this Code shall apply to all matters of a criminal nature, regulated by other laws, insofar as these, implicitly or expressly, do not provide otherwise.

## **TITLE II**

### **OF THE CRIME**

#### **Causal relationship**

**ARTICLE 10.-** The acts provided for in the criminal figures will be attributed to the accused, when they are the consequence of an action or omission normally suitable to produce them, in accordance with the nature of the respective crime and the specific circumstances of the case or when the law expressly establishes them as a consequence of certain conduct.

#### **Intentional crime**

**ARTICLE 11.-** The crime is intentional when the result has been foreseen or when, without pursuing that result, the perpetrator represents it as possible and executes the act.

#### **Negligence**

**ARTICLE 12.-** A crime is culpable when, as a result of lawful actions or omissions, harm is caused through imprudence, negligence or incompetence.

Culpable acts are punishable in cases expressly determined by law.

#### **Completed crime**

**ARTICLE 13.-** The crime is consummated when all the elements of its classification are present.

#### **Attempt**

**ARTICLE 14.-** There is an attempt when, in order to commit a crime, its execution is begun by external, suitable acts and is not consummated for reasons independent of the agent's will.

### **Impossible attempt**

**ARTICLE 15.-** If the attempt is carried out with normally inadequate means or on an object of such nature that the completion of the act is absolutely impossible, the perpetrator will only be subject to security measures.

### **Withdrawal**

**ARTICLE 16.-** When, having begun the execution of a crime, the perpetrator voluntarily desists from carrying out all the acts necessary to consummate it, he shall only be sanctioned for the acts carried out if these constitute a crime in themselves.

### **Conspiracy and proposition**

**ARTICLE 17.-** There is conspiracy when two or more persons agree to commit a crime and resolve to carry it out.

There is a proposition when the person who has decided to commit a crime invites another person or persons to carry it out.

Conspiracy, solicitation, provocation, instigation, and inducement to commit a crime are only punishable in cases expressly provided for by law.

### **Commission by omission**

**ARTICLE 18.-** Anyone who fails to prevent a result that he or she has a legal duty to avoid shall be liable as if he or she had produced it.

### **Time of commission of the crime**

**ARTICLE 19.-** The crime is considered committed at the time the action is executed. In crimes of omission, it is considered committed at the time the omitted action should have been performed.

### **Crime scene**

**ARTICLE 20.-** The crime is considered committed: at the place where the action was executed, in whole or in part; at the place where the result occurred or should have occurred; and, in the case of crimes of omission, at the place where the omitted action should have been performed.

### **Error in person**

**ARTICLE 21.-** Whoever commits a crime shall be responsible for it, even if his action falls on a person other than the one he intended to offend or the harm caused is different from what he intended to commit.

### **Fortuitous event**

**ARTICLE 22.-** Anyone who, on the occasion of lawful actions or omissions, exercising due diligence, produces a harmful result by mere accident, shall not incur criminal liability.

## TITLE III

### OF THE CAUSES THAT EXEMPT FROM CRIMINAL LIABILITY

#### CHAPTER I

##### CAUSES OF NON-IMPUTABILITY

**ARTICLE 23.-** The following are not attributable:

1st. The minor.

2. Anyone who, at the time of the act or omission, does not possess, due to mental illness, incomplete or delayed psychic development, or a temporary mental disorder, the capacity to understand the unlawful nature of the act or to determine oneself in accordance with that understanding, unless the temporary mental disorder was deliberately sought by the agent.

#### CHAPTER II

##### CAUSES OF JUSTIFICATION

**ARTICLE 24.-** The following are grounds for justification:

###### **Self-defense**

1. Anyone who acts in defense of his or her own person, property or rights, or in defense of the person, property or rights of another, provided that the following circumstances occur:

a) Unlawful aggression;

b) Rational necessity of the means used to prevent or repel it;

c) Lack of sufficient provocation on the part of the defender. These three circumstances shall be deemed to exist with respect to the person who rejects someone who attempts to enter or has entered another's home or premises, if his attitude indicates the imminence of a danger to the life, property or rights of residents.

The requirement provided for in literal c) is not necessary when it comes to the defense of one's relatives within the legal degrees, one's spouse or partner, one's parents or adopted children, provided that the defender has not taken part in the provocation.

###### **State of necessity**

2. Anyone who has committed an act forced by the need to save himself or others from a danger, not caused by him voluntarily, nor otherwise avoidable, provided that the act is proportional to the danger.

This exemption extends to anyone who causes damage to another's property, if the following conditions are met:

- a) Reality of the evil that is to be avoided;
- b) That the evil is greater than what is caused to avoid it;
- c) That there is no other practicable and less harmful means to prevent it.

Someone who had a legal duty to face danger or sacrifice themselves cannot claim a state of necessity.

### **Legitimate exercise of a right**

3. Anyone who performs an act, ordered or permitted by law, in the legitimate exercise of the public office they hold, the profession they pursue, the authority they exercise, or the assistance they provide to justice.

## **CHAPTER III**

### **CAUSE FOR GUILTY**

**ARTICLE 25.-** The following are grounds for non-culpability:

#### **Invincible fear**

1. Carrying out the act driven by an invincible fear of equal or greater harm, certain or imminent, depending on the circumstances.

#### **External force**

2nd. Carrying out the act violated by irresistible external material force, directly used on him.

#### **Error**

3. Carrying out the act in the rational belief that there is an unlawful aggression against oneself, provided that the reaction is proportional to the assumed risk.

#### **Due obedience**

4. Carry out the act in accordance with due obedience, without prejudice to the liability of the person who ordered it. Obedience is considered due when it meets the following conditions:

- a) That there is hierarchical subordination between the person who orders and the person who executes the act;
- b) That the order is issued within the scope of the powers of the person issuing it, and is covered by legal formalities;
- c) That the illegality of the mandate is not manifest.

#### **Justified omission**

5th. Anyone who commits an omission and is prevented from acting for a legitimate and insurmountable reason.

**TITLE IV**

**OF THE CIRCUMSTANCES THAT MODIFY THE  
CRIMINAL LIABILITY**

**CHAPTER I**

**Mitigating circumstances**

**ARTICLE 26.-** The following are extenuating circumstances:

**Psychic inferiority**

1st. Conditions determined by organic or pathological circumstances that diminish, without excluding it, the subject's capacity to understand or to want.

**Excess of justification causes**

2nd. Exceeding the limits established in the causes of justification.

**Emotional state**

3. The offender acts under such powerful stimuli that they naturally produce rage or obsession.

**Effective repentance**

4. If the offender has zealously sought to repair the damage caused or prevent its further harmful consequences.

**Repair of damages**

5. Whether the offender, in the court's opinion, has adequately and satisfactorily repaired, restored, or compensated the damage caused before sentencing.

**Preterintentionality**

6. Not having intended to cause such serious damage as that which occurred

**Presentation to the authority**

7. If the accused could have evaded justice by flight or other suitable means, he or she has voluntarily presented himself or herself to the authorities.

**Spontaneous confession**

8th. The confession of the accused, if he or she made it in his or her first statement.

**Ignorance**

9. The lack of explanation, given the nature of the crime, to the extent that it has influenced its execution.

### **Difficulty in predicting**

10. In negligent crimes, causing the harmful result in circumstances that made it very improbable or difficult to foresee.

### **Provocation or threat**

11. The offended party having immediately preceded provocation or threat in proportion to the crime.

### **Vindication of offenses**

12. Having committed the act in proximate vindication of a serious offense, caused to the perpetrator of the crime, his spouse, his partner, his relatives within the degrees of law, his adopters or his adopted children.

Proximate vindication is understood to be that which is exercised consecutively to the offense, or when there has not been the necessary time for reflection.

### **Incomplete innocence**

13. Those expressed in article 25 when the necessary requirements to exclude liability in the respective cases do not occur.  
cases.

### **Mitigating circumstances by analogy**

14. Any other circumstance of equal importance and analogous to the above.

## **CHAPTER II**

### **AGGRAVATING CIRCUMSTANCES**

**ARTICLE 27.-** The following are aggravating circumstances:

#### **Futile or abject motives**

1. The offender acted for futile or base reasons.

#### **Treachery**

2nd. Carrying out the act with malice aforethought.

There is treachery when a crime is committed using means, methods, or methods that directly or specifically tend to ensure its execution, without any risk arising from the victim's defense; or when the victim, due to his or her personal circumstances or circumstances, is unable to prevent, avoid, or defend himself or herself.

#### **Premeditation**

3rd. Acting with known premeditation.

There is known premeditation when it is demonstrated that the external acts carried out reveal that the idea of the crime arose in the mind of its author, sufficiently prior to its execution, to organize, deliberate or plan it and that, in the time between the purpose and its realization, he prepared it and executed it coldly and thoughtfully.

#### **Seriously dangerous means**

4. Carrying out the act by means of explosives, harmful gases, flooding, fire, poisoning, narcotics, ship grounding, aircraft accident, deliberately caused damage, derailment, disturbance of public order, or by any other means suitable to cause general havoc.

#### **Taking advantage of calamity**

5. Taking advantage of the occurrence or past occurrence of a cyclone, earthquake, flood, shipwreck, fire, derailment, traffic accident of any kind, explosion, disturbance of public order, or any other public disaster or calamity to commit the crime.

#### **Abuse of superiority**

6. Abuse of physical or mental superiority, or use means that weaken the victim's defenses.

#### **Cruelty**

7. Deliberately increasing the effects of the crime, causing other unnecessary effects for its commission or employing means that add ignominy to the criminal act.

#### **Preparing for the escape**

8. Carrying out the act using a vehicle or any means, mode or form that ensures the offender's escape.

#### **Artifice to commit the crime**

9. Committing the crime using cunning, fraud, disguise, or any other deception sufficient to facilitate the commission of the crime or conceal the identity of the offender.

#### **Cooperation of minors**

10. Committing the crime using the participation or assistance of a minor.

#### **Profitable interest**

11. Committing the crime through price, reward or promise of remuneration.

#### **Abuse of authority**

12. The offender takes advantage of his public character or the power inherent to his position, office, ministry or profession, or commits it by making use of functions that he previously held.

#### **Assistance from armed people**

13. Committing the crime with the help of armed people or people who ensure or provide impunity.

#### **Gang**

14. Committing the crime in a gang.

A gang exists when more than three armed people participate in the commission of the crime.

#### **Nighttime and unpopulated**

15. Committing the crime at night or in unpopulated areas, whether one or the other circumstance is chosen or taken advantage of, depending on the nature and accidents of the fact.

#### **Contempt for authority**

16. Committing the crime with offense or contempt of public authority or in the place where it is exercising its functions.

#### **Drunkenness**

17. The offender becoming drunk or intoxicated, deliberately in order to commit the crime.

#### **Contempt for the offended**

18. Carrying out the act with disregard for the advanced age or childhood, sex, illness, or condition of physical disability or economic hardship of the offended party, depending on the nature and circumstances of the act.

#### **Connection with another crime**

19. Committing the crime to prepare, facilitate, consummate or conceal another crime, or to prevent its discovery.

#### **Contempt for the place**

20. Committing the crime in the victim's home, when the victim did not provoke the incident.

#### **Predictability facilities**

21. In negligent crimes, having caused the harmful result in circumstances that made it very probable or easily foreseeable.

#### **Use of advertising media**

22. Carry out the act by means of printing, engraving, paintings exhibited to the public, cinematography, light projections, radiotelegraph, telephone, television or any other mass media.

#### **Recidivism**

23. That the offender is a repeat offender.

A repeat offender is someone who commits a new crime after having been convicted, in a final judgment, for a previous crime committed in the country or abroad, whether or not the sentence has been served.

#### **Habituality**

24. That of being a habitual offender.

A habitual offender shall be declared a person who, having been convicted of more than two previous crimes, commits another or other crimes, in Guatemala or abroad, whether or not he or she has served his or her sentences.

The habitual offender will be punished with double the sentence.

### **CHAPTER III**

#### **OF THE COMMON PROVISIONS**

#### **Special aggravating circumstance of relative application**

**ARTICLE 28.-** (*Amended by Article 1 of Decree 62-80 of the Congress of the Republic*). Chiefs or Agents in charge of public order who commit any crime against persons or their property, provided that it is proven that in committing the crime, there was a serious abuse of authority and of the trust that the State has placed in them, shall be imposed the penalty corresponding to the crime committed, increased by one-fourth.

**(Paragraph added by Article 1 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law).** Public officials or employees who, abusing their position, commit any crime shall be punished with the penalty corresponding to the crime committed, increased by one-fourth.

#### **Exclusion of aggravating factors**

**ARTICLE 29.-** The following circumstances shall not be considered as aggravating circumstances: those that in themselves constitute a crime specifically provided for by law, nor those that the law has expressed when classifying it, or those that are so inherent to the crime that, without their presence, it could not be committed.

#### **Incommunicable circumstances**

**ARTICLE 30.-** Mitigating or aggravating circumstances that consist of purely personal factors or characteristics of the offender, or that result from his or her particular relationship with the offended party, shall not be communicated to the co-offenders.

Mitigating or aggravating circumstances resulting from the actual execution of the criminal act or the means employed to carry it out shall only be assessed with respect to those participants who were aware of them before or at the time of the action.

#### **Mixed circumstances**

**ARTICLE 31.-** The following may be considered mitigating or aggravating circumstances, depending on the nature, motives and effects of the crime:

The aggrieved party is the spouse or common-law partner, or a relative of the offender by blood or marriage within the legal limits; as well as any relationship of respect, friendship, gratitude, dependence, or hospitality that exists between the accused and the injured party.

In the case of a personal error, aggravating circumstances arising from the nature of the victim or from ties to the victim will not be taken into account for the purpose of sanctioning. Mitigating circumstances, if the crime was committed against the person against whom it was proposed, will be assessed in favor of the person responsible.

#### **Limitations on recidivism and habitual behavior**

**ARTICLE 32.-** There is no recidivism or habituality between intentional and negligent crimes, between common and purely military crimes, between common and political crimes, between crimes and misdemeanors.

Regarding political crimes, it is up to judges to determine whether or not the offense is a repeat offense, taking into account the personal circumstances of the person responsible and the special circumstances in which the offense was committed.

#### **Consequences of habituality**

**ARTICLE 33.-** In addition to applying the respective penalty, the habitual offender will be subject to security measures.

#### **Prescription**

**ARTICLE 34.-** After ten years have elapsed between the commission of one crime and another, the previous conviction will not be taken into account.

The time that the offender remains deprived of liberty due to preventive detention or due to the sentence will not be counted in this term.

## TITLE V

### CHAPTER I

#### PARTICIPATION IN CRIME

##### Responsibilities

**ARTICLE 35.-** The following are criminally responsible for the crime: The perpetrators and accomplices.

Only the authors are responsible for the faults.

##### Authors

**ARTICLE 36.-** The authors are:

1. Those who take a direct part in the execution of the acts inherent to the crime.
- 2nd. Those who force or directly induce another to do so.
3. Those who cooperate in the commission of the crime, whether in its preparation or execution, with an act without which it could not have been committed.
4. Those who, having agreed with another or others to commit a crime, are present at the time of its consummation.

##### Accomplices

**ARTICLE 37.-** The following are accomplices:

- 1st. Those who encourage or incite another in their decision to commit a crime.
- 2nd. Those who promise their help or cooperation after the crime has been committed.
3. Those who provide information or supply appropriate means to commit the crime; and
4. Those who serve as a link or act as intermediaries between the participants to obtain their participation in the crime.

##### Criminal liability of legal entities

**ARTICLE 38.-** *(Amended by Article 2 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. With regard to legal entities, their directors, managers, executives, representatives, administrators, officials or employees who have intervened in the act and without whose participation it would not have been carried out shall be held responsible for the respective crimes and shall be punished with the same penalties indicated in this Code for individuals.

Legal entities shall be liable in all cases in which their directors, managers, executives, representatives, administrators, officers, or employees participate with their authorization or consent; and in any of the following circumstances:

- a) When the criminal act is committed due to the omission of control or supervision and the results are favorable.
- b) When the criminal act is committed by decision of the decision-making body.

In all crimes where legal entities are found responsible and no penalty has been assigned, a fine of ten thousand dollars (US\$10,000.00) to six hundred twenty-five thousand United States dollars (US\$625,000.00), or its equivalent in national currency, will be imposed.

The fine will be determined according to the financial capacity of the legal entity and will be set taking into account the circumstances under which the crime was committed.

In the event of a repeat offense, the permanent cancellation of the legal personality will be ordered.

### **Crowd crime**

**ARTICLE 39.-** When dealing with crimes committed by a crowd, the following provisions shall apply:

1. If the purpose of the meeting was to commit certain crimes, all those who materially participated in its execution shall be held responsible, as well as those who, without having had material participation, assumed the role of directors.
2. If the purpose of the meeting was not to commit crimes and these were subsequently committed at the urging of a tumultuous crowd, all those who materially participated in the execution shall be liable as accomplices, and those who acted as instigators shall be liable as perpetrators, whether or not they had material participation in the execution of the criminal acts.

The rest will be exempt from punishment.

This last exemption does not extend to the assembly itself, when it is provided for by law as a crime.

### **Liability for crimes other than those conceptualized**

**ARTICLE 40.-** If the crime committed is more serious than the one agreed upon or of equal gravity, but of a different nature, or complicated by other crimes, the participants who are not involved in the act shall be liable for the crime agreed upon and committed, and only for the crime committed without agreement, insofar as it could have been foreseen, in accordance with general principles.

If the crime committed is less serious than the one agreed upon, they will only be liable for the former.

## **TITLE VI**

### **OF THE SORROWS**

#### **CHAPTER I**

#### **MAIN PENALTIES**

**ARTICLE 41.-** The main penalties are: Death, imprisonment, arrest and fine.

#### **Accessory penalties**

**ARTICLE 42.-** The following are accessory penalties: absolute disqualification; special disqualification; confiscation and loss of the objects or instruments of the crime; expulsion of foreigners from the national territory; payment of costs and procedural expenses; publication of the sentence; and any other penalties established by other laws.

#### **Death penalty**

**ARTICLE 43.-** The death penalty is of an extraordinary nature and may only be applied in cases expressly provided for in the law and shall not be executed until all legal remedies have been exhausted.

The death penalty may not be imposed:

- 1st. For political crimes.
- 2nd. When the conviction is based on presumptions.
- 3rd. To women.
- 4th. To men over seventy years of age.
- 5th. To persons whose extradition has been granted under that condition.

In these cases, and whenever the death penalty is commuted to imprisonment, the maximum prison sentence will be imposed.

#### **Prison sentence**

**ARTICLE 44.-** (*Amended by Article 1 of Decree 36-80; and by Article 1 of Decree 20-96, both of the Congress of the Republic*). The penalty of imprisonment consists of the deprivation of personal liberty and must be served in the penal centers designated for that purpose. Its duration ranges from one month to fifty years.

Those sentenced to prison who exhibit good conduct for three-quarters of their sentence will be released, with the understanding that if they commit a new crime while enjoying this privilege, they must serve the remainder of their sentence and the sentence corresponding to the new crime committed.

The reduction referred to in this article shall not apply when the inmate displays misconduct, commits a new crime, or seriously violates the regulations of the prison where he is serving his sentence.

#### **Arrest penalty**

**ARTICLE 45.-** The penalty of arrest consists of deprivation of personal liberty for up to sixty days. It shall be applied to those responsible for misdemeanors and shall be carried out in places other than those designated for serving the prison sentence.

#### **The deprivation of liberty of women**

**ARTICLE 46.** Women shall serve their prison sentences in special facilities. When these facilities do not meet the necessary conditions to care for pregnant women or women within forty days of childbirth, they shall be sent to a suitable health center, under custody, for the time strictly necessary.

#### **Product of work**

**ARTICLE 47.-** Prisoner labor is compulsory and must be remunerated. The proceeds of their remuneration shall be non-attachable and shall be subject to:

1st. To repair and compensate for the damages caused by the crime.

2nd. To the food benefits to which he is obliged.

3. To contribute to the extraordinary and necessary expenses to maintain or increase the productive means that, as a source of employment, benefit the inmate.

4th. To form his own fund that will be given to him upon his release.

#### **Determination of work**

**ARTICLE 48.-** Work must be compatible with the inmate's sex, age, ability, and physical condition. Inmates over sixty years of age, those with physical disabilities, or those suffering from an illness that makes work impossible or dangerous are not required to work.

#### **Supervening illness**

**ARTICLE 49.-** If the accused or the prisoner suffers from an illness that requires special confinement, their transfer to a suitable facility must be ordered, where they will remain only for the time necessary for their recovery or relief. This provision shall not apply if the facility has adequate facilities.

The time of confinement will be counted towards the fulfillment of the sentence, except in the case of simulation or fraud to obtain or prolong the sentence. internment.

#### **Commutation of custodial sentences**

**ARTICLE 50.-** *(Amended by Article 1 of Decree 2-96 of the Congress of the Republic)*. The following are commutable:

1. Imprisonment not to exceed five years. Commutation will be regulated between a minimum of five quetzales and a maximum of one hundred quetzales per day, depending on the circumstances of the crime and the financial circumstances of the convicted person.

2nd. The arrest.

#### **Unchangeable**

**\*ARTICLE 51.** Commutation will not be granted:

1st. To repeat offenders and habitual criminals;

2nd. To those convicted of theft and robbery;

3rd. When so prescribed by other laws;

4. When the conditions of the convicted person, the motives for his conduct and the circumstances of the act have been assessed, the Judge determines that he is a social danger;

5th. **(Added by Article 1 of Decree 30-2001 of the Congress of the Republic).** Those convicted of tax evasion, customs evasion, customs smuggling, misappropriation of taxes, and resistance to the tax authorities' oversight actions.

6th. **(Added by Article 20 of Decree 9-2009 of the Congress of the Republic).** To those convicted of the crimes contemplated in the articles contained in Chapter I of Title III.

**\*7° (Added by Article 3 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law; and declared unconstitutional by a ruling of the Constitutional Court of September 2, 2021, File 4099-2020).** To those convicted of crimes against public administration and the administration of justice.

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**ARTICLE 52.-** The penalty of a fine consists of the payment of an amount of money that the judge will set, within the legal limits.

#### **Determining the amount of the fine**

**ARTICLE 53.-** The fine is personal and will be determined according to the financial capacity of the offender; their salary, wages, or income; their aptitude for work or productive capacity; duly verified family responsibilities; and other circumstances that indicate their financial situation.

#### **Method of execution of the fine**

**ARTICLE 54.-** The fine must be paid by the convicted person within a period of no more than three days, counting from the date on which the sentence became final.

Upon the provision of real or personal security, at the request of the convicted person, payment of the fine may be authorized in periodic installments. The amount and payment dates will be determined by the judge, taking into account the financial circumstances of the obligor. In no case shall the payment period exceed one year.

#### **Conversion**

**ARTICLE 55.- (Amended by Article 2 of Decree 2-96 of the Congress of the Republic).** Those convicted of a fine who do not pay it within the legal term, or who do not comply with making the amortizations for its due payment, or are insolvent, shall serve their sentence with deprivation of liberty, the time being regulated, according to the nature of the act and the personal conditions of the convicted person, between five quetzales and one hundred quetzales for each day.

#### **Absolute disqualification**

**ARTICLE 56.-** Absolute disqualification includes:

1st. **(Amended by Article 4 of Decree 31-2012 of the Congress of the Republic, Law against Corruption).** The suspension of political rights.

2nd. The loss of the employment or public office that the convicted person held, even if it was elected by popular vote.

3rd. The inability to obtain public office, employment, or commissions.

4th. The deprivation of the right to elect and be elected.

5th. The incapacity to exercise parental authority and to be a guardian or pro-guardian.

#### **Special disqualification**

**ARTICLE 57.-** *(Amended by Article 5 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. Special disqualification shall consist, as the case may be:

1. In the imposition of one or more of the disqualifications established in the different sections of the preceding article.

2. In the prohibition of exercising a profession or activity whose exercise depends on an authorization, license or qualification.

In crimes where the protected legal interest is public administration or the administration of justice, the special disqualification will be that corresponding to the second and third paragraphs of the preceding article. In the case of legal entities, the special disqualification will consist of the inability to enter into contracts with the State.

#### **Application for special disqualification**

**ARTICLE 58.-** Special disqualification shall be imposed together with the main penalty when the criminal act is committed with abuse of the practice or with violation of the duties inherent to a profession or activity.

*(Paragraph added by Article 6 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law)*. In the case of crimes against public administration and the administration of justice, absolute or special disqualification shall be imposed in addition to the main penalty, which may not be less than four years.

#### **Suspension of political rights**

**ARTICLE 59.-** A prison sentence entails the suspension of political rights for the duration of the sentence, even if the sentence is commuted, unless the person is rehabilitated.

#### **Comiso**

**ARTICLE 60.-** Confiscation consists of the loss, in favor of the State, of objects derived from a crime or misdemeanor, and of the instruments used to commit them, unless they belong to a third party not responsible for the act. When the objects in question are prohibited or not legally traded, confiscation shall be ordered, even if the existence of the crime or the guilt of the accused is not declared.

The confiscated objects from legitimate trade will be sold, and the proceeds will increase the Judicial Branch's private funds.

*(Paragraph added by Article 70 of Decree 55-2010 – Asset Forfeiture Law)*. Forfeiture will only proceed if the competent judge or court does not declare asset forfeiture, in accordance with the relevant law.

#### **Publication of the judgment**

**ARTICLE 61.-** *(Amended by Article 7 of Decree 22-2017 of the Congress of the Republic).* The publication of the sentence is an accessory penalty to the main one imposed for crimes against honor and against freedom and sexual indemnity, regulated in the Penal Code and other specific norms on the subject.

In cases of crimes against honor, at the request of the victim or his heirs, the judge, at his discretion, shall order the publication of the judgment in one or two newspapers with the largest circulation in the Republic, at the expense of the convicted person or the applicants in the alternative, when he deems that publicity may contribute to repairing the moral damage caused by the crime. Under no circumstances may the publication of the judgment be ordered when it affects minors or third parties.

In cases of crimes against liberty and sexual indemnity, the sentence will be published on the official websites of the Public Prosecutor's Office and the Judicial Branch, without making the victim's personal information public. Under no circumstances may the sentence be published when the convicted person is a minor.

## CHAPTER II

### ON THE APPLICATION OF PENALTIES

#### To the perpetrator of the completed crime

**ARTICLE 62.-** Except for special determination, any penalty established by law for a crime shall be deemed to be imposed on the perpetrator of the completed crime.

#### To the author of the attempt and to the accomplice of the completed crime

**ARTICLE 63.-** The author of an attempt and the accomplice of a completed crime shall be imposed the penalty provided by law for the authors of a completed crime, reduced by one third.

#### To the accomplice of attempt

**ARTICLE 64.-** Accomplices in an attempt shall be imposed the penalty provided by law for perpetrators of a completed crime, reduced by two-thirds.

#### Setting the penalty

**ARTICLE 65.-** The judge or court shall determine, in the sentence, the appropriate penalty, within the maximum and minimum established by law, for each crime, taking into account the greater or lesser dangerousness of the offender, the personal history of the offender and the victim, the motive for the crime, the extent and intensity of the damage caused, and the mitigating and aggravating circumstances present in the act, appreciated both by their number and by their magnitude or importance. The judge or court must expressly record the aspects referred to in the preceding paragraph and which have been considered decisive in determining the penalty.

#### Increase and decrease of limits

**ARTICLE 66.-** When the law provides that a penalty be increased or decreased by a certain amount or fraction, the maximum and minimum shall be increased in the corresponding proportion, or decreased as the case may be, thus establishing the new penalty, within whose limits its application shall be graduated in accordance with the provisions of the preceding article.

#### **Mental illness of the detainee**

**ARTICLE 67.-** If the offender becomes mentally ill after sentencing, the sentence shall be suspended, as regards the personal penalty. Upon the recovery of the offender's mental health, he shall serve his sentence.

The same procedure will apply when mental illness occurs while the convicted person is serving a sentence.

#### **Calculation of the sentence**

**ARTICLE 68.-** The sentence shall be computed from the date on which the prisoner was arrested, unless he has been released.

### **CHAPTER III**

#### **OF THE COMPETITION OF CRIMES**

##### **Royal contest**

**ARTICLE 69.-** *(Amended by Article 3 of Decree 2-96; and by Article 2 of Decree 20-96, both of the Congress of the Republic).* The person responsible for two or more crimes shall be imposed all the penalties corresponding to the infractions he has committed in order to serve them successively, beginning with the most serious, but the set of penalties of the same type may not exceed three times the one of longest duration; if they all have the same duration, they may not exceed three times the penalty.

This maximum, however, may in no case be higher than:

1st. To fifty years in prison

2nd. A fine of two hundred thousand quetzales

##### **Ideal competition**

**ARTICLE 70.-** In the event that a single act constitutes two or more crimes, or when one of them is a necessary means of committing the other, only the penalty corresponding to the crime with the highest sanction shall be imposed, increased by up to one third.

The court shall impose all penalties corresponding to each of the infractions if, in its judgment, this would be more favorable to the defendant than the application of the previous rule.

When it comes to an ideal concurrence of crimes punishable by imprisonment, crimes punishable by imprisonment and a fine or crimes sanctioned only with a fine, the judge, at his prudent discretion and under his responsibility, will apply the respective sanctions in the manner that is most favorable to the offender.

##### **Continuing offense**

**ARTICLE 71.-** It will be understood that there is a continuing crime when several actions or omissions are committed in the following circumstances:

1st. With the same criminal purpose or resolution.

2. With violation of rules that protect the same legal asset of the same or a different person.

3rd. In the same or different place.

4th. At the same or different time, taking advantage of the same situation.

5th. Of the same or different severity.

In this case, the penalty corresponding to the crime will be applied, increased by one third.

## CHAPTER IV

### CONDITIONAL SUSPENSION

#### OF PAIN

#### Conditional suspension

**ARTICLE 72.-** When issuing a sentence, the courts may conditionally suspend the execution of the penalty, a suspension that may be granted for a period of not less than two years nor more than five, if the following requirements are met:

1. That the penalty consists of deprivation of liberty not exceeding three years;
2. That the beneficiary has not previously been convicted of a criminal offense;
3. That before the commission of the crime, the beneficiary had observed good conduct and had been a consistent worker;
4. That the nature of the crime committed, its motives and circumstances do not reveal the agent to be dangerous and it can be presumed that he will not commit another crime.

5th. (**Added by Article 2 of Decree 30-2001 of the Congress of the Republic**). In the cases of crimes against the Tax Regime referred to in Articles 358 "A", 358 "B", and 358 "C", if the convicted person has complied with returning to the State the amount of the taxes withheld or defrauded, as well as any surcharges, fines, and compensatory interest determined by the tax authority upon request of the competent judge following a tax assessment. In this case, the maximum penalty provided for in the Law for such offenses shall not be taken into account when granting this benefit.

This benefit may be granted at the time the judgment is issued, or in cases where a judgment has been finalized, when the convicted person complies with the aforementioned payment. The application of the benefit in the latter case will be the responsibility of the Enforcement Judge.

#### Inmate subjected to security measures

**ARTICLE 73.-** (**Amended by Article 15 of Decree 49-2016 of the Congress of the Republic**). The benefit established in the preceding article shall not be granted when the sentence imposes, in addition to the personal penalty, a security measure, except in the case of supervised release or through telematic monitoring, unless, based on the evidence presented, in the judge's opinion, its application is not appropriate.

#### Civil liabilities

**ARTICLE 74.-** The conditional suspension of the sentence may be extended to accessory penalties; but it shall not exempt the individual from civil obligations arising from the crime.

#### **Warning**

**ARTICLE 75.-** The judge or court of the case must personally warn the defendant, regarding the nature of the benefit granted to him and the reasons that may lead to its revocation, which will be recorded in the file.

#### **Revocation of the benefit**

**ARTICLE 76.-** If during the period of suspension of the execution of the sentence, the beneficiary commits a new crime, the benefit granted shall be revoked and the suspended sentence shall be executed plus whatever is due for the new crime. If during the suspension of the sentence it is discovered that the convicted person has a criminal record for having committed a willful crime, he or she shall be subject to the penalty that would have been imposed.

#### **Extinction of the penalty**

**ARTICLE 77.-** Once the fixed period has elapsed, without the convicted person having given reason to revoke the suspension, the sentence shall be deemed extinguished.

## **CHAPTER V**

### **ON PAROLE**

#### **Competent authority to decree it**

**ARTICLE 78.-** The Supreme Court of Justice has the power to grant conditional release, after receiving information that will be processed for this purpose before the Board of Prisons and Released Persons or the institution that acts in its place.

#### **Conditions**

**ARTICLE 79.-** *(Amended by Article 16 of Decree 49-2016 of the Congress of the Republic)*. Conditional release shall be agreed upon in a resolution that shall state the conditions imposed on the beneficiary, consisting of subjection to one or more security measures, which must be accompanied by a telematic monitoring device, unless, based on the evidence presented, the judge deems it inappropriate to apply the device.

#### **Conditional release regime**

**ARTICLE 80.** Conditional release may be granted to a prisoner who has served more than half of a prison sentence exceeding three years and not exceeding twelve; or who has served three-quarters of a sentence exceeding twelve years, and the following circumstances also apply:

1. That the offender has not previously been sentenced for another intentional crime.

2. Have displayed good conduct during their confinement, supported by positive facts that demonstrate that they have acquired habits of work, order, and morality.

3. That the property has been restored and the damage repaired in the case of property crimes, and in other crimes, that civil liability has been satisfied, to the extent possible, at the discretion of the Supreme Court of Justice.

#### **Duration and revocation of parole**

**ARTICLE 81.-** The regime to which the person who obtains conditional release will be subject will last for the entire time remaining to serve the imposed sentence.

If during this period the offender commits a new crime or violates the imposed security measures, the conditional release will be revoked and the portion of the sentence that was not served will be enforced, without including the time spent at liberty.

#### **Extinction of the penalty**

**ARTICLE 82.-** Once the period of conditional release has elapsed, without the beneficiary having given reason for the revocation, the sentence shall be deemed extinguished.

## **CHAPTER VI**

### **OF JUDICIAL PARDON**

#### **Conditions for granting it**

**ARTICLE 83.-** Judges have the power to grant, in a sentence, judicial pardon, provided that, in their judgment, the circumstances in which the crime was committed warrant it and the following requirements are met:

- 1st. That the person is a first-time offender.
2. That before committing the crime, the beneficiary had displayed impeccable conduct and had maintained it during his imprisonment.
3. That the motives for the crime and the personal circumstances of the agent do not reveal social danger in him and it can be presumed that he will not commit another crime.
4. That the penalty does not exceed one year in prison or consist of a fine.

## **TITLE VII**

### **SECURITY MEASURES**

#### **CHAPTER I**

## ON THE APPLICATION OF SECURITY MEASURES

### Principle of legality

**ARTICLE 84.-** Security measures shall not be decreed without a legal provision that expressly establishes them, nor outside the cases provided for by law.

### Indeterminacy in time

**ARTICLE 85.-** Security measures shall be applied for an indefinite period, unless expressly provided otherwise by law.

### Jurisdictional application

**ARTICLE 86.-** The security measures provided for in this TITLE may only be decreed by the courts of justice in a conviction or acquittal for a crime or misdemeanor.

However, they may amend or revoke their decisions at any time if the subject's dangerousness changes or ceases. The courts may order the simultaneous application of compatible security measures.

### Dangerous state

**ARTICLE 87.-** The following are considered danger indices:

- 1st. The declaration of non-imputability.
- 2nd. Interruption of the execution of the sentence due to the mental illness of the convicted person.
- 3rd. The declaration of the habitual offender.
4. The case of impossible attempted crime, provided for in article 15 of this Code.
- 5th. Habitual laziness.

A vagrant is understood to mean someone who, having the ability to perform remunerative work, habitually remains idle, living off the work of others, or by begging, or without any known means of subsistence.

- 6th. Habitual drunkenness.
- 7th. When the subject is a drug addict.
- 8th. Misconduct observed during the serving of the sentence.
- 9th. Exploitation or **\*the practice of prostitution.**

***\*(The underlined expression was repealed by Article 69 of Decree 9-2009 of the Congress of the Republic***

### Security measures

**ARTICLE 88.-** The applicable security measures are the following:

1st. Admission to a psychiatric facility.

2nd. Internment in an agricultural farm, industrial center or other similar facility.

3rd. Internment in an educational or special treatment establishment.

4th. Probation.

5th. Prohibition of residing in a specific place.

6th. Prohibition of attending certain places.

7th. Good conduct guarantee.

8th. **(Section added by Article 17 of Decree 49-2016 of the Congress of the Republic).** Use of a telematic control device to verify and ensure compliance with security measures.

#### **Special internment**

**ARTICLE 89.-** When a non-imputable person included in paragraph 2 of article 23 commits an act that the law classifies as a crime, his or her confinement in a psychiatric institution shall be ordered until the measure can be modified by a judicial resolution based on expert opinions, or revoked if the subject's state of danger has ceased.

The provisions of this article shall also apply in the case covered by paragraph 2 of article 87.

#### **Curative measures**

**ARTICLE 90.-** The courts may order, after the sentence has been served, if they deem the person to be dangerous, that a person falling within the case provided for in paragraph 1 of article 26 be placed in an educational or special treatment establishment.

#### **Work regime**

**ARTICLE 91.-** Those declared habitual offenders shall be subjected, depending on the degree of dangerousness they demonstrate, to a work regime on an agricultural farm, in an industrial center, or similar facility. This internment shall be ordered when, after serving the sentence imposed, it is deemed to have been ineffective in terms of the offender's rehabilitation.

#### **Dangerousness due to impossible attempt**

**ARTICLE 92.-** In the cases of Article 15, the subject shall be subject, according to his or her degree of danger, to a special work regime in one of the institutions mentioned in paragraph 3 of Article 88.

#### **Dangerousness due to vagrancy**

**ARTICLE 93.-** Vagrants who have committed a crime, as well as those sanctioned for vagrancy, shall be subject to a work regime on an agricultural farm, industrial center or other similar facility, for a term of not less than one year nor more than three.

#### **Confinement of habitual drunkards and drug addicts**

**ARTICLE 94.-** When sentencing for a crime committed under the influence of alcohol or toxic or narcotic drugs, and in any case where it is proven that the offender is a drug addict or habitual drunkard, the corresponding court may order that, before or after the sentence has been served, if it involves deprivation of liberty, or simultaneously with it, if it is pecuniary, the subject be interned in a special treatment facility, until it is proven, upon medical opinion, that he may be subjected to another regime, such as those provided for in paragraphs 4, 5 and 6 of article 88.

#### **Replacement of establishment**

**ARTICLE 95.-** Where there is no suitable facility, the internment measure, depending on its nature, will be carried out in an annex or special section of another facility.

#### **Modification of measures**

**ARTICLE 96.-** The measures of confinement in a psychiatric institution or in an educational or special treatment establishment shall cease by judicial resolution, issued based on medical and criminological opinions, which demonstrate that the subject can be subjected to supervised release.

#### **Probation**

**ARTICLE 97.-** Probation will not be of a custodial nature, but rather of protection, and for the mentally ill, drug addicts or habitual drunkards, it consists of entrusting them to the care of their family, under the immediate inspection of the Board of Prisons and Released Prisoners or the institution that takes its place, which will exercise it in the manner and by the means it deems appropriate.

In cases of conditional suspension of the sentence and parole, the supervised release measure will last the same amount of time as established for those regimes; in other cases, it will last as long as the court determines, but it may not be less than one year.

In applying this measure, the appropriate court will prescribe rules of conduct intended to prevent further violations.

#### **Prohibition of residing in certain places**

**ARTICLE 98.-** The courts, at their prudent discretion and when circumstances require, may impose on a person who has served a sentence or security measure a ban on residing in certain places for at least one year.

#### **Prohibition of attending certain places**

**ARTICLE 99.-** When a crime has been motivated by the vicious habit of its perpetrator or by his dissolute customs or when the case so requires, the court may impose, in addition to the penalty, a prohibition on attending certain places.

#### **Bond of good conduct**

**ARTICLE 100.-** The surety of good conduct consists of a personal guarantee, mortgage, pledge or deposit of a sum of money, provided to the satisfaction of the court and for the term specified in the sentence, that the dangerous subject will not commit new crimes and that he will comply with the rules of conduct imposed on him during a probationary period that will not be less than one year nor exceed five.

This measure will be applied in cases where the court deems it appropriate.

The bond will be enforced when the person subject to it violates the imposed rules of conduct; otherwise, at the end of the term, the return of the deposited amount or the cancellation of the guarantee will be ordered.

## TITLE VIII

### ON THE EXTINCTION OF CRIMINAL LIABILITY AND PENALTY

#### Extinction of criminal liability

**ARTICLE 101.-** Criminal liability is extinguished:

- 1st. Due to the death of the accused or convicted person.
- 2nd. By amnesty.
- 3rd. For forgiveness of the offended party, in cases where the law expressly permits it.
- 4th. By prescription.
- 5th. Due to completion of the sentence.

#### Extinction of the penalty

**ARTICLE 102.-** The penalty is extinguished:

- 1st. For its compliance.
- 2nd. Due to the death of the prisoner.
- 3rd. By amnesty.
- 4th. By pardon.
- 5th. For forgiveness of the offended party, in the cases specified by law.
- 6th. By prescription.

#### Extinction by death

**ARTICLE 103.-** The death of a person who has been convicted also extinguishes the pending pecuniary penalty imposed and all of its penal consequences.

#### Amnesty

**ARTICLE 104.-** Amnesty completely extinguishes the penalty and all its effects.

## **Pardon**

**ARTICLE 105.-** The pardon only extinguishes the principal penalty.

## **Forgiveness of the offended**

**ARTICLE 106.-** The pardon of the offended party extinguishes criminal liability and the penalty if it has already been imposed, for crimes that can only be prosecuted through a complaint or lawsuit.

In crimes committed against minors or incapacitated persons, the court may reject the pardon granted by their representatives, ordering the continuation of the proceedings or the fulfillment of the sentence, at the request or with the intervention of the Public Prosecutor's Office.

## **Prescription of liability**

**ARTICLE 107.-** Criminal liability expires:

- 1st. At the age of twenty-five, when the death penalty is applicable.
2. By the passage of a period equal to the maximum duration of the sentence indicated, increased by one third, said term not being able to exceed twenty years nor be less than three.
- 3rd. After five years, for crimes punishable by a fine.
- 4th. Within six months, if the offenses are involved.
- 5th. **(Added by Article 21 of Decree 9-2009 of the Congress of the Republic).** By the passage of twice the maximum penalty established for the crimes contemplated in Chapters I and II of Title III of Book II of the Penal Code.
- 6th. **(Added by Article 7 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law).** If the act was committed by a public official or employee for crimes that violate public administration and the administration of justice, when twice the time established by law for the expiration of the penalty has elapsed.

## **Beginning of the term**

**ARTICLE 108.-** The statute of limitations for criminal liability shall begin to run:

- 1st. For completed crimes, from the day of their completion.
- 2nd. In the case of an attempt, from the day on which the execution was suspended.
3. For continuing crimes, from the day on which the last act was committed.
4. For permanent crimes, from the day their effects ceased.
5. For conspiracy, proposition, provocation, instigation and inducement, when these are punishable, from the day on which the last act was executed.
- 6th. **(Added by Article 22 of Decree 9-2009 of the Congress of the Republic).** In crimes committed against minors, the statute of limitations shall begin to run from the moment the victim reaches the age of majority.

7th. (*Added by Article 8 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law*). For all crimes against public administration and the administration of justice, from the day the public official or employee leaves office. This provision applies to all participants in the punishable act, without exception.

#### **Interruption**

**ARTICLE 109.-** The statute of limitations for criminal proceedings is interrupted from the moment proceedings are initiated against the accused, with the statute of limitations running again from the moment the prosecution is halted for any reason.

It is also interrupted with respect to anyone who commits another crime.

#### **Prescription of the penalty**

**ARTICLE 110.-** Penalties imposed by a final judgment expire after a period of twice the fixed penalty, which may not exceed thirty years.

This statute of limitations will begin to run from the date the sentence becomes final, or from the date the sentence is breached.

#### **Interruption**

**ARTICLE 111.-** The prescription of the penalty is interrupted, rendering the time elapsed void, by the commission of a new crime, or because the offender appears or is found.

## **TITLE IX**

### **CIVIL LIABILITY**

#### **Responsible persons**

**ARTICLE 112.-** Any person criminally responsible for a crime or misdemeanor is also civilly responsible.

#### **Joint liability**

**ARTICLE 113.-** In the event that two or more persons are civilly liable for a crime or misdemeanor, the court shall determine the share for which each person must respond.

However, the perpetrators and accomplices shall be jointly and severally liable and shall be subsidiarily responsible for the corresponding shares, not only of the insolvent parties of their respective groups, but also of the insolvent parties of the other group. In both cases, the right of the person who paid to recover from the others for the corresponding shares is preserved.

#### **Profitable participation**

**ARTICLE 114.-** Anyone who has obtained any economic benefit from the effects of a crime, even without having participated in its execution, shall be civilly liable up to the extent to which he has profited.

#### **Transmission**

**ARTICLE 115.-** Civil liability arising from a crime or misdemeanor is transferred to the heirs of the person responsible; likewise, the right to enforce such action is transferred to the heirs of the injured party.

#### **Civil liability of non-imputable persons**

**ARTICLE 116.-** Those covered by Article 23 shall be liable with their property for any damages they cause. If they are insolvent, those who have them under their authority or legal guardianship shall be subsidiarily liable, unless they prove that they were not careless or negligent in supervising the perpetrator of the act.

#### **Civil liability in case of emergency**

**ARTICLE 117.-** In the case of paragraph 2 of article 24, civil liability shall always be declared and distributed among the persons in whose favor the harm was prevented, in proportion to the benefit they have received.

The courts will determine, at their prudent discretion, the proportional share for which each interested party must respond.

#### **Civil liability in cases of non-culpability**

**ARTICLE 118.-** In the cases of paragraphs 1 and 2 of article 25, those who caused the fear or force shall be held civilly liable.

#### **Extension of civil liability**

**ARTICLE 119.-** Civil liability includes:

1st. Restitution.

2nd. Compensation for material and moral damages.

3rd. Compensation for damages.

#### **Restitution**

**ARTICLE 120.-** Restitution shall be made of the same thing, whenever possible, with compensation for damages or losses in the judgment of the court, even if the thing is in the possession of a third party who has legally acquired it, except for the right of recourse against whomever it may concern. This last provision does not apply when the thing cannot be recovered from the third party, because it was acquired in the manner and under the conditions established by civil law.

#### **Repair of material damage**

**ARTICLE 121.-** Reparation shall be made by assessing the extent of the material damage, taking into account the price of the thing and the cost to the injured party, if it is known or can be assessed.

#### **Referral to civil laws**

**ARTICLE 122.-** Regarding matters not provided for in this title, the provisions on the matter contained in the Civil Code and the Civil and Commercial Procedural Code shall apply.

## **BOOK TWO**

### **SPECIAL PART**

#### **TITLE I**

#### **ON CRIMES AGAINST LIFE AND PERSONAL INTEGRITY**

#### **CHAPTER I**

#### **SIMPLE HOMICIDE**

#### **Homicide**

**ARTICLE 123.-** *(Amended by Article 3 of Decree 20-96 of the Congress of the Republic).* Anyone who kills a person commits homicide.

The murderer will be sentenced to 15 to 40 years in prison.

#### **Homicide committed in a state of violent emotion**

**ARTICLE 124.-** Anyone who kills in a state of violent emotion shall be sentenced to imprisonment of two to eight years.

#### **Homicide in a riot**

**ARTICLE 125.-** When several people fight and attack each other in a confused and tumultuous manner, resulting in the death of one or more persons and the perpetrator is not known, but those who caused serious injuries are, they shall be sentenced to imprisonment from six to twelve years.

If it is not clear who caused the injuries, all participants will be sentenced to two to six years in prison.

### **Unintentional homicide**

**ARTICLE 126.-** Whoever commits unintentional homicide shall be punished with imprisonment from two to ten years.

### **Manslaughter**

**ARTICLE 127.-** *(Amended by Article 1 of Decree 23-2001; and by Article 13 of Decree 45-2016, both of the Congress of the Republic).*

The perpetrator of negligent homicide shall be punished with imprisonment of two (2) to five (5) years. When the act also causes injuries to other persons or results in the death of several, the penalty shall be three (3) to eight (8) years in prison.

If the crime is committed while driving a vehicle under the influence of alcoholic beverages, in a state of intoxication, or under the influence of toxic or narcotic drugs, which affect the personality of the driver or when driving with manifest recklessness or incompetence or in a reckless or negligent manner in a situation that impairs or reduces his mental, volitional or physical capacity, the person responsible will be imposed double the penalty that corresponds to him, in the absence of any of these circumstances, the cancellation of the driver's license for one (1) to five (5) years.

If the crime is caused by drivers of collective or cargo transport, it will be punished with imprisonment of ten (10) to fifteen (15) years and cancellation of the driver's license for the duration of the sentence.

### **Inducing or assisting suicide**

**ARTICLE 128.-** Whoever induces another to commit suicide or assists him to commit it, if death occurs, shall be sentenced to imprisonment of five to fifteen years.

If suicide does not occur, but the attempt results in injuries covered by Articles 146 and 147 of this Code, the prison sentence shall be six months to three years.

### **Infanticide**

**ARTICLE 129.-** A mother who, driven by reasons closely linked to her condition, which undoubtedly cause psychological disturbance, kills her child during birth or before it has reached three days of age, shall be punished with imprisonment from two to eight years.

### **Assumption of death**

**ARTICLE 130.-** Whoever maliciously pretends to be dead or, knowing of the existence of proceedings initiated on the occasion or in connection with his death, does not disclose his death, shall be punished with imprisonment from one to five years.

## **CHAPTER II**

### **OF QUALIFIED HOMICIDES**

#### **Parricide**

**ARTICLE 131.-** *(Amended by Article 4 of Decree 20-96 of the Congress of the Republic).* Whoever, knowing the relationship, kills any ascendant or descendant, his or her spouse or the person with whom he or she lives in a marital life, shall be punished.

as a parricide with a prison sentence of 25 to 50 years. \*The death penalty will be imposed, instead of the maximum prison sentence, if the circumstances of the act, the manner in which it was committed, and the determining motives reveal a greater and particular danger on the part of the perpetrator.

***\*(The underlined paragraph was declared unconstitutional by a ruling of the Constitutional Court of October 24, 2017, File 5986-2016).***

Those who are not sentenced to death for this crime may not be granted a reduced sentence for any reason.

## **Murder**

**ARTICLE 132.- (Amended by Article 5 of Decree 20-96 of the Congress of the Republic).** Anyone who kills a person commits murder:

1) With malice aforethought

2) For price, reward, promise, profit motive

3) By means of or on the occasion of flood, fire, poison, explosion, collapse, building collapse or other device that may cause great damage

4) With known premeditation

5) With cruelty

6) With the impulse of brutal perversity

7) To prepare, facilitate, consummate and conceal another crime or to ensure its results or immunity for oneself or for accomplices or for not having obtained the result that was proposed when attempting the other punishable act

8) For terrorist purposes or in the development of terrorist activities.

A person convicted of murder shall be sentenced to a prison term of 25 to 50 years; however, the death penalty shall be applied instead of the maximum prison term if, based on the circumstances of the act and the occasion, the manner of its commission, and the determining motives, the perpetrator's particular dangerousness is revealed. Those who are not sentenced to death for this crime may not be granted a reduction in their sentence for any reason.

***\*(The underlined phrase was declared unconstitutional by the Constitutional Court, in a ruling of February 11, 2016, File 1097-2015).***

## **Extrajudicial execution**

**ARTICLE 132 –BIS-** Anyone who, by order, with the authorization, support, or acquiescence of State authorities, deprives, in any manner, the life of one or more persons for political reasons commits the crime of extrajudicial execution. Any public official or employee, whether or not belonging to State security forces, who orders, authorizes, supports, or acquiesces in the commission of such acts also commits this crime.

The crime of extrajudicial execution is the deprivation of life of one or more persons, even when not politically motivated, when committed by members of state security forces while in the exercise of their duties, when they act arbitrarily or with abuse or excessive force. Members of organized groups or gangs with terrorist, insurgent, subversive, or any other criminal purpose also commit the crime of extrajudicial execution when their actions result in the death of one or more persons.

The person convicted of extrajudicial execution shall be punished with imprisonment of twenty-five to thirty years.

\*The death penalty will be imposed instead of the maximum prison sentence in any of the following cases:

\*a) When the victim is under twelve years of age or over sixty years of age.

\*b) When, due to the circumstances of the event or the occasion, the manner of carrying it out and the determining motives, a greater dangerousness of the agent is revealed.

***\*(Phrase and literals declared unconstitutional by ruling of the Constitutional Court dated October 24, 2017, File 5986-2016).***

### CHAPTER III

### ABORTION

#### Concept

**ARTICLE 133.-** Abortion is the death of the product of conception at any time during pregnancy.

#### Abortion sought

**ARTICLE 134.-** Any woman who causes her own abortion or consents to another person causing one shall be punished with imprisonment of one to three years. If she does so driven by motives closely related to her condition that undoubtedly cause psychological disturbance, the penalty shall be six months to two years in prison.

#### Abortion with or without consent

**ARTICLE 135.-** Anyone who intentionally causes an abortion shall be punished:

1st. With imprisonment of one to three years, if the woman consents.

2nd. With imprisonment of three to six years, if he acts without the woman's consent.

If violence, threats or deception were used, the penalty will be four to eight years in prison.

#### Qualified abortion

**ARTICLE 136.-** If, as a result of a consented abortion or abortion procedures, the woman dies, the person responsible shall be punished with imprisonment of three to eight years. If the abortion or abortion procedures were performed without the woman's consent and result in her death, the person responsible shall be punished with imprisonment of four to twelve years.

#### Therapeutic abortion

**ARTICLE 137.-** Abortion performed by a physician with the consent of the woman, after a favorable diagnosis by at least one other physician, is not punishable if it is performed without the intention of directly causing the death of the product of conception and with the sole purpose of avoiding a duly established danger to the life of the mother, after all scientific and technical means have been exhausted.

#### Pre-intentional abortion

**ARTICLE 138.** Anyone who, through acts of violence, causes an abortion without the intention of causing it, but knowing the victim's pregnancy, shall be punished with imprisonment of one to three years. If the acts of violence consist of injuries for which a heavier penalty applies, the penalty shall be increased by one-third.

#### **Attempted and culpable abortion**

**ARTICLE 139.-** A woman's attempt to cause her own abortion and her own negligent abortion are unpunished.

A negligent abortion committed by another person shall be punishable by imprisonment of one to three years, provided that the person had prior knowledge of the pregnancy.

#### **Specific aggravation**

**ARTICLE 140.-** Any physician who, abusing his profession, causes an abortion or cooperates in it, shall be punished with the penalties indicated in article 135, with a fine of five hundred to three thousand quetzales, and with disqualification from practicing his profession for two to five years.

The same sanctions will apply, where appropriate, to practitioners or persons with a health degree, without prejudice to matters relating to the concurrence of crimes.

## **CHAPTER IV**

### **OF THE ASSAULT AND SHOOTING OF**

### **FIREARM**

#### **Assault**

**ARTICLE 141.** Anyone who assaults another person, except in cases of brawl or fight between two parties, by attacking them with weapons or throwing any object capable of causing injury, shall be punished with a fine of ten to two hundred quetzales. If injury results as a result of the incident, the penalty shall be that only.

#### **Gunshot**

**ARTICLE 142.** Anyone who intentionally fires a firearm at another person, even if it causes minor injury, shall be punished with one to two years' imprisonment. If the shooting results in serious or very serious injuries, or death, the penalty applicable to such crimes shall be imposed only. In the case of minor injuries, the penalty shall be applied in accordance with the provisions of Article 70 of this Code.

#### **Non-applicability**

**ARTICLE 143.-** The provisions of the two previous articles are not applicable when the necessary circumstances exist to constitute an attempted crime for which a greater penalty is assigned.

## **CHAPTER V**

## OF INJURIES

### Concept

**ARTICLE 144.-** A person who, without the intention of killing, causes harm to the body or mind of another person commits the crime of injury.

### Specific injuries

**ARTICLE 145.-** Whoever intentionally castrates or sterilizes, blinds or mutilates another person shall be punished with imprisonment from five to twelve years.

### Very serious injuries

**ARTICLE 146.-** Whoever causes very serious injury to another shall be punished with imprisonment from three to ten years.

A very serious injury is one that produces any of the following results:

- 1st. Certain or probably incurable mental or physical illness;
- 2nd. Permanent unfitness for work;
- 3rd. Loss of a principal limb or the use of speech.
- 4th. Loss of an organ or sense.
- 5th. Inability to conceive or conceive.

### Serious injuries

**ARTICLE 147.-** Whoever causes serious injury to another shall be punished with imprisonment from two to eight years.

A serious injury is one that produces any of the following results:

- 1st. Permanent weakening of the function of an organ, a main limb or a sense.
- 2nd. Permanent abnormality in the use of words.
- 3rd. Inability to work for more than one month.
- 4th. Permanent deformation of the face.

### Minor injuries

**ARTICLE 148.-** Whoever causes minor injury to another shall be punished with imprisonment from six months to three years.

A minor injury is one that produces any of the following results in the injured party:

1st. Illness or incapacity for work for more than ten days, but not exceeding thirty.

2nd. Loss and disablement of a non-main limb.

3rd. Visible and permanent scar on the face.

#### **Injury in fight**

**ARTICLE 149.-** When injuries are caused in a tumultuous brawl, and it is not possible to determine the perpetrator or perpetrators, the penalty corresponding to the injuries shall be applied, reduced by one third, to those who have used violence against the person of the injured party.

#### **Negligence injuries**

**ARTICLE 150.-** *(Amended by Article 2 of Decree 23-2001; and by Article 14 of Decree 45-2016, both of the Congress of the Republic).*

Whoever causes injuries through negligence, even when there are several victims of the same act, will be punished with imprisonment from three (3) months to two (2) years.

If the crime is committed while driving a vehicle under the influence of alcoholic beverages, toxic or narcotic drugs or while intoxicated, which affect the personality of the driver, or in a situation that impairs or reduces his mental, volitional or physical capacity, the person responsible will be imposed, in addition to a fine of five thousand (Q.5,000.00) to twenty-five thousand (Q.25,000.00) Quetzales, suspension of the driver's license from six (6) months to two (2) years.

If the crime is committed by drivers of public or cargo transport, in any of the circumstances mentioned in the previous paragraph, it will be punished with imprisonment of three (3) to five (5) years and cancellation of the driver's license for six (6) months to three (3) years or for the duration of the sentence. In case of recidivism, the penalty of imprisonment and cancellation of the license will be doubled.

#### **Abuse against minors**

**ARTICLE 150 BIS.** *(Added by Article 23 of Decree 9-2009 of the Congress of the Republic).* Anyone who, through any action or omission, causes physical or psychological harm or illness to a minor or person with volitional or cognitive incapacity, or places the child at serious risk of suffering them, shall be punished with imprisonment of two to five years, without prejudice to the penalties applicable for other crimes.

#### **Transmission of sexually transmitted infections**

**ARTICLE 151.** *(Amended by Article 24 of Decree 9-2009 of the Congress of the Republic).* Anyone who knowingly suffers from a sexually transmitted infection and exposes another person to infection shall be punished with imprisonment of two to four years.

If the victim is a minor or a person with volitional or cognitive incapacity, the penalty will be increased by two-thirds.

## **CHAPTER VI**

### **SPORTS CRIME**

#### **Crime by intent or fault**

**ARTICLE 152.-** Anyone who, taking advantage of his or her participation in the practice of any sport, intentionally causes, and in violation of the corresponding rules or indications, a harmful result, shall be responsible for the resulting act and shall incur the sanctions that this Code indicates for each case.

If the harmful result is caused unintentionally but with violation of the respective rules or instructions, the person responsible will be sanctioned as negligent.

#### **Exemption**

**ARTICLE 153.-** Anyone who, in violent sports duly authorized by the authority, whose purpose is personal injury, without violating the respective rules or instructions, causes injuries to his opponent, does not incur criminal liability.

Nor does anyone who, in the exercise of a duly authorized sport, without violating the rules or instructions of the case and without purpose, causes a harmful result incur criminal liability.

## **CHAPTER VII**

### **ON THE EXPOSURE OF PEOPLE TO DANGER**

#### **Abandonment of children and helpless people**

**ARTICLE 154.-** Whoever abandons a child under ten years of age or a person incapable of caring for themselves, who is under their care or custody, shall be punished with imprisonment from six months to three years.

If the abandonment results in the death of the abandoned person, the penalty will be three to ten years in prison. If the abandonment only endangered the person's life or caused injuries, the penalty will be three months to five years in prison.

#### **Abandonment due to emotional state**

**ARTICLE 155.-** A mother who, driven by reasons closely linked to her condition, produces an undoubted psychological disturbance, abandons a child who has not reached the age of three days, shall be punished with imprisonment from four months to two years.

If the abandonment results in the death of the child, the penalty will be one to four years in prison.

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

**ARTICLE 156.-** Anyone who finds a child under ten years of age lost or abandoned, or a person injured, disabled, or threatened with imminent danger, and fails to provide the necessary assistance, according to the circumstances, when they could do so without personal risk, shall be punished with a fine of twenty-five to two hundred quetzales.

#### **Employment of minors in work activities that are harmful to their integrity and dignity**

**ARTICLE 156 BIS. (Added by Article 25 of Decree 9-2009 of the Congress of the Republic).** Anyone who employs minors in harmful and dangerous work activities that undermine their health, safety, integrity, and dignity shall be punished with imprisonment of two to four years and a fine of twenty thousand to one hundred thousand Quetzales.

## CHAPTER VIII

### OF CRIMES AGAINST TRAFFIC SAFETY

#### Drivers' liability

**ARTICLE 157.- (Amended by Article 3 of Decree 23-2001; and by Article 15 of Decree 45-2016, both of the Congress of the Republic).**

The following shall be sanctioned with a fine of five thousand (Q.5,000.00) to twenty-five thousand (Q.25,000.00) Quetzales and cancellation of the driver's license from three (3) months to five (5) years:

1. Anyone who drives a motor vehicle while intoxicated or under the influence of toxic or narcotic drugs.
2. Anyone who drives a motor vehicle with manifest recklessness or incompetence, or in a reckless or negligent manner, putting at risk or endangering the lives of persons, their integrity or their property or causing public unrest or anxiety, or who does not possess or carry the respective driver's license, under the conditions pertinent to the type of vehicle being driven.

In the event of a repeat offense, the penalties provided for in this article will be increased by one-third.

If, as a consequence of the irregular conduct contained in numeral 1 of this article, injury or damage results, regardless of its severity, the penalty to be imposed will be three (3) to five (5) years in prison, including the permanent cancellation of the driver's license in the case of the driver of the vehicle. In the case of the owner, whether an individual or legal entity, the public transport operating license will be cancelled for five (5) years; without prejudice to the civil compensation that corresponds to the victim of the act due to the conduct.

If the traffic accident is caused by drivers of public passenger or cargo transport, they will be sanctioned with double the penalties provided for in any of the circumstances listed in numerals 1 and 2 of this article, in addition to the cancellation of the vehicle operating card for five (5) years. The foregoing is without prejudice to the administrative actions established for this purpose by the Superintendency of Tax Administration.

**ARTICLE 157 BIS. (Added by Article 4 of Decree 23-2001 of the Congress of the Republic).** Anyone who drives a public transport vehicle without having been authorized the respective driver's license shall be punished with imprisonment of six months to one year and a fine of three thousand to five thousand quetzales.

The employer or the company's management representative, if it is a legal entity, who employs public transport vehicle drivers for whom they have not been authorized to carry the corresponding license will be sanctioned with double the penalty indicated in the previous paragraph.

#### Responsibility of other people.

**Article 158. (Amended by Article 9 of Decree 8-2014 of the Congress of the Republic).** A fine of one thousand (Q1,000.00) to five thousand Quetzales (Q5,000.00) shall be imposed and shall be punished with imprisonment for one year, whoever puts the circulation of vehicles at serious and imminent risk or danger by spilling slippery or flammable substances, by totally or partially mutating or destroying signage or by any other means, or by not restoring road safety warnings or indicators when due to necessary circumstances they should have been interrupted or removed.

Likewise, those who create turnarounds or make any kind of cuts to the central borders of CA, RN, and RD highways without authorization from the General Directorate of Roads, as well as those who instigate the placement of mounds, barrels, or other obstacles on the country's roads without authorization from the Directorate General of Highways, or whose actions prevent their removal, will be sanctioned with this penalty.

**Illegal exploitation of urban or extra-urban passenger transport.**

**Article 158 Bis. (Added by Article 16 of Decree 45-2016 and amended by Article 6 of Decree 11-2017, both of the Congress of the Republic).**

Whoever, without having met all the requirements established in the legislation on the matter and without having the corresponding authorization, exploits in any way the public collective transportation service of passengers or cargo, will be sanctioned with a fine of ten thousand (Q.10,000.00) to one hundred thousand (100,000.00) Quetzales. In case of Recidivism, in addition to the fine, will be punished with imprisonment of two (2) to five (5) years.

Any private official or public employee who, for a price or reward, deliberately assists or contributes to the benefit of a responsible third party in the operation of urban or extra-urban passenger transportation services, without meeting the requirements established by law, shall be punished with a fine of five thousand (Q5,000.00) to fifty thousand (Q50,000.00) Quetzales. In case of recidivism, in addition to the fine, the person shall be punished with imprisonment of one (1) to three (3) years.

**TITLE II**

**OF CRIMES AGAINST HONOR**

**CHAPTER I**

**OF SLANDER, INJURY AND DEFAMATION**

**Slander**

**ARTICLE 159.-** Slander is the false accusation of a crime that gives rise to ex officio proceedings.

Anyone responsible for slander will be punished with imprisonment of four months to two years and a fine of fifty to two hundred quetzales.

**Veracity of the imputation**

**ARTICLE 160.-** In the case of the previous article, the person accused of slander shall be exempt from all criminal liability by proving the veracity of the accusation.

**Injury**

**ARTICLE 161.-** Any expression or action carried out in dishonor, discredit or contempt of another person is considered slander.

The person responsible for libel shall be punished with imprisonment from two months to one year.

**Exclusion of evidence of truthfulness**

**ARTICLE 162.-** The person accused of slander shall not be allowed evidence of the truth of the accusation.

### **Provoked or reciprocal injuries**

**ARTICLE 163.-** When the insults are provoked or reciprocal, the court may, depending on the circumstances, exempt both parties or one of them from criminal liability.

### **Defamation**

**ARTICLE 164.-** There is a crime of defamation when the accusations constituting slander or libel are made in a manner or by means of dissemination that may provoke hatred or discredit, or that undermine the honor, dignity or decorum of the offended party before society.

Anyone responsible for defamation will be punished with two to five years in prison.

### **Publication of offenses**

**ARTICLE 165.-** Whoever knowingly reproduces by any means, insults or slander inflicted by another, will be punished as author of the same from two to five years.

### **Exceptions**

**ARTICLE 166.-** The following person does not commit the crime of slander, libel or defamation, provided that he or she has not acted out of self-interest or with the intention of causing harm:

- 1st. Anyone who technically expresses his or her opinion on any literary, artistic or scientific production.
2. Anyone who, by reason of a duty, expresses his or her judgment on the capacity, instruction, aptitude or conduct of another person.

## **CHAPTER II**

### **OF THE COMMON PROVISIONS**

#### **Commission modes**

**ARTICLE 167.-** The crime of slander, insult or defamation is committed not only manifestly, but also by allegories, drawings, caricatures, photographs, emblems, allusions or any other means similar to the above.

#### **Cessation of proceedings**

**ARTICLE 168.-** The processing of proceedings for slander, libel or defamation shall cease:

1. If the accused publicly retracts his/her statement before answering the complaint or in the act of doing so and the injured party accepts the retraction.
2. If the case involves covert or equivocal slander or libel, the accused provides satisfactory explanations before or at the time of answering the complaint.

This provision does not apply when the charge has been directed against a public official.

#### **Regime of action**

**ARTICLE 169.-** Only the crimes of slander, libel or defamation may be prosecuted by accusation from the aggrieved party, except when the offense is directed against a public official, authority or State institution.

For this purpose, heads of state or diplomatic representatives of friendly or allied nations and other persons who, according to the rules of international law, must be included in this provision are also considered to be authorities. In this case, only the Public Prosecutor's Office may initiate proceedings.

#### **Judicial authorization**

**ARTICLE 170.-** No one may bring an action for slander or libel caused in court, without prior authorization from the judge or court that has jurisdiction over it.

#### **Offense to the memory of a deceased person**

**ARTICLE 171.-** When the memory of a deceased person is offended, the action for slander, insult or defamation corresponds to the spouse, any of the deceased's ascendants, descendants, siblings or the deceased's heir.

#### **Extinction of the penalty**

**ARTICLE 172.-** The pardon of the offended party extinguishes criminal liability or the penalty for the crimes of slander, libel and defamation against individuals.

### **TITLE III**

#### **\*ON CRIMES AGAINST THE FREEDOM AND SEXUAL INDEMNITY OF PERSONS**

***\*(The name of this Title was amended by Article 26 of Decree 9-2009 of the Congress of the Republic).***

#### **CHAPTER I**

#### **\*ON SEXUAL VIOLENCE**

***\*(The name of this Chapter was amended by Article 27 of Decree 9-2009 of the Congress of the Republic).***

**Rape**

**ARTICLE 173. (Amended by Article 28 of Decree 9-2009 of the Congress of the Republic).** Anyone who, with physical or psychological violence, has carnal access via vaginal, anal or oral means with another person, or introduces any part of the body or objects into another person, by any of the indicated means, or forces another person to introduce them into themselves, will be punished with imprisonment of eight to twelve years.

This crime is always committed when the victim is a person under fourteen years of age, or when the victim is a person with volitional or cognitive incapacity, even when there is no physical or psychological violence.

The penalty shall be imposed without prejudice to any penalties that may apply for the commission of other crimes.

#### **Sexual assault.**

**ARTICLE 173 BIS. (Added by Article 29 of Decree 9-2009 of the Congress of the Republic).** Anyone who, using physical or psychological violence, performs acts for sexual or erotic purposes on another person, the aggressor, or themselves, provided that it does not constitute the crime of rape, shall be punished with imprisonment of five to eight years.

This crime is always committed when the victim is a person under fourteen years of age or when the victim is a person with volitional or cognitive incapacity, even when there is no physical or psychological violence.

The penalty shall be imposed without prejudice to any penalties that may apply for the commission of other crimes.

#### **Aggravation of the sentence**

**ARTICLE 174. (Amended by Article 30 of Decree 9-2009 of the Congress of the Republic).** The penalty to be imposed for the crimes set forth in the preceding articles shall be increased by two-thirds in the following cases:

- 1st. When the conduct is committed by the joint action of two or more persons.
2. When the victim is especially vulnerable due to being elderly, suffering from an illness, being physically or mentally disabled, or being deprived of liberty.
3. When the perpetrator acts with the use of weapons or alcoholic, narcotic or intoxicating substances or other instruments or substances that seriously injure the health of the offended person or alter their volitional capacity.
4. When it is committed against a pregnant woman or when said state occurs as a consequence of the crime.
5. When the perpetrator is a relative of the victim, or responsible for his or her upbringing, guardianship, custody, care, or guardianship, that is, the spouse, ex-spouse, cohabitant, or ex-cohabitant of the victim or one of his or her relatives within the legal degrees.
6. When, as a result of the conduct, the perpetrator causes the victim to become infected with any sexually transmitted disease.
7. When the perpetrator is a public official or employee or a professional in the exercise of his or her functions.

#### **Qualified rape**

**ARTICLE 175. (Amended by Article 6 of Decree 20-96; and Repealed by Article 69 of Decree 9-2009, both of the Congress of the Republic).** If the death of the victim results from or as a result of the rape, a prison sentence of 30 to 50 years shall be imposed.

The death penalty will be imposed if the victim has not reached 10 years of age.

**\*CHAPTER II**

**\*RAPE**

***\*(The number and name of this Chapter were repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).***

**Statutory rape through inexperience or trust**

**ARTICLE 176. *(Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).*** Sexual intercourse with an honest woman, over twelve years of age and under fourteen, taking advantage of her inexperience or obtaining her trust, shall be punishable by imprisonment of one to two years.

If the victim is between fourteen and eighteen years of age, the penalty to be imposed will be six months to one year.

**Statutory rape by deception**

**ARTICLE 177. *(Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).*** Sexual intercourse with an honest, underage woman, involving deception or through false promises of marriage, shall be punishable by imprisonment of one to two years if the victim is between twelve and fourteen years of age, and by imprisonment of six months to one year if the victim is over fourteen years of age.

**Aggravated rape**

**ARTICLE 178. *(Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).*** When the perpetrator is a relative, within the legal degrees, of the person raped or in charge of her education, custody or care, the penalties indicated in the previous articles shall be increased by two-thirds.

**\*CHAPTER III**

**\*ON DISHONEST ABUSES**

***\*(The number and name of this Chapter were repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).***

**Violent indecent abuse**

**ARTICLE 179. *(Amended by Article 7 of Decree 20-96 and by Article 1 of Decree 38-2000, both of the Congress of the Republic and Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).*** A person who, using the means or availing himself of the conditions indicated in articles 173, 174 and 175 of this Code, performs sexual acts other than carnal access on a person of the same or a different sex, commits indecent assault.

The dishonest abuses referred to in this article shall be punished as follows:

1. If the circumstances provided for in Article 173 occur, with imprisonment of six to twelve years; 2. If the circumstances prescribed in Article 174 occur, with imprisonment of eight to twenty years; 3. If the circumstances provided for in Article 175 occur, with imprisonment of twenty to thirty years.

A sentence of fifty years shall be imposed if the victim has not reached the age of ten and dies.

#### **Aggravated indecent assault.**

**ARTICLE 180. (Amended by Article 8 of Decree 20-96 of the Congress of the Republic and Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** Indecent assault committed against a person of either sex over the age of twelve and under the age of eighteen, under the circumstances referred to in Articles 176 and 177 of this Code, shall be punished, respectively: 1. With imprisonment of two to four years; 2. With imprisonment of one to two years. In those of Article 178. 1.

With imprisonment of four to six years 2. with imprisonment of two to four years.

If the indecent assault is committed against a person under twelve years of age and over ten years of age, the above penalties shall be increased by one third, and by two thirds if the victim is under ten years of age.

### **\*CHAPTER IV**

#### **\*OF THE RAPTURE**

***\*(The number and name of this Chapter were repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).***

#### **Self-abduction**

**ARTICLE 181. (Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** Anyone who, for sexual purposes, abducts or detains a woman, without her consent or by using violence or deception, shall be punished with imprisonment of two to five years.

#### **Improper abduction**

**ARTICLE 182. (Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** Whoever abducts or detains a woman over the age of twelve and under the age of sixteen, for sexual purposes, marriage or concubinage, with her consent, shall be punished with imprisonment from six months to one year.

#### **Specifically aggravated kidnapping**

**ARTICLE 183. (Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** In any case, the penalty shall be four to ten years of imprisonment in proportion to the age of the abducted person, if she is under twelve years of age.

#### **Disappearance or death of the kidnapped person**

**ARTICLE 184. (Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** In the event of the disappearance of the kidnapped person, if the kidnappers do not prove the whereabouts of the victim or that her death or disappearance was due to causes unrelated to the kidnapping, they shall be punished with imprisonment of six to twelve years.

However, if the missing person is found by virtue of a review appeal, the sentence will be reduced accordingly.

#### **Presumption**

**ARTICLE 185. (Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** All kidnapping is presumed to have been carried out for sexual purposes, unless proven otherwise or clearly revealed by the circumstances of the act.

#### **Contest**

**ARTICLE 186. (Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** If sexual intercourse with the abducted person has occurred, the penalty shall be established in accordance with the provisions of Article 70 of this Code.

#### **Malicious concealment or disappearance of the abducted person**

**ARTICLE 187. (Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).** The malicious concealment or disappearance of the kidnapped person, whether by the kidnapped person themselves, by a third party, or by mutual agreement between the two, shall be punishable by imprisonment of one to five years.

## **CHAPTER V**

### **\*ON CRIMES AGAINST THE SEXUAL INDEMNITY OF PERSONS**

***\*(The name of this Chapter was amended by Article 31 of Decree 9-2009 of the Congress of the Republic).***

#### **Sexual exhibitionism**

**ARTICLE 188. (Amended by Article 32 of Decree 9-2009 of the Congress of the Republic).** Anyone who performs, or has another person perform, sexual acts in front of minors or persons with volitional or cognitive incapacity shall be punished with three to five years in prison.

#### **Entry to shows and distribution of pornographic material to minors**

**ARTICLE 189. (Amended by Article 33 of Decree 9-2009 of the Congress of the Republic).** Anyone who:

- a. Allow minors or persons with volitional or cognitive disabilities to witness sexually explicit performances reserved for adults.
- b. Allow minors to enter public shows of a sexual nature, reserved for adults.
- c. In any way distribute pornographic material to minors.
- d. In any way allow minors to acquire pornographic material.

#### **Violation of sexual privacy**

**ARTICLE 190. (Amended by Article 34 of Decree 9-2009 of the Congress of the Republic).** Anyone who, by any means without the consent of the person, violates their sexual privacy and takes or captures messages, conversations, communications, sounds, images in general or images of their body, in order to affect their dignity, shall be punished with imprisonment of one to three years.

The same penalties will be imposed on anyone who, without being authorized, takes possession, accesses, uses or modifies, to the detriment of a third party, Communications made by any physical or electronic means or confidential data with sexual content of a personal, family or other nature, which are recorded in computer, electronic or telematic files or media or in any other type of public or private file or record, to the detriment of the data owner or a third party.

Anyone who disseminates, reveals, or transfers, for any reason, to third parties, the data or facts discovered or the images captured referred to in this article shall be sentenced to two to four years in prison.

#### **Seduction of children or adolescents through the use of information technologies**

**ARTICLE 190 Bis. (Added by Article 1 of Decree 11-2022 of the Congress of the Republic).** Anyone who, through any type or class of technological means, whether or not using anonymity, contacts any child or adolescent for the purpose of:

- a. Requesting or receiving material with sexual or pornographic content, whether one's own or that of a third party, whether or not it includes audiovisual media;
- b. Having or facilitating sexual relations with a third person;
- c. Facilitate the commission of any other crime against the freedom or sexual integrity of the child or adolescent contacted.

The person responsible for one or more of the aforementioned behaviors will be punished with imprisonment from six (6) to twelve (12) years, regardless of whether he achieves his purpose.

The penalty will be increased by two-thirds when the victim is a child or adolescent with a cognitive or volitional disability.

The penalty shall be imposed without prejudice to any penalties that may apply for the commission of other crimes.

#### **Blackmail of children or adolescents through the use of information technology or technological means.**

**ARTICLE 190 Ter. (Added by Article 2 of Decree 11-2022 of the Congress of the Republic).** Whoever, through the use of information technologies or technological means, whether or not using anonymity, threatens a child, adolescent or their legal representatives with disseminating material with sexual or pornographic content related to the child or adolescent, whether the material is contained in audiovisual or other media, will be punished with imprisonment of six (6) to twelve (12) years.

The penalty will be increased by two-thirds when the victim is a child or adolescent with a cognitive or volitional disability.

The penalty shall be imposed without prejudice to any penalties that may apply for the commission of other crimes.

### **CHAPTER VI**

#### **\*ON SEXUAL EXPLOITATION CRIMES**

**\*(The name of this Chapter was amended by Article 35 of Decree 9-2009 of the Congress of the Republic).**

### **Promotion, facilitation or encouragement of prostitution**

**ARTICLE 191. (Amended by Article 36 of Decree 9-2009 of the Congress of the Republic).** The exploitation of an adult through the promotion, facilitation or encouragement of prostitution shall be punishable by imprisonment of five to ten years and a fine of fifty thousand to one hundred thousand Quetzales.

### **Promotion, facilitation or encouragement of aggravated prostitution**

**ARTICLE 192. (Amended by Article 37 of Decree 9-2009 of the Congress of the Republic).** The penalties specified in the previous article shall be increased by one-third in the following cases:

- a. If during sexual exploitation the person was pregnant.
- b. When the perpetrator is a relative of the victim, or responsible for his/her education, guardianship, custody, care, guardianship, or other the spouse, ex-spouse, partner or ex-partner of the victim or one of his or her parents.
- c. When there is violence or abuse of authority.

### **Paid sexual activities with minors**

**ARTICLE 193. (Amended by Article 38 of Decree 9-2009 of the Congress of the Republic).** Whoever, for himself or for third parties, in exchange for any sexual act with a minor, provides or promises to this person or a third party an economic benefit or any other nature, regardless of whether the purpose is achieved, will be punished with imprisonment of five to eight years, without prejudice to any penalties that may apply for the commission of other crimes.

### **Remuneration for the promotion, facilitation or encouragement of prostitution**

**ARTICLE 193 BIS. (Added by Article 39 of Decree 9-2009 of the Congress of the Republic).** Whoever, for himself or herself or for a third party, in exchange for any sexual act with a person of legal age, provides or promises to a third party a financial benefit or any other nature, regardless of whether the purpose is achieved, will be punished with imprisonment of three to five years.

### **Production of pornography involving minors**

**ARTICLE 193 Ter. (Added by Article 19 of Decree 4-2010 of the Congress of the Republic).** Anyone who, in any form and through any means, produces, manufactures or creates pornographic material that contains a real or simulated image or voice of one or more minors or persons with volitional or cognitive incapacity, in pornographic or erotic actions, shall be punished with imprisonment of six to ten years and a fine of fifty thousand to five hundred thousand quetzales.

### **Production of pornography involving minors**

**ARTICLE 194. (Amended by Article 1 of Decree 14-2005, by Article 40 of Decree 9-2009, both of the Congress of the Republic and Repealed by Article 69 of the same Decree [9-2009]).** Whoever in any form and through any means produces, manufactures or creates pornographic material that contains a real or simulated image or voice of one or more minors or persons with volitional or cognitive incapacity, in pornographic or erotic actions, shall be punished with imprisonment of six to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

#### **Obscene exhibitions**

**ARTICLE 195.-** Whoever, in a public or open place or exposed to the public, performs or causes to be performed obscene acts, shall be punished with a fine of two hundred to two thousand quetzales.

#### **Marketing or distribution of pornography of minors**

**ARTICLE 195 BIS. (Added by Article 41 of Decree 9-2009 of the Congress of the Republic).** Anyone who publishes, reproduces, imports, exports, distributes, transports, exhibits, prepares propaganda, disseminates or trades in any form and through any means, pornographic material of minors or persons with volitional or cognitive incapacity where their real or simulated image or voice is used, shall be punished with imprisonment of six to eight years and a fine of fifty thousand to five hundred thousand Quetzales.

#### **Possession of pornographic material of minors**

**ARTICLE 195 TER. (Added by Article 42 of Decree 9-2009 of the Congress of the Republic).** Anyone who knowingly possesses and acquires pornographic material of one or more minors or persons with volitional or cognitive incapacity, in the form of pornographic or erotic acts, shall be punished with imprisonment of two to four years.

#### **Use of tourist activities for the commercial sexual exploitation of minors**

**ARTICLE 195 QUÁTER. (Added by Article 43 of Decree 9-2009 of the Congress of the Republic).** Anyone who facilitates, organizes, promotes, or permits in any way the commission of the crimes contemplated in this chapter, through activities related to tourism, shall be punished with imprisonment of six to ten years and a fine of one hundred thousand to five hundred thousand Quetzales.

#### **Special aggravating circumstances**

**ARTICLE 195 QUINQUIES. (Added by Article 44 of Decree 9-2009 of the Congress of the Republic).** The penalties for the crimes contemplated in Articles 173, 188, 189, 193, 194, 195, 195 Bis, 195 Ter, shall be increased by two-thirds if the victim is under eighteen and over fourteen years of age; by three-quarters if the victim is under fourteen years of age; and by double the penalty if the victim is under ten years of age.

#### **Obscene publications and shows**

**ARTICLE 196.- (Amended by Article 1 of Decree 27-2002 of the Congress of the Republic and Declared Unconstitutional by Judgment of the Constitutional Court, dated May 29, 2003, File 1021-**

**2002).** The crime of obscene publications and shows is committed by anyone who, contrary to morality for the reason of exposing them to the view of minors and the public, publishes and distributes by any means, manufactures, reproduces or sells: pornographic and obscene books, writings, images, graphics or other objects.

The same crime is committed by anyone who performs or has performed acts of obscene sexual exhibition or provocation in front of minors or at meetings, demonstrations, or public shows. Exceptions include plays, images and graphics corresponding to a work of art, historical monuments, and anything exhibited for educational purposes. In all cases, the exhibition must be previously authorized by the Ministry of Culture and Sports, indicating the location where it will be shown.

The same crime is committed by those who act as directors, managers, administrators, legal representatives, executives, officials, or trusted employees, or who in any way represent another person or legal entity, who participate in the execution of the acts and without whose participation the acts could not have been carried out.

In the case of legal entities that, as such and by order of their governing bodies, participate in the commission of these acts, their legal representative will be held criminally liable, and the legal entity will also be sanctioned with the closure of the company.

This crime will be punished with a sentence of three to nine years in prison and a fine of one hundred thousand to two hundred thousand quetzales.

The penalty will be increased by one third:

- a) Those found responsible, being public officials or employees whose actions allowed the commission of the acts. They will also be suspended from holding public office or employment for two to three years.
- b) Those who are responsible for, and are in charge of, public or private establishments, institutions or agencies responsible for the care or protection of minors.
- c) When the publication, dissemination by any means, manufacture, reproduction and sale is carried out by minors.
- d) When the books, writings, images, graphics or other pornographic and obscene objects refer to minors.

## CHAPTER VII

### OF THE COMMON PROVISIONS

#### From the criminal action

**ARTICLE 197. (Amended by Article 45 of Decree 9-2009 of the Congress of the Republic).** The following provisions apply to the exercise of criminal action for the offenses contemplated in Title III of Book II of this Code:

1. They are public actions that may be prosecuted ex officio by the Public Prosecutor's Office.
2. Forgiveness by the offended person or his or her legal representative does not extinguish the criminal action, criminal liability, or the penalty imposed.
3. The exercise of criminal action may not be suspended, interrupted or terminated.
4. The Attorney General's Office will act as a joint plaintiff and civil plaintiff when the victim is a minor or incapacitated person who lacks a legal representative, or when there is a conflict of interest between the victim and their legal representative. In all cases, it will safeguard the rights of the child victim in accordance with their best interests.
5. The Public Prosecutor's Office shall constitute itself as a civil plaintiff when the victim is a person with limited financial resources.
6. Judges are empowered to make appropriate declarations regarding parentage and maintenance, when requested by the victim or their legal representative.

#### Accessory penalties

**\*ARTICLE 198. (Amended by Article 46 of Decree 9-2009 of the Congress of the Republic).** Those responsible for the crimes referred to in Title III of Book II of the Penal Code shall be subject to the following penalties, in addition to the penalties provided for each crime:

1. If the perpetrator is a foreigner, he or she shall be sentenced to expulsion from the national territory, which shall be carried out immediately after the principal sentence has been served.

2. If the crime is committed by a legal entity, in addition to the penalties applicable to guardians and accomplices, the cancellation of the business license will be ordered, as well as a ban on engaging in commercial activities for a period equivalent to twice the prison sentence imposed.

3. If the perpetrator commits the crime while abusing his or her professional practice, he or she shall be subject to special disqualification from practicing his or her profession or activity for a period equivalent to twice the prison sentence imposed.

4. Special disqualification shall be imposed in conjunction with the main penalty when the criminal act is committed through abuse of the profession or violation of the duties inherent to a profession or activity.

\*5th. **(Section added by Article 3 of Decree 11-2022 of the Congress of the Republic).** Prohibit him from contracting internet services, for double the penalty imposed, notifying the providers of said services.

\*6th. **(Section added by Article 3 of Decree 11-2022 of the Congress of the Republic).** The loss of the electronic devices used in the commission of the crime, in favor of the Public Prosecutor's Office.

**(Paragraph added by Article 3 of Decree 11-2022 of the Congress of the Republic).** Anyone who fails to comply with one or more of the additional penalties imposed shall be liable for the crime of disobedience.

#### **Penalties for accomplices**

**ARTICLE 199.-** Ascendants, tutors, pro-tutors, executors, teachers or any other persons who, through abuse of authority or trust, cooperate as accomplices in the perpetration of the crimes of rape, statutory rape, indecent assault, kidnapping, corruption of minors or crimes against modesty, shall be punished with the penalties corresponding to the perpetrators.

#### **Marriage of the offended party to the offender**

**ARTICLE 200.- (Declared unconstitutional by Judgment of the Constitutional Court of March 17, 2006, File 2818-2005).** In the crimes included in the previous chapters I, II, III and IV, the criminal responsibility of the active subject or the penalty, as the case may be, shall be extinguished by the legitimate marriage of the victim with the offender, provided that the former is over twelve years of age and, in any case, with the prior approval of the Public Prosecutor's Office.

### **TITLE IV**

#### **OF CRIMES AGAINST FREEDOM AND**

#### **PERSONAL SAFETY**

#### **CHAPTER I**

#### **OF CRIMES AGAINST FREEDOM**

#### **INDIVIDUAL**

#### **Kidnapping or abduction**

**ARTICLE 201.- (Amended by Decrees 38-94, 14-95 and by Article 1 of Decree 81-96 of the Congress of the Republic).** The material or intellectual authors of the crime of kidnapping or abduction of one or more persons for the purpose of obtaining ransom, exchange of persons or making any decision contrary to the will of the kidnapped person or for any other similar or identical purpose, \*shall be punished with the death penalty and when this cannot be imposed, imprisonment of twenty-five to fifty years shall be applied. In this case, no mitigating circumstances shall be appreciated.

**\*(The underlined phrase was declared unconstitutional by a ruling of the Constitutional Court dated October 24, 2017, File 5986-2016).**

Accomplices or accessories will be punished with twenty to forty years in prison.

Those sentenced to prison for the crime of kidnapping or abduction may not be granted a reduced sentence for any reason.

**(Paragraph added by Article 24 of Decree 17-2009 of the Congress of the Republic).** Likewise, anyone who imminently threatens or deprives another person of their liberty against their will, regardless of the length of time that such deprivation lasts, or who deprives them of their rights of movement with risk to their life or property, with the danger of causing physical, psychological or material harm, in any form or by any means, will incur in the commission of this crime. They will be punished with imprisonment of twenty (20) to forty (40) years and a fine of fifty thousand (Q.50,000.00) to one hundred thousand Quetzales (Q 100,000.00).

**(Paragraph added by Article 24 of Decree 17-2009 of the Congress of the Republic).** This crime is considered consummated when the person is deprived of his or her individual liberty or is put at risk or in imminent danger, or is subjected to the will of the subject(s) who have apprehended, captured or subjected him or her illegally or illegitimately, by any means or form, and in no case shall any mitigating circumstance be appreciated.

#### **\*Torture**

**\*ARTICLE 201 BIS.- (Added by Article 1 of Decree 58-95 of the Congress of the Republic).** The crime of torture is committed by anyone who, by order, with the authorization, support or acquiescence of the State authorities, intentionally inflicts severe pain or suffering, whether physical or mental, on a person, in order to obtain information or a confession from that person or a third party for an act that the person has committed or is suspected of having committed, or that seeks to intimidate a person or, by that means, other persons.

The crime of torture is also committed by members of groups or gangs organized for terrorist, insurgent, subversive, or any other criminal purposes.

The perpetrator(s) of the crime of torture will also be tried for the crime of kidnapping.

The consequences of acts carried out by competent authorities in the legitimate exercise of their duties and in the protection of public order are not considered torture.

The person or persons responsible for the crime of torture will be punished with imprisonment of twenty-five to thirty years.

**\*(See ruling of the Constitutional Court of July 17, 2012, File 1822-2011).**

#### **Forced disappearance**

**ARTICLE 201 TER.- (Added by Article 1 of Decree 33-96 of the Congress of the Republic).** The crime of forced disappearance is committed by anyone who, by order, with the authorization or support of State authorities, deprives one or more persons of their liberty in any way for political reasons, concealing their whereabouts, refusing to reveal their fate or acknowledge their detention, as well as any public official or employee, whether or not they belong to the State security forces, who orders, authorizes, supports or acquiesces in such actions.

The crime of enforced disappearance is the deprivation of liberty of one or more persons, even if not politically motivated, when committed by members of state security forces while in the exercise of their duties, when they act arbitrarily or with abuse or excessive force. Likewise, members of organized groups or gangs with terrorist, insurgent, subversive, or any other criminal purpose commit the crime of enforced disappearance when they commit kidnapping or abduction, participating as members or collaborators of such groups or gangs.

The crime is considered permanent until the victim is released.

The person guilty of enforced disappearance shall be punished with a prison sentence of 25 to 40 years. \*The death penalty shall be imposed instead of the maximum prison sentence when, as a result of or in connection with the enforced disappearance, the victim suffers serious or very serious injuries, permanent psychological or mental trauma, or dies.

***\*(The underlined paragraph was declared unconstitutional by a ruling of the Constitutional Court dated October 24, 2017, File 5986-2016).***

#### **Subjection to servitude**

**ARTICLE 202.-** Anyone who reduces a person to servitude or another similar condition and those who maintain them in such condition shall be punished with imprisonment from two to ten years.

#### **Discrimination**

**ARTICLE 202. BIS.-** *(Added by Article 1 of Decree 57-2002 of the Congress of the Republic)*. Discrimination shall be understood as any distinction, exclusion, restriction or preference based on gender, race, ethnicity, language, age, religion, economic situation, illness, disability, marital status, or any other motive, reason or circumstance, that prevents or hinders a person, group of people or associations from exercising a legally established right, including customary law or tradition, in accordance with the Political Constitution of the Republic and international treaties on human rights.

Anyone who, by action or omission, engages in the conduct described in the preceding paragraph shall be punished with imprisonment of one to three years and a fine of five hundred to three thousand quetzales.

The penalty will be aggravated by one third:

- a) When discrimination is based on language, culture or ethnicity.
- b) For anyone who in any way and by any means disseminates, supports or incites discriminatory ideas.
- c) When the act is committed by a public official or employee in the exercise of his or her duties.
- d) When the act is committed by a private individual in the provision of a public service.

#### **Human trafficking**

**ARTICLE 202 TER.** *(Added by Article 47 of Decree 9-2009 of the Congress of the Republic)*. The crime of trafficking in persons is the recruitment, transportation, transfer, detention, harboring, or receipt of one or more persons for the purpose of exploitation.

Anyone who commits this crime will be punished with imprisonment of eight to eighteen years and a fine of three hundred thousand to five hundred thousand Quetzales.

Under no circumstances will the consent given by the victim of human trafficking or their legal representative be taken into account.

For the purposes of the crime of human trafficking, the following shall be understood as the purpose of exploitation: prostitution of others, any other form of sexual exploitation, forced labor or services, any type of labor exploitation, begging, any form of slavery, servitude, the sale of persons, the extraction and trafficking of human organs and tissue, the recruitment of minors for organized criminal groups, irregular adoption, irregular adoption procedures, pornography, forced pregnancy, or forced or servile marriage.

#### **Remuneration for human trafficking**

**ARTICLE 202 QUÁTER. (Added by Article 48 of Decree 9-2009 of the Congress of the Republic).** Anyone who, for themselves or for third parties, in exchange for the exploitation activities referred to in the crime of trafficking, provides or promises a person or third party a financial or other benefit shall be punished with imprisonment of six to eight years.

The penalty established in the preceding paragraph shall be increased by two-thirds if the remuneration is provided or promised in exchange for activities that exploit a person under the age of fourteen; and it shall be doubled if the person is under the age of ten.

#### **Illegal arrests**

**ARTICLE 203.-** Any person who imprisons or detains another person, depriving them of their liberty, shall be punished with imprisonment of one to three years. The same penalty shall be imposed on anyone who provides a place for the commission of this crime.

#### **Aggravating circumstances**

**ARTICLE 204. (Amended by Article 49 of Decree 9-2009 of the Congress of the Republic).** The penalties specified in the preceding articles shall be increased by one-third if any of the following circumstances occur:

1. If the kidnapping or abduction, confinement or detention lasts more than three days.
2. If in the execution of the crime there is a threat of death, cruel or defamatory treatment for the offended person.
3. If the crime is committed by more than two people.
4. If the victim's will is weakened or annulled, either purposely or by any means.
5. If the victim is mentally affected, temporarily or permanently, as a result of the event.

If the penalties refer to the crimes contemplated in articles 191, 192, 193, 193 Bis, 194, 195, 195 Bis, 195 Ter, 195 Quater, 202 Ter and 202 Quater, the penalty will be increased by one third if any of the following circumstances occur:

- a. Violence is used.
- b. Servile marriage, substitution of one child for another, assumed childbirth, or the suppression or alteration of civil status are resorted to.
- c. The victim is a person with volitional, cognitive or resistance disability or an elderly person.
- d. The perpetrator is a relative of the victim or responsible for his/her education, custody, care, guardianship, or spouse, ex-spouse, partner or ex-partner of the victim or one of his or her parents.
- e. The perpetrator acts with the use of weapons, alcoholic substances, narcotics, intoxicants, other instruments or substances that seriously harm the health of the offended person.
- f. The victim is pregnant.

The perpetrator of the crime of human trafficking is a public official, employee or professional in the exercise of his or her duties.

The penalty to be imposed shall be increased by two-thirds if, in the cases covered by Articles 201 and 203, the act was carried out with feigned authority or if the victim is between eighteen and fourteen years of age; by three-quarters if the victim is between fourteen and ten years of age; and by double if the victim is under ten years of age.

#### **Illegal apprehension**

**ARTICLE 205.-** Any individual who, outside of the cases permitted by law, apprehends a person to present him or her to the authority, shall be punished with a fine of fifty to two hundred quetzales.

## CHAPTER II

### OF BREAKING AND ENTRY

#### Breaking and entering

**ARTICLE 206.-** Any individual who, without authorization or against the express or tacit will of the resident, clandestinely or deceitfully, enters another's dwelling or premises or remains therein, shall be punished with imprisonment from three months to two years.

#### Specific aggravation

**ARTICLE 207.-** If the acts described in the previous article are carried out by simulating authority, with weapons, with violence or by more than two people, the penalty will be two to four years in prison.

#### Exceptions

**ARTICLE 208.-** The provisions of articles 206 and 434 are not applicable to anyone who enters another's dwelling to avoid a serious harm, to the residents or to a third party.

It also does not apply to cafes, bars, taverns, inns, lodging houses and other similar establishments, as long as they are open to the public.

This exception does not include private rooms in hotels and other establishments referred to in the previous paragraph, which constitute a home for the person who lives therein.

## CHAPTER III

### ABDUCTION OF MINORS

#### Self-subtraction

**ARTICLE 209.-** Whoever removes a minor under twelve years of age or an incapacitated person from the power of his or her parents, guardian or person in charge of the same and whoever retains him or her against their will, shall be punished with imprisonment from one to three years.

The same penalty will apply if the minor is over twelve years of age and there is no consent on his or her part.

The penalty to be imposed will be six months to two years, if the minor over twelve years of age has given consent.

#### Improper subtraction

**ARTICLE 210.-** Anyone who, being in charge of a minor, does not present him to his parents or guardians, nor gives a satisfactory reason for his disappearance, shall be punished with imprisonment from one to three years.

#### **Aggravated theft**

**ARTICLE 211.-** In the event of the disappearance of the abducted person, if those responsible do not prove the whereabouts of the victim or that his death or disappearance was due to causes unrelated to the abduction, they shall be punished with imprisonment of six to twelve years. However, if the kidnapped person is found, the sentence will be reduced accordingly, by means of a review appeal.

#### **Induction to leave home**

**ARTICLE 212.-** Whoever induces a minor, but over ten years of age, to leave the home of his or her parents, guardians or those in charge of his or her person, shall be punished with imprisonment from six months to two years.

#### **Wrongful delivery of a minor**

**ARTICLE 213.-** Whoever, having charge of the upbringing or education of a minor, hands him over to a public establishment or to another person, without the consent of the person who entrusted him to him, or of the authority in his absence, will be punished with a fine of one hundred to five hundred quetzales.

## **CHAPTER IV**

### **OF COERCION AND THREATS**

#### **Coercion**

**ARTICLE 214.-** *(Amended by Article 2 of Decree 38-2000 of the Congress of the Republic)*. Anyone who, without being legitimately authorized, through a violent or intimidating procedure or in any way that compels another, forces the latter to do or refrain from doing what the law does not prohibit, does or consents to what he does not want or tolerates another person doing, whether fair or not, shall be punished with imprisonment from six months to two years.

*(Paragraph deleted by Article 9 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law)*. If coercion is committed against a judicial official to make a specific decision or to refrain from making a decision on a matter within his jurisdiction, the penalty to be applied will be two to six years in prison.

#### **Threats**

**ARTICLE 215.-** *(Amended by Article 3 of Decree 38-2000 of the Congress of the Republic)*. Whoever threatens another with causing harm to the same or his relatives within the limits of the law, to his person, honor or property, which may or may not constitute a crime, shall be punished with imprisonment from six months to three years.

*(Paragraph deleted by Article 10 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. If the threat is committed against a judicial official due to the exercise of his or her office, it shall be punished with imprisonment of two to six years.

### **Coercion against political freedom**

**ARTICLE 216.-** Anyone who, outside of the cases provided for in the respective special laws, by means of violence or threats, prevents or restricts the exercise of any political right, shall be punished with imprisonment from six months to three years.

*(Paragraphs added by Article 1 of Decree 4-2010 of the Congress of the Republic).* The penalty established for this crime shall be increased by two-thirds in the following cases:

- a) If the author is an official or employee of the Supreme Electoral Tribunal or a member of the Departmental Electoral Board, Municipal Electoral Board or Voting Reception Board;
- b) If the author is a civil servant or employee of the State, in any of its autonomous, decentralized, and non-governmental organizations or institutions, regardless of their form of election or type of legal employment relationship.

## **CHAPTER V**

### **OF RAPE AND REVELATION OF SECRETS**

#### **Violation of correspondence and private papers**

**ARTICLE 217.-** Whoever, on purpose or to discover the secrets of another, opens correspondence, sealed envelopes or telegraphic, telephone or other dispatches that are not addressed to him or whoever, without opening them, becomes aware of their content, shall be punished with a fine of one hundred to one thousand quetzales.

#### **Theft, diversion or deletion of correspondence**

**ARTICLE 218.-** Whoever improperly seizes correspondence, documents or dispatches, referred to in the previous article, or other private paper, even if they are not sealed, or whoever suppresses them or diverts them from their destination, shall be punished with a fine of one hundred to one thousand quetzales.

#### **Interception or reproduction of communications**

**ARTICLE 219.-** Whoever, using fraudulent means, intercepts, copies or records televised, radio, telegraph, telephone or other similar communications or of an equal nature, or prevents or interrupts them, shall be punished with a fine of one hundred to one thousand quetzales.

#### **Specific aggravation**

**ARTICLE 220.-** *(Amended by Article 11 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law).* The penalties established for the criminal acts defined in the three preceding articles shall be imprisonment from six months to three years in the following cases:

1. If the perpetrator takes advantage of his or her position as manager, director, administrator, or employee of the respective department, company, or entity.
- 2nd. If it involves official matters.
3. If the author makes the information obtained public, by any means.

4. If the author is a public official or employee.

#### **Exceptions**

**ARTICLE 221.-** The provisions of articles 217, 218 and 219 of this chapter do not apply to parents with respect to their minor children, nor to guardians or pro-guardians with respect to persons under their custody or guardianship.

#### **Undue advertising**

**ARTICLE 222.-** Anyone who, being lawfully in possession of correspondence, papers or recordings, photographs not intended for publicity, makes them public without due authorization, even if they were addressed to him, when the act causes or could cause harm, shall be punished with a fine of two hundred to two thousand quetzales.

#### **Disclosure of professional secrecy**

**ARTICLE 223.-** Whoever, without just cause, reveals or uses for his own benefit or that of another a secret that he has learned by reason of his status, office, employment, profession or art, without thereby causing or being able to cause harm, shall be punished with imprisonment from six months to two years or a fine of one hundred to one thousand quetzales.

## **CHAPTER VI**

### **OF CRIMES AGAINST FREEDOM**

#### **CULTS AND RELIGIOUS FEELING**

#### **Disturbance of acts of worship**

**ARTICLE 224.-** Anyone who interrupts the celebration of a religious ceremony or performs acts that contempt or offend the cult or the objects intended for it, shall be punished with imprisonment from one month to one year.

#### **Desecration of graves**

**ARTICLE 225.-** Whoever violates or defames a grave, tomb or funeral urn, or in any other way desecrates the corpse of a human being or its remains, shall be punished with imprisonment from six months to two years.

## **\*CHAPTER VII**

### **\*ON INSEMINATION CRIMES**

***\*(Chapter added by Article 2 of Decree 33-96 of the Congress of the Republic).***

#### **Forced insemination**

**ARTICLE 225 "A".** *(Added by Article 3 of Decree 33-96 of the Congress of the Republic)*. Anyone who, without the consent of the woman, procures her pregnancy using medical or chemical techniques of artificial insemination shall be punished with imprisonment of two to five years and special disqualification of up to ten years.

If pregnancy occurs, imprisonment of two to six years and special disqualification of up to fifteen years will be applied.

If the woman suffers very serious injuries or death, imprisonment of three to ten years and special disqualification of ten to twenty years will be applied.

#### **Fraudulent insemination**

**ARTICLE 225 "B".** *(Added by Article 4 of Decree 33-96 of the Congress of the Republic)*. Anyone who fraudulently alters the agreed-upon conditions for performing artificial insemination or obtains consent through deception or false promises shall be sentenced to one to three years' imprisonment and special disqualification for up to ten years.

#### **Experimentation**

**ARTICLE 225 "C".** *(Added by Article 5 of Decree 33-96 of the Congress of the Republic)*. Anyone who, even with the woman's consent, performs experiments on her intended to induce pregnancy shall be sentenced to one to three years' imprisonment and special disqualification for up to ten years.

Various attempts to achieve pregnancy, carried out according to an already tested and approved technique, are not considered experiments.

### **TITLE V**

#### **OF CRIMES AGAINST THE LEGAL ORDER**

##### **FAMILY AND AGAINST CIVIL STATUS**

#### **CHAPTER I**

##### **OF THE CELEBRATION OF MARRIAGES**

#### **ILLEGAL**

#### **Illegal marriage**

**ARTICLE 226.-** Whoever enters into a second or subsequent marriage without the previous one being legitimately dissolved, shall be punished with imprisonment from one to three years.

The same penalty will be imposed on anyone who, being single, knowingly enters into marriage with a married person.

### **Concealment of impediment**

**ARTICLE 227.-** Those who enter into marriage knowing that there is an impediment that causes its absolute nullity, will be punished with imprisonment of two to five years.

The same penalty will be applied to anyone who enters into marriage, knowing that there is an impediment that causes its absolute nullity and who conceals this circumstance from the other party.

### **Simulation**

**ARTICLE 228.-** Anyone who, by deceiving a person, simulates marriage with him or her, shall be punished with imprisonment from one to four years.

Those who, with the intention of profit, another illicit purpose or to harm a third party, enter into marriage exclusively for any of these purposes, shall be punished with the same penalty, without prejudice to any other liabilities that may arise from their actions.

### **Failure to comply with deadlines**

**ARTICLE 229.-** *(Repealed by Article 6 of Decree 27-2010 of the Congress of the Republic)*. Any widow who remarries before the period specified in the Civil Code for remarriage has elapsed shall be punished with a fine of one hundred to five hundred quetzales.

The same penalty will apply to a woman whose marriage has been dissolved by divorce or declared void if she remarries before the period specified in the Civil Code has elapsed.

### **Illegal celebration**

**ARTICLE 230.-** Whoever, without being legally authorized, celebrates a marriage, civil or religious, will be punished with a fine of two hundred to two thousand quetzales, without prejudice to the sanctions that correspond to other crimes in which he may incur.

### **Responsibility of representatives**

**ARTICLE 231.-** The guardian or pro-guardian who, before the legal approval of his accounts, enters into marriage or gives his consent for his children or descendants to enter into marriage with the person he has or has had under his guardianship, unless the father of the latter has authorized it, will be sanctioned with a fine of two hundred to two thousand quetzales.

## **CHAPTER II**

### **OF ADULTERY AND CONCUBINATION**

#### **Adultery**

**ARTICLE 232.-** *(Declared Unconstitutional by judgment of the Constitutional Court dated March 7, 1996, issued in Case No. 936-95)*. A married woman commits adultery if she lies with a man other than her husband and if he lies with her knowing that she is married, even if the marriage is later declared null and void. If the act is committed repeatedly in the marital home, with publicity or scandal, the penalty shall be increased by one-third. Adultery shall be punishable by imprisonment of six months to two years.

### Regime of action

**ARTICLE 233.-** *(Declared Unconstitutional by judgment of the Constitutional Court, dated March 7, 1996, issued in File 936-95).* Criminal action may not be brought nor a penalty imposed for the crime of adultery except by virtue of a complaint filed by the husband against both defendants, if both are alive, and the adultery has never been consented to or forgiven by either of them.

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**ARTICLE 234.-** *(Declared Unconstitutional by judgment of the Constitutional Court dated March 7, 1996, issued in Case 936-95).* The husband may, at any time, remit the sanction imposed on his spouse. In this case, the sanction shall also be deemed remitted to the other responsible party.

### Concubinage

**ARTICLE 235.-** *(Declared Unconstitutional by judgment of the Constitutional Court dated March 7, 1996, issued in Case No. 936-95).* Any husband who has a concubine within the marital home shall be punished with imprisonment of four months to one year. The concubine shall be punished with a fine of fifty to five hundred quetzales. The provisions of other articles 233 and 234 shall apply to the case discussed in this article.

## CHAPTER III

### OF INCEST

#### Own incest

**ARTICLE 236.** *(Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).* Anyone who has sex with his or her ascendant, descendant, or sibling commits incest.

Incest shall be punishable by imprisonment of two to four years.

#### Aggravated incest

**ARTICLE 237.** *(Repealed by Article 69 of Decree 9-2009 of the Congress of the Republic).* Anyone who commits incest with a minor offspring shall be punished with imprisonment of three to six years.

## CHAPTER IV

### OF CRIMES AGAINST CIVIL STATUS

#### **Assumption of childbirth**

**ARTICLE 238. (Amended by Article 50 of Decree 9-2009 of the Congress of the Republic).** Anyone who feigns pregnancy or childbirth to obtain for themselves or a third party rights to which they are not entitled shall be punished with imprisonment of three to five years and a fine of ten thousand to one hundred thousand Quetzales.

Any doctor, nurse, or midwife who cooperates with the commission of this crime, in addition to the sentence imposed, will be punished with special disqualification from practicing their profession for twice the sentence imposed.

#### **Replacing one child with another**

**ARTICLE 239. (Amended by Article 51 of Decree 9-2009 of the Congress of the Republic).** Anyone who substitutes one newborn for another shall be punished with imprisonment of eight to ten years and a fine of one hundred thousand to five hundred thousand Quetzales.

#### **Suppression and alteration of civil status**

**ARTICLE 240. (Amended by Article 52 of Decree 9-2009 of the Congress of the Republic).** Anyone who:

1. Falsely report or register in the corresponding registry of persons any fact that creates or alters the civil status of a person, or knowingly take advantage of the false registration.

2. Hide or expose a child with the purpose of causing him or her to lose his or her rights or marital status.

3. Register or have registered a non-existent birth or provide false information about the parents.

Any public official who knowingly authorizes or registers a false act in the corresponding registry of persons shall be punished with imprisonment of six to ten years and disqualification from public employment or office for double the penalty imposed.

#### **Usurpation of civil status**

**ARTICLE 241.-** Anyone who usurps the civil status of another shall be punished with imprisonment of two to five years.

#### **Irregular Adoption**

**ARTICLE 241 BIS. (Added by Article 53 of Decree 9-2009 of the Congress of the Republic).** Anyone who, in order to obtain the adoption of a person for themselves, provides or promises a person or third party a financial or any other benefit, regardless of whether the purpose is achieved, shall be punished with imprisonment of three to five years and a fine of twenty thousand to one hundred thousand Quetzales.

The penalties will be imposed without prejudice to any penalties that may apply for the commission of other crimes.

#### **Irregular adoption process**

**ARTICLE 241 TER. (Added by Article 54 of Decree 9-2009 of the Congress of the Republic).** Any public official who knowingly processes, authorizes, or registers an adoption using false documents or registrations in public registries or where the parentage of a minor or any other information required by law for the validity of an adoption has been altered, shall be punished with imprisonment of six to ten years and a fine of fifty thousand to one hundred thousand Quetzales.

## CHAPTER V

### BREACH OF DUTIES

#### Denial of financial assistance

**ARTICLE 242.-** Anyone who is legally obliged to provide support, by virtue of a final judgment or an agreement recorded in a public or authentic document, refuses to comply with such obligation after being legally required to do so, shall be punished with imprisonment from six months to two years, unless it can be proven that he or she does not have the financial means to fulfill his or her obligation.

The author will not be exempt from criminal liability for the fact that another person has provided them.

#### Aggravated breach

**ARTICLE 243.-** The penalty indicated in the previous article shall be increased by one third when the author, in order to avoid fulfilling the obligation, transfers his assets to a third party or uses any other fraudulent means.

#### Failure to comply with duties of assistance

**ARTICLE 244.-** Whoever, being legally obliged, fails to comply with or neglects the rights of care and education with respect to descendants or persons under his custody or guardianship, such that they find themselves in a situation of material and moral abandonment, shall be punished with imprisonment from two months to one year.

#### Exemption by compliance

**ARTICLE 245.-** In the cases provided for in the three previous articles, anyone who pays the maintenance due and sufficiently guarantees, in accordance with the law, the subsequent fulfillment of his obligations shall be exempt from sanctions.

## TITLE VI

### CRIMES AGAINST PROPERTY

#### CHAPTER I

#### OF THEFT

#### Theft

**ARTICLE 246.-** (*Amended by Article 9 of Decree 20-96 of the Congress of the Republic*). Anyone who takes, without due authorization, movable property, wholly or partially belonging to another, shall be punished with imprisonment of 1 to 6 years.

## **Aggravated theft**

**ARTICLE 247.-** The following is aggravated theft:

- 1st. That committed by a domestic or involving serious breach of trust.
- 2nd. When it is committed by taking advantage of a public or private calamity, or of common danger.
3. When the theft is committed inside a house, room, or dwelling, or when the perpetrator surreptitiously remains in a building or place intended for habitation in order to carry it out. This aggravating circumstance shall not apply when the theft is combined with breaking and entering.
4. When it is committed using a lock pick, false key or other similar instrument, or a real key that has been stolen, found or retained.
5. When two or more people participate in its commission; one or more pretending to be authorities, managers, or employees of a public service.
6. When the theft involves objects or money belonging to travelers and is committed in any type of vehicle or at stations, docks, hotels, boarding houses, or guesthouses.
7. When it concerns religious or military items, of scientific, artistic or historical value or intended for public use or decoration.
- 8th. If the theft involves firearms.
- 9th. If the theft is of livestock.
10. When the stolen goods are products separated from the ground, machines, accessories or work instruments left in the field, or wire or other elements of fences.
11. **(Amended by Article 6 of Decree 33-96 of the Congress of the Republic).** When the theft involves vehicles left on public roads or in places of public access. If the stolen vehicles are taken and accepted on premises, workshops, parking lots or places selling spare parts, for sale, production or dismantling, the owners of the aforementioned businesses, their managers, administrators or legal representatives shall be jointly liable with the perpetrators of the theft, and in all cases, they are required to verify the legitimate origin of the vehicles received for sale.

**(Paragraph amended by Article 10 of Decree 20-96 of the Congress of the Republic).** Anyone responsible for aggravated theft shall be punished with imprisonment of 2 to 10 years.

## **Theft of use**

**ARTICLE 248.-** Whoever, without due authorization, takes a movable property, totally or partially belonging to another, with the sole purpose of using it and makes its restitution in circumstances that clearly indicate this or can be deduced from the nature of the act, and leaves the property in conditions and place that allow its easy and prompt recovery, shall be sanctioned with a fine of two hundred to three thousand quetzales, without prejudice to the liabilities resulting from the damages caused to the property.

When theft of use is committed to commit kidnapping or kidnapping or for subversive purposes or purposes, the person responsible shall be sentenced to imprisonment of two to five years, without prejudice to the penalties applicable to the other crime.

## **Theft of fluids**

**ARTICLE 249.-** Whoever unlawfully steals electricity, water, gas, power from an installation or any other fluid belonging to another person, shall be punished with a fine of two hundred to three thousand quetzales.

### **Improper theft**

**ARTICLE 250.-** The owner of a movable property who removes it from the person who legitimately has it in his possession, to the detriment of the same or a third party, shall be punished with a fine of one hundred to two thousand quetzales.

## **CHAPTER II**

### **OF THEFT**

#### **Robo**

**ARTICLE 251.-** *(Amended by Article 11 of Decree 20-96 of the Congress of the Republic)*. Anyone who, without due authorization and with violence prior to, simultaneously with, or subsequent to the seizure, takes a personal property that is totally or partially another's, shall be punished with imprisonment of 3 to 12 years.

#### **Aggravated robbery**

**ARTICLE 252.-** Aggravated robbery is:

1st. When it is committed in an unpopulated area or in a group.

2nd. When violence is used, in any form, to enter the scene of the crime.

3. If the criminals carry weapons or narcotics, even if they do not use them.

4th. If they do so by simulating authority or using a disguise.

5. If it is committed against a bank, tax collection agency, industrial, commercial or mercantile office or other office where funds are kept or when violence is exercised against its custodians.

6. When the crime is committed by assaulting a railroad, ship, vessel, aircraft, automobile, or other vehicle.

7. When any of the circumstances contained in sections 1, 2, 3, 6, 7, 8, 9, 10 and 11 of article 247 of this Code occur.

*(Paragraph amended by Article 12 of Decree 20-96 of the Congress of the Republic)*. Anyone responsible for aggravated robbery shall be punished with imprisonment of 6 to 15 years.

#### **Theft of use**

**ARTICLE 253.-** When the act referred to in article 248 of this Code is committed with violence, it will be classified as theft and punishable by imprisonment from six months to two years.

When the circumstances referred to in the last paragraph of the cited article occur, the penalty to be imposed will be three to eight years in prison.

### **Theft of fluids**

**ARTICLE 254.-** When the acts referred to in Article 249 of this Code are committed with violence, they will be classified as robbery and punished with imprisonment from six months to two years.

### **Improper theft**

**ARTICLE 255.-** When the act referred to in Article 250 of this Code is committed with violence, it will be classified as improper robbery and punished with imprisonment from six months to two years.

### **Of the Sacrilegious Acts**

**ARTICLE 255 BIS.** When the acts referred to in the previous articles relating to Theft and Robbery, the object of the crime is intended for worship, whether it is a sacred thing or not, such as the Most Holy Sacrament, Holy Oils, Holy Images, in bulk or painted, sacred vessels, chalices, ciboria, patens, monstrances, corporals, purificators, ornaments, sacred vestments, baptismal fonts, confessionals, pulpits, crowns, radiances, rings, chains, bracelets, crucifixes, vases, candlesticks; High Cross, candlesticks, incense burners, piggy banks, Bibles or any other similar object of high religious, profane or historical content, regardless of whether or not they are committed in the place intended for worship, the penalty to be imposed will be, in the case of theft, twelve (12) years of non-commutable correctional prison, and in the case of robbery, twenty (20) years of non-commutable correctional prison. In both cases, a fine of not less than double the value of said objects will be imposed.

For persons who knowingly acquire, alienate, export, traffic or alter in any way such objects, or similar objects, the penalty to be imposed will be ten (10) years of non-commutable correctional imprisonment, and a fine of double the value of the objects involved in the crime. Their legitimate owners and holders, and legally authorized persons, are excepted.

It shall be the State's obligation to ensure the immediate securing of such objects, as well as their prompt delivery to their owners and/or legitimate holders.

## **CHAPTER III**

### **OF USURPATIONS**

#### **Usurpation**

**ARTICLE 256.-** *(Amended by Article 7 of Decree 33-96 of the Congress of the Republic)*. Anyone who, for the purpose of illicit seizure or exploitation, deprives or attempts to deprive another of the possession or holding of real property or a real right established thereon, or whoever unlawfully invades or occupies real property for any purpose, commits the crime of trespass.

Remaining in the property constitutes flagrancy in this crime. The police, the public prosecutor, or the judge are obligated to prevent the punishable acts from continuing to cause further consequences, ordering or proceeding, as appropriate, with immediate eviction.

Anyone responsible for trespass will be punished with imprisonment of one to three years.

#### **Aggravated usurpation**

**ARTICLE 257. (Amended by Article 8 of Decree 33-96 of the Congress of the Republic).** The penalty shall be two to six years' imprisonment when, in any of the cases referred to in the previous article, any of the following circumstances occur:

- a) That the act is carried out by more than five people;
- b) When the usurper(s) remain in the property for more than three days;
- c) When the possessors or owners of the property, their workers, employees or dependents, are denied access to the property or are expelled from it by the squatters or have to abandon it due to any type of intimidation that the squatters exercise against them;
- d) When the act is carried out through harassment, disorder, violence, deception, breach of trust, secrecy or intimidation;
- e) When any type of damage or harm is caused to the property, its crops, facilities, access roads or natural resources

The penalties set forth in this article or the previous one, as the case may be, shall also apply to those who instigate, propose, force, or induce others to commit this crime or cooperate in its planning, preparation, or execution.

#### **Alteration of boundaries**

**ARTICLE 258. (Amended by Article 9 of Decree 33-96 of the Congress of the Republic).** Whoever, for the purpose of seizing or illegally exploiting all or part of a property, alters the terms and boundaries of towns or estates or any kind of signs intended to establish the limits of contiguous properties, shall be punished with imprisonment of one to two years if the act is carried out with violence, and with imprisonment of six months to one year if there is no violence.

#### **Disturbance of possession**

**ARTICLE 259. (Amended by Article 10 of Decree 33-96 of the Congress of the Republic).** Anyone who, not being included in the three preceding articles, disturbs the possession or ownership of real estate with violence, shall be punished with imprisonment from one to three years.

#### **Water usurpation**

**ARTICLE 260. (Amended by Article 11 of Decree 33-96 of the Congress of the Republic).** Whoever, for the purpose of seizure, illicit use or harming another, dams, diverts or detains waters, destroys, totally or partially, dams, canals, irrigation ditches or any other means of retention or conduction of the same or, in any other way, in any way hinders or impedes the rights of a third party over said waters, will be punished with imprisonment of one to three years and a fine of one thousand to five thousand quetzales.

### **CHAPTER IV**

#### **OF EXTORTION AND BLACKMAIL**

##### **Extortion**

**ARTICLE 261.- (Amended by Article 25 of Decree 17-2009 of the Congress of the Republic).** Anyone who, in order to obtain unjust profit, to defraud or demand any amount of money from him by violence or under direct or covert threat, or by a third party

person and through any means of communication, forces another to deliver money or goods; Likewise when he forces him with violence to sign, subscribe, grant, destroy or deliver any document, to contract an obligation or to forgive it or to renounce any right, will be punished with imprisonment of six (6) to twelve (12) non-commutable years.

### **Blackmail**

**ARTICLE 262.-** The crime of blackmail is committed by anyone who demands money, reward or effects from another person, under direct or covert threat of imputations against his or her honor or prestige, or of violation or disclosure of secrets, to the detriment of the same, his or her family or the entity in whose management he or she intervenes or has an interest.

The person responsible for this crime will be punished with imprisonment of three to eight years.

## **CHAPTER V**

### **OF THE SCAM**

#### **Own scam**

**ARTICLE 263.-** Anyone who, by misleading another person through trickery or deceit, defrauds him of his assets to the detriment of himself or another person commits fraud.

Anyone responsible for this crime will be punished with imprisonment of six months to four years and a fine of two hundred to ten thousand quetzales.

#### **Special cases of fraud**

**ARTICLE 264.-** The following shall incur the sanctions indicated in the previous article:

1. Anyone who defrauds another by using a false name, attributing power, influence, relationships or supposed qualities to himself, feigning imaginary assets, commissions, businesses or negotiations.
2. Any silversmith or jeweler who alters the quality, quality or weight of objects related to his art or trade, or who traffics in them.
3. Traffickers who defraud, using false weights or measures, in the dispatch of the objects of their trafficking.
4. Whoever defrauds another with supposed remuneration, officials, authorities, agents of this or public employees, or as a reward for their mediation to obtain a favorable resolution in a matter that depends on them, without prejudice to the slander actions that may apply to them.
5. Anyone who commits fraud by abusing another's blank signature or using it to issue a document to the detriment of the same or a third party.
6. Anyone who defrauds another by deceitfully making him sign any document.
7. Anyone who uses fraud to ensure luck in games of chance.
8. Anyone who commits fraud by removing, concealing or rendering useless, in whole or in part, any process, file, document or other writing.
9. Anyone who, pretending to be the owner of immovable property, alienates, encumbers it or disposes of it in any other way.

10. Whoever disposes of an asset as free, knowing that it was encumbered or subject to another type of limitations and who, with his alienation or encumbrance, which prevents, for profit, the exercise of such rights.

11. Anyone who separately transfers a thing to two or more persons, to the detriment of any of them or a third party.

12. Anyone who grants, to the detriment of another, a simulated contract.

13. Anyone who knowingly acquires or receives, in any form, property from someone who is not their owner or who does not have the right to dispose of it.

14. Anyone who, to the detriment of another, exercises a right of any nature knowing that he or she has been deprived of it by a final court ruling.

15. Anyone who destroys or damages, in whole or in part, property belonging to him or her, which is subject to the rights of a third party, with the intention of defrauding the latter.

16. Anyone who purchases a good in installments and subsequently sells it or disposes of it in any other way without having paid the full price.

17. Anyone who denies his or her signature on any document of obligation or discharge.

18. Anyone who, with false information or concealing information known to him, fraudulently enters into contracts based on such information or information.

19. Anyone who, without authorization or making improper use of it, through collections or collections, defrauds others.

If the collection or collection is made without authorization and without the purpose of defrauding, or if it is authorized, the requirements are not met. corresponding legal provisions, the penalty will be a fine of twenty to two hundred quetzales.

20. Anyone who collects unearned salaries, services or supplies not provided.

21. Anyone who defrauds by taking advantage of the inexperience, lack of discernment or passions of a minor or incapacitated person.

22. The debtor who disposes, in any form, of the fruits encumbered with a pledge to guarantee credits destined for production.

23. Anyone who defrauds or harms another, using any trick or deception not mentioned in the preceding paragraphs.

#### **Credit or Debit Card Scam.**

**Article 264 bis. (Added by Article 36 of Decree 7-2015 of the Congress of the Republic).** Anyone who produces, reproduces, introduces, prints, uses, or sells credit or debit cards without the consent of the authorized party commits the crime of credit or debit card fraud. Anyone who possesses, distributes, or uses credit or debit cards knowing they are counterfeit also commits the crime of credit or debit card fraud.

Anyone who improperly obtains or uses electronic information and accesses the electromagnetic equipment of issuers or operators, as well as anyone who manipulates or modifies an ATM to obtain cardholder data, and anyone who individually or collectively obtains or uses information about customers or transactions recorded by issuers or operators, commits the crime of fraud. Anyone who commits the crime of fraud using a credit or debit card shall be punished with imprisonment of six to ten years and a fine of one hundred fifty thousand to five hundred thousand Quetzales.

#### **Fraud through destruction of one's own property**

**ARTICLE 265.-** Whoever, in order to obtain payment for insurance or any undue benefit to the detriment of another, destroys, damages or conceals, in whole or in part, his own property, shall be punished with imprisonment from one to three years and a fine of one hundred to five thousand quetzales.

#### **Fraud by injury**

**ARTICLE 266.-** Anyone who, with the same purpose indicated in the previous article, causes or causes to be caused by a third party, bodily injury or aggravates the injury caused by an accident, shall be subject to the same sanctions as in the aforementioned article.

#### **Fraud in the delivery of goods**

**ARTICLE 267.-** Whoever defrauds in the substance, quality or quantity of the goods that he delivers to another, by virtue of a contract of any other obligatory title, shall be punished with imprisonment from six months to five years and a fine of one hundred to five thousand quetzales.

#### **Check fraud**

**ARTICLE 268.-** Whoever defrauds another by giving him or her a check in payment without provision of funds or by disposing of them, before the deadline for its presentation expires, shall be punished with imprisonment from six months to five years and a fine of one hundred to five thousand quetzales.

The same penalty will be applied to anyone who endorses a check with knowledge of the issuer's lack of funds.

#### **Consumer fraud**

**ARTICLE 269.-** Whoever intentionally defrauds another by consuming food or drink, or by using or having any service provided for immediate payment, shall be punished with a fine of twenty to five hundred quetzales.

#### **Fluid scam**

**ARTICLE 270.-** Whoever misuses electrical energy or any other fluid that is being supplied, or alters the meters or counters intended to mark consumption or the indications or data recorded by these devices, shall be sanctioned with a fine of ten to two thousand quetzales.

Anyone who defrauds the consumer by altering, by any means, the meters or counters of electric energy or other fluid, or the indications recorded by these devices, shall be sanctioned with a fine of five hundred to five thousand quetzales.

#### **Fraud through accounting information**

**ARTICLE 271. (Amended by Article 3 of Decree 30-2001 of the Congress of the Republic).** The crime of fraud through accounting information is committed by any auditor, certified accountant, expert, director, manager, executive, representative, superintendent, liquidator, administrator, official or employee of commercial, banking, corporate or cooperative entities who, in their opinions or communications to the public, signs or certifies reports, memoranda or proposals, inventories, integrations, accounting or financial statements, and records data that are contrary to the truth or reality or that are simulated with the intention of defrauding the public or the State.

Those responsible will be punished with non-commutable imprisonment of one to six years and a fine of five thousand to ten thousand quetzales.

Those who carry out these acts to attract investment or to feign an economic or financial situation that they do not have will be similarly punished.

If those responsible are auditors or accounting experts, in addition to the aforementioned penalty, they will be disqualified for the duration of the sentence, and if they are repeat offenders, they will be disqualified for life.

## OF MISAPPROPRIATIONS

### Misappropriation and misappropriation

**ARTICLE 272.-** Whoever, to the detriment of another, appropriates or diverts money, effects or any other movable property that he has received in deposit, commission or administration, or for any other reason that creates an obligation to deliver or return them, shall be punished with imprisonment from six months to four years and a fine of one hundred to three thousand quetzales.

### Irregular appropriation

**ARTICLE 273.-** The crime of irregular appropriation is committed by anyone who:

- 1st. I will take money or other movable property that I find lost and does not belong to me.
2. Having found a treasure, I will take it in whole or in part, or I will take the share that, according to the law, corresponds to the owner of the property.
- 3rd. Take another's property that has come into your possession by mistake or chance.

Those responsible will be punished with imprisonment of two months to two years and a fine of fifty to two thousand quetzales.

## CHAPTER VII

### OF CRIMES AGAINST THE LAW

#### OF AUTHOR, INDUSTRIAL PROPERTY AND COMPUTER CRIMES *(Reformed by Article 12 of Decree 33-96 of the Congress of the Republic).*

#### Violation of copyright and related rights

**ARTICLE 274.-** *(Amended by Article 43 of Decree 56-2000 and by Article 114 of Decree 11-2006, both of the Congress of the Republic).* Except in cases expressly contemplated in laws or treaties on the matter to which the Republic of Guatemala is a party, anyone who commits any of the following acts shall be punished with imprisonment of one to six years and a fine of fifty thousand to seven hundred fifty thousand quetzales:

- a) Falsely identifying as a copyright holder, performer, phonogram producer or broadcasting organization;
- b) The deformation, mutilation, modification or other damage caused to the reputation integrity of the work or to the honor and of its author;
- c) The reproduction of a work, performance, phonogram or broadcast without the authorization of the author or owner of the corresponding right;
- d) The adaptation, arrangement or transformation of all or part of a protected work without the authorization of the author or the copyright holder;

e) The communication to the public by any means or process, of a protected work or phonogram without the authorization of the owner of the corresponding right;

f) The unauthorized distribution of reproductions of all or part of a work or phonogram by means of sale, long-term lease, rental, lease with option to purchase, loan or any other form;

g) The fixation, reproduction or communication to the public by any means or procedure, of an artistic interpretation or performance without the authorization of the performer or the owner of the rights;

The fixation, reproduction or retransmission of a broadcast transmitted by satellite, radio, wire, cable, optical fiber or  
h) any other means without the authorization of the rights holder;

i) The communication to the public of a broadcast or transmission on a site to which the public may have access by paying an admission fee, or for the purpose of consuming or acquiring products or services, without the authorization of the corresponding right holder;

The publication of a protected work that has a changed title or withdrew, with or without alteration of the  
j) obra;

k) Manufacture, assemble, modify, import, export, sell, lease, or in any way distribute any tangible or intangible device or system, knowing or having reason to know that the device or system primarily serves or assists in the decoding of an encrypted satellite signal carrying a program without the authorization of the legal distributor of such signal, or the intentional reception and distribution of a signal carrying a program that originated as an encrypted satellite signal, knowing that it was decoded, without the authorization of the legal distributor of the signal;

l) With respect to effective technological measures, the implementation of the following:

1.1 An act that circumvents or attempts to circumvent an effective technological measure that prevents or controls unauthorized access to or use of any protected work, performance, or phonogram; or

1.2 Manufacture, import, distribute, offer to the public, provide, sell, offer for sale or otherwise market devices, products or components, or offer to the public or provide services that:

1.2.1 Are promoted, advertised, or marketed for the purpose of circumventing an effective technological measure;

1.2.2 Have only a limited commercially significant purpose or use other than circumventing an effective technological measure; or

1.2.3 Are designed, produced, or performed or executed primarily for the purpose of allowing or facilitating the reference to an effective technological measure;

m) The performance of any act that induces, permits, facilitates or conceals the infringement of any of the exclusive rights of authors, copyright holders, performers, producers of phonograms or broadcasting organizations;

n) The unauthorized removal or alteration of rights management information;

o) The distribution or import, for distribution, of rights management information, knowing that the rights management information was removed or altered without authorization to do so;

p) The distribution, marketing, promotion, importation, dissemination or communication or making available to the public, without authorization, of copies of works, performances, phonograms or broadcasts, knowing that the rights management information was removed or altered without authorization;

q) The transportation, storage or concealment of reproductions or copies or any type of tangible medium of protected works, phonograms, performances or broadcasts that have been made without the consent of the author or owner of the corresponding right;

The collection of profits from the use of protected works, performances, phonograms or broadcasts or the  
r) carrying out any other activity typical of a collective management company without authorization to do so;

- s) The disclosure of a new work without the consent of the author or the holder of the corresponding right;
- t) The translation of a work in whole or in part without the authorization of the author or holder of the corresponding rights;
- (u) The unauthorized distribution of a protected original work or phonogram or its legal reproductions for sale, long-term lease, rental, lease with option to purchase, loan, or any other form of payment; and
- v) The import or export of a protected original work or its reproductions, for commercial purposes, in any type of medium or phonogram without the authorization of the owner of the corresponding right.

Provisions n), o) and p) shall not apply to legally authorized activities carried out by government employees, officials, or contractors for law enforcement, intelligence, national defense, security, or other similar government purposes.

The exceptions contained in article 133 sexties of Decree Number 33-98 of the Congress of the Republic, Copyright and Related Rights Law and its amendments, will also be applicable to literal l) above.

The design, or the design and selection, of parts and components for consumer electronics, telecommunications, or computing products need not respond to a specific technological measure if the product does not infringe paragraph (l) of this section.

Information for rights management shall be understood as information when that described in the following paragraphs is attached to a copy of the work, performance or phonogram, or appears in relation to the communication or making available to the public of a work, performance or phonogram:

- 1) Information that identifies a work, performance, or phonogram, the author of the work, the performer of the performance, or the producer of the phonogram, or any other holder of a protected right in the work, performance, or phonogram;
- 2) Information on the terms and conditions of use of the work, performance, or phonogram; or
- 3) Any number or code that represents such information.

Effective technological measure: A technology, device, or component that, in the normal course of its operation, controls access to protected works, protected performances, phonograms, or any other protected material; or protects a copyright or a copyright-related right.

The assumptions contained in this provision shall be determined based on the applicable provisions of the Copyright and Related Rights Law.

#### **Destruction of computer records**

**ARTICLE 274 "A". (Added by Article 13 of Decree 33-96 and amended by Article 12 of Decree 31-2012, both of the Congress of the Republic).** Anyone who destroys, erases, or in any way renders useless, alters, or damages computer records shall be punished with imprisonment of six months to four years and a fine of two thousand to ten thousand Quetzales.

If the action contemplated in the preceding paragraph is intended to hinder a criminal investigation or prosecution, the person responsible shall be sanctioned in accordance with Article 458 Bis of this Code.

#### **Alteration of programs**

**ARTICLE 274 "B". (Added by Article 14 of Decree 33-96 of the Congress of the Republic).** The same penalty as the previous article shall apply to anyone who alters, erases, or in any way renders unusable the instructions or programs used by computers.

### **Reproduction of computer instructions or programs**

**ARTICLE 274 "C".** *(Added by Article 15 of Decree 33-96 of the Congress of the Republic).* Imprisonment of six months to four years and a fine of five hundred to two thousand five hundred quetzales shall be imposed on anyone who, without the author's authorization, copies or in any way reproduces computer instructions or programs.

### **Prohibited records**

**ARTICLE 274 "D".** *(Added by Article 16 of Decree 33-96 of the Congress of the Republic).* Imprisonment of six months to four years and a fine of two hundred to one thousand quetzales shall be imposed on anyone who creates a database or computer registry containing data that may affect the privacy of individuals.

### **Manipulation of information**

**ARTICLE 274 "E".** *(Added by Article 17 of Decree 33-96 of the Congress of the Republic).* Imprisonment of one to five years and a fine of five hundred to three thousand quetzales shall be imposed on anyone who uses computer records or computer programs to conceal, alter, or distort information required for a commercial activity, for the fulfillment of an obligation to the State, or to conceal, falsify, or alter the financial statements or the financial situation of a natural or legal person.

### **Use of information**

**ARTICLE 274 "F".** *(Added by Article 18 of Decree 33-96 and amended by Article 13 of Decree 31-2012, both of the Congress of the Republic).* Imprisonment of six months to two years and a fine of two thousand to ten thousand Quetzales shall be imposed on anyone who, without authorization, uses or obtains for himself or another, data contained in computer records, databases or electronic files.

### **Destructive programs**

**ARTICLE 274 "G".** *(Added by Article 19 of Decree 33-96 of the Congress of the Republic).* Anyone who distributes or puts into circulation destructive programs or instructions that may cause damage to records, programs, or computer equipment shall be punished with imprisonment of six months to four years and a fine of two hundred to one thousand quetzales.

### **Malicious alteration of source number.**

**ARTICLE 274 "H".** *(Added by Article 29 of Decree 8-2013 of the Congress of the Republic).* Anyone who, by any means, alters the number originating from a foreign telephone operator used exclusively for traffic international, or alter the identification number of the user who originates a telephone call, will be punished with imprisonment of six (6) to ten (10) years.

### **Violation of industrial property rights**

**ARTICLE 275.-** *(Amended by Article 216 of Decree 57-2000 and by Article 115 of Decree 11-2006, both of the Congress of the Republic).* Without prejudice to the corresponding civil liabilities, anyone who, without the consent of the rights holder, performs any of the following actions shall be punished with imprisonment of one to six years and a fine of fifty thousand to seven hundred fifty thousand quetzales:

- a) Introduces into commerce, sells, offers to sell, stores or distributes products or services protected by a registered distinctive sign or falsifies such signs in relation to products or services that are identical or similar to those protected by the registration;

b) Trades under a protected trade name, emblem, expression or advertising sign;

Introduce into commerce, sell, offer to sell, store or distribute products or services protected by a  
c) registered distinctive sign, after having altered, replaced or deleted said sign partially or totally;

d) Use, offer to sell, store, or distribute products or services with a registered trademark, similar in degree  
confusion with another, after a resolution has been issued ordering the discontinuation of the use of said trademark;

e) Produce labels, containers, wrappers, packaging or other similar materials that reproduce or contain the registered sign or an  
imitation or forgery thereof, and also market, store or display such materials;

f) Refill or reuse, for any purpose, containers, wrappers, labels or other packaging that bears a registered distinctive sign;

g) Use in commerce: labels, wrappers, containers and other means of packaging and wrapping, or products or the identification  
of services of a business, or copies, imitations or reproductions of said products and services that could induce error or confusion  
about the origin of the products or services;

h) Use or take advantage of another person's trade secret, and any act of improper commercialization, disclosure or acquisition  
of said secrets;

i) Reveal to a third party a trade secret that you know by virtue of your work, position, job, performance of your profession,  
business relationship or by virtue of the granting of a license for its use, after having been warned about the confidentiality of said  
information;

Obtain, by any means, a trade secret without the authorization of the person who has it, or his  
j) authorized user;

Produce, manufacture, market, offer to sell, put into circulation, store or display products  
k) protected by another person's patent;

Use a process protected by another person's patent or perform any of the acts  
l) indicated in the preceding paragraph in relation to a product directly obtained by said process;

m) Produce, prepare, market, offer to sell, put into circulation, store or display products that in themselves or in their presentation  
reproduce a protected industrial design;

n) Use in commerce, in relation to a product or service, a geographical indication that is likely to confuse the public as to the origin  
of said product or service, or as to the identity of the product, its manufacturer or the merchant who distributes it;

ñ) Use in commerce, in relation to a product, a designation of origin that is likely to cause confusion, even when the true origin of  
the product is indicated, a translation of the designation is used, or it is used together with expressions such as "type", "genre",  
"manner", "imitation" or others that are similar;

the) Import or export counterfeit goods to introduce them into the commercial circuit; and

p) Use in commerce a registered trademark, or a fraudulent copy or imitation of it, in relation to goods or services that are identical  
or similar to those to which the trademark applies.

The assumptions contained in this provision must be determined based on the applicable provisions of the Industrial Property Law.

#### Fraudulent alteration

**ARTICLE 275 BIS. (Repealed by Article 116 of Decree 11-2006 and Added again by Article 4 of Decree 9-2007, both of the Congress of the Republic. Repealed by Article 36 of Decree 8-2013 of the Congress of the Republic).** Any individual or legal entity that markets mobile terminals that have been reported as stolen or robbed and that appear on the BDTR (black list) established by each operator, as well as any person who reprograms

or in any way modifies, alters or reproduces in said mobile terminals, the Electronic Serial Number (ESN) of the mobile terminal equipment, the International Mobile Equipment Identity Number (IMEI), for the Global System for Mobile Communications (GSM), or any other identification characteristic of the mobile terminals, or reprograms, alters or fraudulently reproduces any Subscriber Identity Module (SIM) for the Global System for Mobile Communications (GSM), will be responsible for the crime of fraudulent alteration, which will be punished with a prison sentence of four (4) to six (6) years, and a fine of twenty-five thousand quetzales (Q.25,000.00) to fifty thousand quetzales (Q.50,000.00).

## CHAPTER VIII

### OF USURY

**Wear and tear**

**ARTICLE 276.-** The crime of usury is committed by anyone who demands from his debtor, in any form, an interest greater than the maximum rate established by law or that is evidently disproportionate to the service, even when the interest is covered up or disguised under other names.

Anyone responsible for usury will be punished with imprisonment of six months to two years and a fine of two hundred to two thousand quetzales.

#### Usury negotiations

**ARTICLE 277.-** The same sanction indicated in the preceding article shall be applied:

1st. To anyone who knowingly acquires, transfers or enforces a usurious credit.

2nd. To anyone who demands extortionate guarantees from his debtor.

## CHAPTER IX

### OF DAMAGES

**Damage**

**ARTICLE 278.-** Whoever intentionally destroys, renders useless, makes disappear or in any way damages, partially or totally, another's property, shall be punished with imprisonment from six months to two years and a fine of two hundred to two thousand quetzales.

#### Aggravated damage

**ARTICLE 279.-** It is specifically aggravated damage and will be punished with one third more than the penalty referred to in the previous article:

1. When it affects ruins or historical monuments, or if it is carried out on assets of scientific, artistic or cultural value.

2. When the damage is caused to military installations, bridges, roads, or other property for public or communal use.

3rd. When flammable, explosive, poisonous or corrosive substances are used in its commission.

## CHAPTER X

### OF THE COMMON PROVISIONS OF EXEMPTION FROM PENALTY

#### Exempt from criminal liability

**ARTICLE 280.-** The following are exempt from criminal liability and subject only to civil liability for theft, robbery with force, fraud, misappropriation and damages caused mutually:

1. Spouses or persons in a de facto union, unless they are separated in property or persons, and common-law partners.

2nd. Blood or family ascendants or descendants.

3. The widowed spouse, with respect to the things belonging to his or her deceased spouse, as long as they have not passed into the possession of another person.

4th. Siblings if they lived together.

This exemption does not apply to strangers who participate in the crime.

#### Consummative moment

**ARTICLE 281.-** The crimes of theft, robbery, fraud, and, where applicable, irregular appropriation, shall be deemed consummated at the moment in which the offender has the property under his control, after having carried out the respective seizure and removal, even if he abandons it or is dispossessed of it.

## TITLE VII

### ON CRIMES AGAINST COLLECTIVE SECURITY

## CHAPTER I

### OF THE FIRE AND THE HAVOC

#### Fire

**ARTICLE 282.-** Whoever intentionally causes fire to another's property shall be punished with imprisonment from two to eight years.

Setting fire to one's own property that endangers the life, physical integrity, or property of another shall be punishable by imprisonment of one to four years.

### **Aggravated fire**

**ARTICLE 283.-** A fire is specifically aggravated:

- 1st. The work in a building, house or shelter that is inhabited or intended for habitation.
- 2nd. The assignment in a convoy, vessel, aircraft or public transport vehicle.
3. Work carried out in a public building or one intended for public use, or for social assistance or cultural work; at an airport, or at a railway or motor vehicle station.
- 4th. The purpose of storing explosive or flammable substances.
- 5th. Anyone who destroys property of scientific, artistic or historical value.

Anyone responsible for aggravated arson will be punished with imprisonment of four to twelve years.

### **Damage**

**ARTICLE 284.-** Anyone who causes damage by using powerful means of destruction or by means of flooding, explosion, collapse or building collapse commits the crime of devastation.

Those responsible for the damage will be punished with imprisonment of five to fifteen years.

### **Fire and negligent damage**

**ARTICLE 285.-** Whoever negligently causes damage or fire shall be punished with imprisonment of one to three years.

If the death of one or more persons has resulted from the negligent fire or damage, the person responsible will be punished with imprisonment of two to five years.

### **Disabling defenses**

**ARTICLE 286.-** Whoever damages or renders useless installations, objects or works intended for common defense against disasters, giving rise to the danger of such disasters occurring, shall be punished with imprisonment from one to six years.

The same penalty shall be incurred by anyone who, in order to hinder or prevent the tasks of defense against a disaster, removes, hides or renders useless materials, instruments or other means intended for the aforementioned defense.

### **Manufacture or possession of explosive materials**

**ARTICLE 287.-** Anyone who, with the aim of contributing to the commission of crimes against collective security, manufactures, supplies, acquires, steals or possesses bombs, explosive, flammable, asphyxiating or toxic materials or substances or materials intended for their preparation, shall be punished with imprisonment from two to six years.

The same penalty shall be incurred by anyone who, knowing or having to presume that they are contributing to the commission of crimes against collective security, gives instructions for the preparation of the substances or materials referred to in the previous paragraph.

## CHAPTER II

### OF CRIMES AGAINST THE MEDIA,

### TRANSPORTATION AND OTHER PUBLIC SERVICES

#### Danger of rail disaster

**ARTICLE 288.-** Whoever impedes or disrupts the railway service in any of the following ways shall be punished with imprisonment of two to five years:

1. Destroying, damaging or disabling a railway line, rolling stock, railway work or installation.
- 2nd. Placing obstacles on the track that could cause derailment.
3. Transmitting false information regarding the movement of trains or interrupting telephone, telegraph, or radio communications.
- 4th. Practicing any other act that could result in disaster.

#### Rail disaster

**ARTICLE 289.-** If the events referred to in the previous article result in a disaster, the person responsible shall be punished with imprisonment from four to twelve years.

#### Attack on the security of maritime, river or air transport

**ARTICLE 290.-** Whoever endangers a vessel or aircraft, whether his own or another's, or commits any act tending to impede or hinder maritime, river or air navigation, shall be punished with imprisonment from two to five years.

#### Maritime, river or air disaster

**ARTICLE 291.-** If the acts referred to in the previous article result in the shipwreck or grounding of a vessel, or the crash or destruction of an aircraft, the person responsible shall be punished with imprisonment from four to twelve years.

#### Attack against other means of transport

**ARTICLE 292.-** Anyone who endangers another means of public transport, prevents it or hinders it, shall be punished with imprisonment of one to three years.

If the incident results in harm, the person responsible will be punished with imprisonment of two to five years.

#### Culpable disasters

**ARTICLE 293.-** Whoever negligently causes any of the disasters provided for in the previous articles of this chapter shall be punished with imprisonment from one to three years.

If the death of one or more persons or serious injuries result, the penalty will be two to six years in prison.

#### **Attack on the security of public utility services**

**ARTICLE 294.-** Anyone who endangers security, or prevents or hinders the operation of water, electricity, electric power or any other services intended for the public, shall be punished with imprisonment from one to five years.

#### **Attack on telecommunications services**

**ARTICLE 294 BIS.-** *(Added by Article 30 of Decree 8-2013 of the Congress of the Republic).* Commits an attack: a) Whoever in any way endangers security or hinders the installation, operation or maintenance of telecommunications services of any kind. b) Whoever in any way removes the infrastructure necessary for the provision of telecommunications services of any kind. Whoever commits this crime will be punished with imprisonment of six (6) to ten (10) years.

#### **Disruption to the installation, use or repair of data transmission equipment.**

**Article 294 TER.** *(Added by Article 11 of Decree 12-2014 of the Congress of the Republic, declared unconstitutional by judgment of the Constitutional Court of March 10, 2016, Accumulated files 2089-2014, 2303-2014, 2352-2014, 2412-2014, 2521-2014, 2547-2014, 2667-2014, 2689-2014, 2788-2014,*

*2859-2014, 3145-2014, 3171-2014, 3211-2014, 3257-2014 and 3678-2014).* Any person who obstructs, interrupts, suspends or in any way disrupts the installation, use or repair of data transmission infrastructure, to any person or entity that has an authorization in accordance with the Law on the Control of Mobile Telecommunications in Centers of Deprivation of Liberty and Strengthening of the Infrastructure for Data Transmission, commits the crime of disturbance to the installation, use or repair of data transmission equipment. The person responsible for this crime will be punished with imprisonment of six to eight years, a fine of five thousand to twenty-five thousand Quetzales and special disqualification.

If the person responsible for this crime is a public official or employee, the penalty will be increased by one third.

#### **Interruption or obstruction of communications**

**ARTICLE 295.-** Anyone who attempts against the security of telecommunications or postal communications, or by any means interrupts or hinders such services, shall be punished with imprisonment of two to five years.

#### **Seizure and invalidation of correspondence**

**ARTICLE 296.-** Anyone who attacks a mail carrier to intercept or detain it, to seize it or to render it unusable, shall be punished with imprisonment from three to six years.

#### **Disabling and obstructing defenses**

**ARTICLE 297.-** Anyone who, on the occasion of any of the disasters or damages included in this chapter, removes, hides or renders useless installations, materials, instruments or devices, or other means intended for defense or rescue work or prevents or hinders the provision of defense or rescue services, shall be punished with the same penalty as that corresponding to the perpetrators of the crime in question.

#### **Abandonment of transport service**

**ARTICLE 298.-** The driver, captain, pilot or mechanic of a railroad, ship, aircraft or any other means of public transportation, who abandons his post before the end of the respective trip, if the act does not constitute another crime punishable with a greater penalty, shall be punished with imprisonment from one month to one year and a fine of twenty to two thousand quetzales.

### **CHAPTER III**

#### **OF PIRACY**

##### **Piracy**

**ARTICLE 299.-** Anyone who commits an act of depredation or violence against a vessel or against persons on board at sea, on lakes or navigable rivers, without being authorized by a belligerent State or without the vessel through which the act is carried out belonging to the navy of a recognized State, commits the crime of piracy.

He also commits the crime of piracy:

1. Anyone who seizes a vessel or anything belonging to its luggage by means of fraud or violence committed against its commander.
- 2°. Anyone who hands over a vessel, its cargo or anything belonging to its crew to pirates.
3. Anyone who, with violence, opposes the commander or crew from defending the vessel attacked by pirates.
4. Anyone who, on their own behalf or on behalf of another, equips a vessel intended for piracy.
5. Anyone who, from within the national territory, traffics with pirates or provides them with assistance.

Those responsible for piracy will be punished with imprisonment of three to fifteen years.

##### **Air piracy**

**ARTICLE 300.-** The provisions contained in the previous article shall apply to anyone who commits piracy against aircraft or against persons on board.

### **CHAPTER IV**

#### **OF CRIMES AGAINST HEALTH**

##### **Spread of disease**

**ARTICLE 301.-** Anyone who intentionally spreads a disease that is dangerous or contagious to people shall be punished with imprisonment from one to six years.

##### **Illegal disposal of human organs or tissues**

**ARTICLE 301 BIS.** *(Added by Article 55 of Decree 9-2009 of the Congress of the Republic).* Anyone who participates in any illegal act involving the extraction, preservation, supply, trade, and use of organs or tissues from living persons or cadavers shall be punished with imprisonment of five to ten years.

#### **Poisoning of water or food or medicinal substances**

**ARTICLE 302.-** Anyone who intentionally poisons, contaminates or adulterates, in a manner that is dangerous to health, water for common or private use or food or medicinal substances intended for consumption, shall be punished with imprisonment from two to eight years.

The same penalty will be applied to anyone who knowingly delivers for consumption or stores for distribution adulterated or contaminated water or food or medicinal substances.

#### **Hazardous processing of foodstuffs**

**ARTICLE 303.-** *(Amended by Article 9 of Decree 28-2011 of the Congress of the Republic).* Anyone who produces food substances in a manner that is hazardous to health shall be punished with imprisonment of one to five years. The same penalty shall apply to anyone who knowingly markets substances that are harmful to health or that have been adulterated, deteriorated, or contaminated.

#### **Adulteration of medicines**

**ARTICLE 303 Bis.** *(Added by Article 10 of Decree 28-2011 of the Congress of the Republic).* Anyone who adulterates medications shall be punished with imprisonment of six to ten years. The same penalty shall apply to anyone who knowingly markets substances harmful to health, adulterated, contaminated, or prohibited medications.

#### **Production of counterfeit medicines, counterfeit pharmaceuticals, counterfeit medical devices and counterfeit surgical medical equipment**

**ARTICLE 303 TER.** *(Added by Article 11 of Decree 28-2011 of the Congress of the Republic).* Whoever fraudulently produces, manufactures, fabricates, conditions, wraps, packs and/or labels medicines, pharmaceutical products, medical devices or medical-surgical material, with respect to their identity or brand, to make it appear that they are original products, will be punished with imprisonment of six to ten years and a fine of fifty thousand to two hundred thousand Quetzales.

If this crime is committed by employees or legal representatives of a legal entity, seeking to benefit the entity, in addition to the criminal and monetary penalties applicable to those involved in the crime, the legal entity's registration in the Commercial Registry will be cancelled.

If the responsible party is a university professional who is in charge of a pharmaceutical establishment, they will also be sanctioned with special disqualification for twice the length of the sentence.

If as a result of the act, the illness of any person is produced or aggravated, the penalty will be from six to fifteen years of imprisonment. imprisonment, and if, as a consequence thereof, the death of any person results, he/she will be punished in accordance with the penalties established for the crime of homicide contemplated in article 123 of the Penal Code, Decree Number 17-73 of the Congress of the Republic of Guatemala.

#### **Distribution and marketing of counterfeit medicines, counterfeit pharmaceutical products, counterfeit medical devices and counterfeit surgical medical equipment**

**ARTICLE 303 QUÁTER.** *(Added by Article 12 of Decree 28-2011 of the Congress of the Republic).* Anyone who stores, distributes, imports, exports, markets, transports, sells, dispenses or makes available to the public by any means, including electronic or computer means, medicines, pharmaceutical products, medical devices or medical-surgical material that have been produced, manufactured, fabricated, packaged, wrapped, conditioned and/or labeled in a manner

fraudulent with respect to its identity or brand, to appear to be an original product, will be punished with imprisonment of six to ten years and a fine of fifty thousand to two hundred thousand Quetzales.

If this crime is committed by employees or legal representatives of a legal entity, seeking to benefit the entity, in addition to the criminal and monetary penalties applicable to those involved in the crime, the legal entity's registration in the Commercial Registry will be cancelled.

If as a result of the act, the illness of any person is produced or aggravated, the penalty will be from six to fifteen years of imprisonment. imprisonment, and if, as a consequence thereof, the death of any person results, he/she will be punished in accordance with the penalties established for the crime of homicide contemplated in article 123 of the Penal Code, Decree Number 17-73 of the Congress of the Republic of Guatemala.

#### **Clandestine establishments or laboratories**

**ARTICLE 303 QUINQUIES.** *(Added by Article 13 of Decree 28-2011 of the Congress of the Republic)*. Whoever directs, exploits, takes advantage of or uses an establishment, place, site, laboratory, container or vehicle without having the authorizations, licenses or permits from the corresponding health authority to produce, manufacture, fabricate, pack, condition, store, label, distribute, market, import, export, transport, supply, sell or dispense any type of medicine, pharmaceutical product or medical devices or medical-surgical material, will be punished with imprisonment of six to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

If this crime is committed by employees or legal representatives of a legal entity, seeking to benefit the entity, in addition to the criminal and monetary penalties applicable to those involved in the crime, the legal entity's registration in the Commercial Registry will be permanently cancelled.

If the responsible party is a university professional who is in charge of a pharmaceutical establishment, they will also be sanctioned with special disqualification for twice the length of the sentence.

#### **Irregular dispensing of medicines**

**ARTICLE 304.-** Anyone who, being authorized to sell medicines, supplies them without a medical prescription, when this is necessary, or in disagreement with it, will be punished with a fine of two hundred to three thousand quetzales.

The same penalty will apply to anyone who, being authorized to supply medication, does so in a type, quantity or quality different from that declared or agreed upon, or who sells it knowing that it has lost its therapeutic properties or after its expiration date.

#### **Violation of health measures**

**ARTICLE 305.-** Anyone who violates the measures imposed by law or those adopted by health authorities to prevent the introduction or spread of an epidemic, a plant pest or an epizootic likely to affect human beings shall be punished with imprisonment from six months to two years.

#### **Planting and cultivation of plants producing narcotic substances**

**ARTICLE 306.-** Anyone who, without authorization, sows or cultivates plants from which pharmaceuticals, drugs or narcotics can be extracted, shall be punished with imprisonment of three to five years, and a fine of five hundred to five thousand quetzales.

The same penalty will apply to anyone who trades, possesses or supplies seeds or plants from which pharmaceuticals, drugs or narcotics can be extracted.

#### **Illegal trafficking of pharmaceuticals, drugs or narcotics**

**ARTICLE 307.-** The following shall be punished with imprisonment of three to five years and a fine of five hundred to five thousand quetzales:

1. Anyone who illegally introduces pharmaceuticals, drugs, narcotics, or products intended for their preparation into the country.
2. Anyone who, without authorization, sells, delivers, transports or supplies pharmaceuticals, drugs or narcotics.
3. Anyone who, without authorization, retains, stores, or in any other way keeps in his or her possession pharmaceuticals, drugs, or narcotics, or products intended for their preparation.

### **Aggravated Forms**

**ARTICLE 308.-** (*Amended by Article 1 of Decree 10-77 of the Congress of the Republic*). The penalty indicated in the previous article shall be increased by one-third in the following cases:

1. When the commission of the crime occurs within public or private educational institutions or in their surroundings.
2. When the substance or product referred to in the previous article is provided to a minor.
3. When the perpetrator of the crime is a doctor, chemist, biologist, pharmacist, dentist, laboratory technician, nurse, obstetrician, midwife, person in charge of education, ministers of religion, and those responsible for the direction or leadership of groups. In addition, public officials and employees who take advantage of their position.
4. When the crimes referred to in the previous article involve international trafficking activities or have any connection with them.

In the cases of this section, the penalties will be non-commutable, the fines will be from five thousand to fifty thousand quetzales, and the civil liabilities, in the cases indicated in article 83 of the Criminal Procedure Code, will be set between ten thousand and one hundred thousand quetzales.

### **Facilitation of drug use**

**ARTICLE 309.-** Anyone who, not covered by the preceding articles, provides premises, even free of charge, for the trafficking or consumption of the substances or products referred to in this chapter shall be punished with imprisonment from two months to one year and a fine of one hundred to one thousand quetzales.

### **Induction to the use of narcotics**

**ARTICLE 310.-** Anyone who instigates or induces another person to use narcotic substances, or contributes to stimulating or spreading the use of said substances, shall be punished with imprisonment of three to five years and a fine of five hundred to five thousand quetzales.

### **Illegal burials and exhumations**

**ARTICLE 311.-** Anyone who carries out burial, exhumation or transfer of a corpse or human remains in violation of the corresponding health provisions shall be punished with imprisonment of one to six months and a fine of fifty to three hundred quetzales.

### **Negligence crimes**

**ARTICLE 312.-** If the acts included in articles 301, 302, 303 and 304 have been committed negligently, the person responsible shall be punished with the penalty corresponding to the crime, reduced by two-thirds.

TITLE VIII

\*ON CRIMES AGAINST PUBLIC FAITH AND NATIONAL HERITAGE

*\*(Title amended by Article 20 of Decree 33-96 of the Congress of the Republic).*

CHAPTER I

ON COUNTERFEITING CURRENCY

**Manufacture of counterfeit currency**

**ARTICLE 313.-** Whoever makes counterfeit currency imitating legitimate national or foreign currency, legal tender in the Republic or outside of it, will be punished with imprisonment from two to ten years.

**Currency alteration**

**ARTICLE 314.-** Anyone who alters, in any way, legitimate national or foreign currency, legal tender in the Republic or outside of it, shall be punished with imprisonment from two to ten years.

**Introduction of counterfeit or altered currency**

**ARTICLE 315.-** The sanctions indicated in the previous articles shall be applied, in the respective cases, to those who knowingly introduce counterfeit or altered currency into the country.

**Issuance of counterfeit or altered currency**

**ARTICLE 316.-** Whoever knowingly acquires or receives counterfeit or altered currency and puts it into circulation in any way shall be punished with the same penalty as that indicated in the respective cases for those who counterfeit or alter currency.

**Currency curtailment**

**ARTICLE 317.-** Whoever cuts legitimate currency or knowingly introduces cut currency into the country or puts it into circulation shall be punished with imprisonment from six months to two years.

**Issuance of counterfeit currency received in good faith**

**ARTICLE 318.-** Whoever, having received in good faith, counterfeit, altered or clipped currency, expends it or puts it into circulation, knowing of its counterfeitness, alteration or clipping, shall be punished with a fine of fifty to two thousand quetzales.

### **Issuance and circulation of currency**

**ARTICLE 319.-** Anyone who illegally issues monetary coins or circulates them within the territory of the Republic shall be punished with imprisonment from three to twelve years.

The same penalty shall apply to anyone who circulates banknotes, vouchers, promissory notes, or other documents containing an order or promise of payment in cash, to bearer or on demand, or tokens, cards, small plates, or other objects intended to be used as currency.

### **Values equivalent to currency**

**ARTICLE 320.-** For the purposes of criminal law, the following are considered currency:

- 1st. The legal tender banknote, national or foreign.
- 2nd. National or municipal debt securities and their coupons.
- 3rd. Bonds or bills of the national or municipal treasury.
4. Titles, bonds, and bearer shares and their coupons, issued officially by legally authorized entities, whether public or private.
5. Titles, bonds and bearer shares, their coupons, and bonds and bills issued by a foreign government.

### **Exchange Crime**

**Article 320-A.-** *(Added by Decree Law 29-85 and repealed by Decree Law 36-85, both of the Head of State).* The following shall be punished with imprisonment of two to five years and a fine equivalent to the amount of the unlawful act:

- 1st. Anyone who, without authorization, negotiates foreign currency in any form within or outside the national territory;
- 2nd. Anyone who, having been authorized to negotiate in foreign currency, does not use it for the declared purposes;
- 3rd. Anyone who falsifies, alters, conceals or omits declarations or documentation to buy or sell foreign currency;
- 4th. Anyone who presents invoices or any document in which values different from those actually borne by the imported or exported products or merchandise are stated;
- 5th. Anyone who is obliged to declare or sell foreign currency and does not do so within the stipulated time;
- 6o. Anyone who hides or denies, or gives inaccurate information about currencies;
- 7th. Anyone who imports or exports national currency or negotiates it in any way outside the territory of the Republic; and,
- 8th. Exporters, importers and, in general, any persons who carry out transactions that involve international transfers, or who refuse to give free access to their books, records and receipts to inspectors.  
appointed by the Monetary Board or the Foreign Exchange Department of the Bank of Guatemala.

In proceedings brought for the crime referred to in this article, release on bail may not be granted.

## ON THE FORGERY OF DOCUMENTS

### Material forgery

**ARTICLE 321.-** Whoever makes a false public document, in whole or in part, or alters a true one, in such a way that it may cause harm, shall be punished with imprisonment from two to six years.

### Ideological falsehood

**ARTICLE 322.-** Whoever, on the occasion of the granting, authorization or formalization of a public document, inserts or makes inserting false statements concerning a fact that the document is intended to prove, in such a way that it may cause harm, will be punished with imprisonment of two to six years.

### Forgery of private documents

**ARTICLE 323.-** Anyone who, in a private document, commits any of the falsifications referred to in the two previous articles, shall be punished with imprisonment from one to three years.

### Document equivalence

**ARTICLE 324.-** When the acts provided for in the first two articles of this chapter fall on credit instruments, nominative or to order, or on bills of exchange, or other instruments transferable by endorsement, the person responsible shall be sanctioned, in the respective cases, with the penalty established in the same articles.

### Use of forged documents

**ARTICLE 325.-** Anyone who, without having participated in the forgery, uses a forged document, knowing that it is false, shall be punished with the same penalty as that which corresponds to the author of the forgery.

### Forgery in certificate

**ARTICLE 326.-** Any physician who issues a false certificate concerning the existence or non-existence, present or past, of an illness or injury, when harm may result from it, shall be punished with a fine of three hundred to three thousand quetzales.

### Deletion, concealment or destruction of documents

**ARTICLE 327.-** Whoever destroys, conceals or suppresses, in whole or in part, a true document, of the nature of those specified in this chapter, shall be sanctioned with the penalties indicated in the previous articles, in their respective cases.

The same penalty shall apply to anyone who, with the intention of evading justice, commits the acts referred to in the previous paragraph with respect to documents or objects that constitute evidence.

### Electoral aggravation

**ARTICLE 327 "A".** *(Added by Article 2 of Decree 4-2010 of the Congress of the Republic).* The penalties established for the crimes defined in this chapter shall be increased by half when committed for electoral purposes.

The penalty will be increased by two-thirds if the crime is committed by a magistrate, official or employee of the Supreme Electoral Tribunal, member of the Departmental Electoral Board, Municipal Electoral Board, Voting Board, official or employee of the State of any of its autonomous, decentralized and non-governmental bodies or institutions, regardless of their form of election or type of legal employment relationship, and in addition to the penalty, disqualification from holding any public office or position they hold will be applied.

#### **Aggravation for immigration crimes.**

**Article 327 B.** *(Added by Article 11 of Decree 10-2015 of the Congress of the Republic).* The penalties established for the crimes typified in Articles 240, 321, 322 and 325 of this Code shall be increased by one third when they are committed to commit the crimes or misdemeanors provided for in Decree Number 95-98 of the Congress of the Republic, Migration Law.

### **CHAPTER III**

#### **ON THE FORGERY OF STAMPS, PAPER**

#### **SEALING, POSTAGE STAMPS, STAMPS**

#### **AND OTHER TAX SPECIES**

#### **Forgery of stamps, stamped paper and stamps**

**ARTICLE 328.-** Whoever falsifies official seals, stamped paper, postage stamps, tax stamps, or any other type of sealed or stamped effects whose issuance is reserved to the authority or controlled by it, or whose purpose is the collection of taxes, shall be liable to the authorities. taxes, will be punished with imprisonment of two to six years.

The same penalty will be applied to anyone who knowingly introduces them into the territory of the Republic, sells them or uses them.

#### **Counterfeiting lottery tickets**

**ARTICLE 329.-** Anyone who falsifies duly authorized lottery tickets or alters genuine tickets shall be punished with imprisonment of two to six years.

The same penalty will be applied to anyone who knowingly introduces them into the territory of the Republic, sells them or uses them.

#### **Forgery of license plates and vehicle badges**

**ARTICLE 330.-** Anyone who falsifies license plates or other vehicle identification marks, which the authorities agree upon for these, or alters the real ones, shall be punished with imprisonment from one to three years.

The same penalty will apply to anyone who knowingly uses falsified or altered license plates or vehicle badges.

### **Forgery of passwords and trademarks**

**ARTICLE 331.-** Anyone who falsifies marks, passwords or signatures officially used to contrast weights or measures, identify any object or certify its quality, quantity or content, shall be punished with imprisonment from one to four years.

The same penalty will be imposed on anyone who applies legitimate, official-use marks or passwords to objects or items other than those to which they should have been applied.

### **Use of unused stamps and other effects**

**ARTICLE 332.-** Whoever removes from any of the seals, stamps, marks or passwords the sign that indicates that it has already served or been used for the purpose of its issue, or is used again, will be sanctioned with a fine of two hundred to two thousand quetzales.

The same penalty shall apply to anyone who knowingly uses, causes to be used or puts up for sale the unusable effects referred to in the preceding paragraph.

## **\*CHAPTER IV**

### **\*ON THE DEPREDATION OF THE NATIONAL HERITAGE**

***\*(Chapter added by Article 22 of Decree 33-96 of the Congress of the Republic).***

### **Theft and robbery of national treasures**

**ARTICLE 332 "A".** *(Added by Article 23 of Decree 33-96 of the Congress of the Republic).* A prison sentence of two to ten years shall be imposed in the case of Article 246, and a prison sentence of four to fifteen years in the case of Article 251, when the appropriation involves:

- 1) Collections and rare specimens of fauna, flora or minerals, or objects of paleontological interest.
- 2) Goods of scientific, cultural, historical or religious value.
- 3) Antiques older than a century, inscriptions, coins, engravings, tax or postage stamps of philatelic value.
- 4) Objects of ethnological interest.
- 5) Manuscripts, books, documents and old publications with historical or artistic value;
- 6) Works of art, paintings, drawings, prints and original lithographs, with historical or cultural value.
- 7) Sound, photographic or cinematographic archives with historical or cultural value.
- 8) Articles and furniture objects that are more than two hundred years old and antique musical instruments with historical or cultural value.

The penalty shall be increased by one-third when committed by public officials or employees or by persons who, by virtue of their position or function, must have the custody of the property protected by this article.

### **Theft and robbery of archaeological objects**

**ARTICLE 332 "B".** *(Added by Article 24 of Decree 33-96 of the Congress of the Republic).* Imprisonment of two to ten years shall be imposed in the case of Article 246 and imprisonment of four to fifteen years in the case of Article 251, when the appropriation falls on:

- 1) Products of regular or clandestine archaeological excavations, or archaeological discoveries.
- 2) Ornaments or parts of archaeological or historical monuments, paintings, engravings, steles or any object that forms part of the historical or archaeological monument.
- 3) Pieces or objects of archaeological interest, even if they are scattered or located on abandoned land.

The penalty shall be increased by one-third when committed by public officials or employees or by persons who, by virtue of their position or function, must have the custody of the property protected by this article.

#### **Trafficking in national treasures**

**ARTICLE 332 "C".** *(Added by Article 25 of Decree 33-96 of the Congress of the Republic).* Imprisonment of six to fifteen years and a fine of five thousand to ten thousand quetzales shall be imposed on anyone who commercializes, exports, or in any way transfers ownership or possession of any of the goods indicated in the preceding articles without state authorization.

The same penalty will be imposed on anyone who purchases or otherwise acquires stolen or robbed cultural property. If the acquisition is made through negligence, the penalty will be reduced by half.

#### **Extinction of the action or penalty**

**ARTICLE 332 "D".** *(Added by Article 26 of Decree 33-96 of the Congress of the Republic).* In the case of crimes defined in this title, the action or penalty shall be extinguished if the stolen or trafficked object, or all of the stolen or trafficked objects, are voluntarily and without any request, handed over to a competent judge, who shall deliver them to the Ministry of Culture and Sports.

### **\*CHAPTER V**

#### **\*OF THE COMMON PROVISIONS**

***\*(Chapter modified by Article 21 of Decree 33-96 of the Congress of the Republic, in the sense that it was Chapter IV and is now Chapter V).***

#### **Possession of forgery instruments**

**ARTICLE 333.-** Whoever manufactures, introduces into the national territory, or retains in his possession, stamps, seals, marks or other instruments or tools known to be intended to commit any of the forgeries referred to in this title, shall be punished with imprisonment from six months to two years.

#### **Improper emissions**

**ARTICLE 334.-** Those who direct or administer a bank or institution, who in the course of their duties, authorize the manufacture or issue of coins with a lower fineness or weight than the legitimate coins, or banknotes or any bearer securities, certificates or shares, in a quantity greater than that authorized or under conditions different from those prescribed for the case, shall be punished with imprisonment from one to six years and disqualification, where appropriate, in accordance with article 56 of this Code for double the sentence.

## TITLE IX

### ON CRIMES OF PERSONAL FALSEHOOD

#### Usurpation of functions

**ARTICLE 335.-** Anyone who, without a title or legitimate cause, performs acts proper to an authority or official, attributing himself an official character, shall be punished with imprisonment of one to three years.

#### Usurpation of quality

**ARTICLE 336.-** (*Amended by Article 4 of Decree 38-2000 of the Congress of the Republic*). Anyone who claims to have an academic title or performs acts that are the responsibility of professionals, without having a title or special authorization, shall be punished with imprisonment of five to eight years, and a fine of fifty thousand to two hundred thousand quetzales.

If the result of the illegal exercise results in harm to a third party, the penalty indicated in the preceding paragraph will be increased by one third.

#### Public use of assumed name

**ARTICLE 337.-** Anyone who publicly uses a false name shall be punished with a fine of five hundred to three thousand quetzales.

If the use of an assumed name is intended to conceal a crime, evade a sentence, or cause harm to the State or a private individual, in addition to the penalty indicated in the preceding paragraph, the person responsible will be sentenced to imprisonment of one to two years.

#### Illegitimate use of identity document

**ARTICLE 338.** (*Amended by Article 3 of Decree 4-2010 of the Congress of the Republic*). Anyone who uses another person's passport or legitimate identity document as their own shall be punished with imprisonment of one to three years.

The same penalty will apply to anyone who gives their own passport or legitimate identity document to another person for use.

The penalty will be increased by half when the illegitimate use of the identity document is for electoral purposes.

If the crime is committed by an official or employee of the Supreme Electoral Tribunal, a member of the Departmental Electoral Board, a Municipal Electoral Board, a Voting Board, a public official or employee of any of its autonomous, decentralized, and non-governmental bodies or institutions, regardless of their form of election or type of legal employment relationship, the penalty shall be disqualification from holding any public office or position in addition to the penalty.

#### Improper use of uniforms and insignia

**ARTICLE 339.-** Whoever publicly and improperly uses a suit or uniform of an institution to which he does not belong, or insignia or decorations that he is not authorized to wear, shall be punished with a fine of one hundred to five hundred quetzales.

**TITLE X**

**OF CRIMES AGAINST THE ECONOMY**

**NATIONAL, COMMERCE, INDUSTRY AND**

**THE TAX REGIME**

**\*CHAPTER I**

**\*ON CRIMES AGAINST THE ECONOMY**

**NATIONAL AND THE ENVIRONMENT**

***\*(Chapter amended by Article 27 of Decree 33-96 of the Congress of the Republic).***

**Monopoly**

**ARTICLE 340.-** Whoever, with illicit purposes, carries out acts that are evidently detrimental to the national economy, absorbing the production of one or more industrial branches, or of the same commercial or agricultural activity, or takes exclusive advantage of them through some privilege, or using any other means, or carries out maneuvers or agreements, even if they are disguised by the creation of several companies, to sell goods at certain prices that are evidently detrimental to the national economy or to individuals, shall be punished with imprisonment of six months to five years and a fine of five hundred to ten thousand quetzales.

**Other forms of monopoly**

**ARTICLE 341.-** The following are also considered acts of monopoly contrary to the public economy and the social interest:

1. Hoarding or theft of basic necessities for the purpose of driving up prices in the domestic market.
2. Any act or procedure that prevents or proposes to prevent free competition in production or trade.
3. Agreements or pacts entered into without prior government authorization, aimed at limiting the production or manufacture of any article, with the purpose of establishing or maintaining privileges and profiting from them.
4. The sale of goods of any kind below cost price, with the aim of preventing free competition in the domestic market.
5. The export of essential goods without permission from the competent authority, when required, if this could lead to shortages or high prices.

Anyone responsible for any of the above-mentioned acts will be punished with imprisonment of six months to three years and a fine of two hundred to five thousand quetzales.

**Speculation**

**ARTICLE 342.- (Amended by Article 5 of Decree 38-2000 of the Congress of the Republic).** Whoever, by spreading false rumors, propagating false news or using any other similar device, diverts or falsifies the natural economic laws of supply and demand, or breaks the ordinary conditions of the market, producing through these manipulations, the unjustified increase or decrease in the value of the legal tender currency, or in the current price of merchandise, public or private income, marketable securities, salaries or any other thing that is the object of contracting, shall be punished with imprisonment of one to five years and a fine of one thousand to one hundred thousand quetzales.

In the event that the crime contemplated in this article is established in a chain of businesses, it must be considered as an independent crime for each one in which the crime in question is committed.

#### **Exchange crime**

**ARTICLE 342-A.- (Added by Article 1 of Decree-Law 94-85 of the Head of State).** The following person commits a currency exchange crime:

- 1) Whoever does not sell to the Bank of Guatemala or to the Banks of the system authorized to operate in exchange, the currencies that he is obliged to negotiate, within the established legal time;
- 2) Anyone who, without being legally authorized, habitually and for profit, engages in buying and selling foreign currency;
- 3) Anyone who, in order to carry out imports or exports, makes or uses a false invoice or other document or one that contains false or inaccurate data about the value, quantity, quality or other characteristics of those operations;
- 4) Anyone who makes exports without having previously obtained the export exchange license or other legally necessary authorization;
- 5) Anyone who, through fraud or deception, obtains a license to acquire foreign currency from the market intended for essential payments or from the bidding market, or who uses said foreign currency for a purpose other than that authorized.

Those responsible for currency exchange offenses will be punished with two to five years in prison. They will also be fined the equivalent of the amount of the illegal act, when the amount can be determined, or five hundred to five thousand quetzales, otherwise.

#### **Financial Panic Crime**

**ARTICLE 342.-"B" (Added by Article 1 of Decree 64-2008 of the Congress of the Republic).** Anyone who creates, disseminates, or reproduces, by any means or communication system, false or inaccurate information that undermines the confidence of the clients, users, depositors, or investors of an institution subject to the supervision and inspection of the Superintendency of Banks shall be deemed to have undermined the confidence of the clients, users, depositors, or investors of an institution when, as a consequence of the aforementioned acts, its reputation or financial prestige is jeopardized, or it is subject to a massive withdrawal of deposits or investments, greater than or exceeding its normal or ordinary flow.

The person responsible for committing this crime will be punished with imprisonment of one to three years and a fine of five thousand to fifty thousand Quetzales.

If the crime is committed knowingly or foreseeing the damage or harm it would cause to the institution, the perpetrator shall be punished with a non-commutable prison sentence of five to ten years and a fine of one hundred thousand to eight hundred thousand quetzales. In this case, none of the alternative measures contemplated in the Code of Criminal Procedure may be granted.

The penalties referred to in this article shall be increased by one-third when the person responsible for the crime is a shareholder, director, administrator, manager, representative, official, or employee of an institution subject to the supervision and inspection of the Superintendency of Banks, or an authority, official, or employee of the Bank of Guatemala or the Superintendency of Banks.

The authors of studies, analyses and opinions of a scientific or academic nature that, based on authentic and verifiable information, are aimed at evaluating or qualifying the financial system or its actors, seeking to maximize their efficiency and development.

#### **Destruction of raw materials or agricultural or industrial products**

**ARTICLE 343.-** Anyone who destroys raw materials or agricultural or industrial products, or any other means of production, causing serious damage to the national economy or to consumers, shall be punished with imprisonment of one to three years and a fine of three hundred to three thousand quetzales.

#### **Spread of disease in plants or animals**

**ARTICLE 344.-** Anyone who spreads a disease in animals or plants that is dangerous to livestock or agricultural wealth will be punished with a fine of three hundred to three thousand quetzales.

#### **Culpable propagation**

**ARTICLE 345.-** If the crime referred to in the previous article is committed negligently, the person responsible shall be punished with a fine of fifty to one thousand quetzales.

#### **Illegal exploitation of natural resources**

**ARTICLE 346.-** *(Amended by Article 1 of Decree 28-2001 of the Congress of the Republic).* Whoever exploits mineral resources, construction materials, rocks and natural resources contained in the territorial sea, submarine platform, national rivers and lakes, without having the respective license or authorization, or whoever has it, fails to comply with or exceeds the conditions provided therein, will be punished with imprisonment of two to five years and the confiscation of the tools, instruments and machinery that were used in the commission of the crime.

If this crime is committed by employees or legal representatives of a legal entity or company, seeking to benefit the latter, in addition to the penalties applicable to those involved in the crime, the legal entity or company will be imposed a fine of five thousand to twenty-five thousand quetzales. If the offense is repeated, the legal entity or company will be sanctioned with permanent cancellation.

Those who fish or hunt occasionally, for sport or to feed their family are exempt.

#### **Crime against forest resources**

**ARTICLE 347.-** *(Repealed by Article 116, paragraph r) of Decree 101-96 of the Congress of the Republic, Forestry Law).* Whoever, in violation of legal requirements or the provisions of the competent authority, exploits, cuts down or destroys in whole or in part a forest, reforestation, plantation or cultivation or public nursery; shall be punished with imprisonment of six months to two years and a fine of fifty to two thousand quetzales.

#### **Pollution**

**ARTICLE 347 "A".** *(Added by Article 28 of Decree 33-96 of the Congress of the Republic).* Anyone who pollutes the air, soil, or water through toxic emissions, excessive noise, dumping hazardous substances, or disposing of products that may harm people, animals, forests, or plantations shall be punished with imprisonment of one to two years and a fine of three hundred to five thousand quetzales.

If contamination is caused negligently, a fine of two hundred to one thousand five hundred quetzales will be imposed.

#### **Industrial pollution**

**ARTICLE 347 "B".** *(Added by Article 29 of Decree 33-96 of the Congress of the Republic).* A prison sentence of two to ten years and a fine of three thousand to ten thousand quetzales shall be imposed on the Director, Administrator, Manager, Owner or Beneficiary of a

Industrial exploitation or commercial activity that permits or authorizes, in the exercise of commercial or industrial activity, the contamination of air, soil or water, through toxic emissions, excessive noise, dumping hazardous substances or disposing of products that may harm people, animals, forests or plantations.

If the pollution occurs in a town or its surroundings, or affects plantations or water intended for public use, the prison sentence will be doubled and one-third of the maximum.

If contamination is caused by negligence, a prison sentence of one to five years and a fine of one thousand to five thousand quetzales will be imposed.

In the two previous articles, the penalty will be increased by one third if the pollution results in a permanent alteration of environmental or climatic conditions.

#### **Responsibility of the official**

**ARTICLE 347 "C".** *(Added by Article 30 of Decree 33-96 of the Congress of the Republic).* The same penalties indicated in the previous article shall apply to public officials who approve the installation of a polluting industrial or commercial operation, or consent to its operation. If this is done through negligence, the penalty shall be six months to one year in prison and a fine of one thousand to five thousand quetzales.

#### **Forest protection**

**ARTICLE 347 "D".** *(Added by Article 31 of Decree 33-96 and Repealed by Article 116, paragraph s) of Decree 101-96, both of the Congress of the Republic).* Anyone who cuts down forests or markets or exports the product of such felling, without state authorization or even if they have it, without complying with or exceeding the conditions set forth in the authorization shall be sentenced to two to ten years in prison. In addition to the prison sentence, a fine of two hundred to seven thousand quetzales shall be imposed for each tree cut down, marketed, or exported. The penalty shall be five to fifteen years in prison and a fine of one thousand to ten thousand quetzales if the tree is an endangered species or if the felling is carried out in a protected area or national park.

#### **Wildlife protection**

**ARTICLE 347 "E".** *(Added by Article 32 of Decree 33-96 of the Congress of the Republic).* Anyone who hunts animals, birds, or insects without state authorization or, if they have one, without complying with or exceeding the conditions set forth in the authorization shall be sentenced to one to five years in prison. The penalty shall be increased by one-third if the hunt takes place in a protected area or national park.

## **CHAPTER II**

### **ON PUNISHABLE BANKRUPTCY AND INSOLVENCY**

#### **Fraudulent bankruptcy**

**ARTICLE 348.-** *(Amended by Article 6 of Decree 38-2000 of the Congress of the Republic).* Any merchant who has been declared bankrupt shall be punished with imprisonment of two to ten years and special disqualification for twice the term of the sentence.

In the case of fraudulent bankruptcy of a bank, insurance company, reinsurance company, surety company, reinsurance company, financial institution, general deposit warehouse, stock exchange, savings cooperative, mutual entity, and other similar institutions, the directors, administrators, managers, liquidators and shareholders who are responsible, or have benefited from the mismanagement, or have cooperated in the planning or execution, or both, of any of the acts that caused it, will be sanctioned with

Imprisonment of twenty to thirty years and special disqualification for twice the term of the sentence. The statute of limitations on criminal liability and the penalty shall not benefit the person responsible for the bankruptcy declared fraudulent in the event of flight or evasion. No alternative measure may be applied to the defendant, nor may a person sentenced to prison for this crime be granted a reduction in their sentence for any reason.

#### **Guilty bankruptcy**

**ARTICLE 349.-** *(Amended by Article 7 of Decree 38-2000 of the Congress of the Republic).* Any merchant declared bankrupt shall be punished with imprisonment of one to five years and special disqualification for twice the term of the sentence.

In the case of culpable bankruptcy of a bank, insurance company, reinsurance company, surety company, reinsurance company, financial institution, general deposit warehouse, stock exchange, savings cooperative, mutual fund entity, and other similar institutions, the directors, administrators, managers, liquidators and shareholders who are responsible, or have benefited from the mismanagement, or have cooperated in the planning or execution, or both, of any of the acts that caused it, shall be punished with imprisonment of ten to twenty years and special disqualification for double the term of the sentence. The statute of limitations on criminal liability and the penalty shall not benefit the person responsible for the bankruptcy declared culpable, in case of flight or evasion. It may not be applied to the

processed any kind of alternative measure nor be granted for any reason to the person sentenced to prison for that crime, a reduction of the sentence.

#### **Personal responsibility**

**ARTICLE 350.-** When a commercial company is declared bankrupt, any director, administrator or liquidator of the failed company or establishment who has cooperated in the execution of any of the illegal acts that gave rise to it, shall be punished with the same penalty as that imposed on a fraudulent or culpable bankrupt, as the case may be.

#### **Complicity**

**ARTICLE 351.-** Those who commit any of the following acts shall be punished as accomplices to the crime of fraudulent bankruptcy:

1. Conspiring with the bankrupt to create or increase claims against him or her, altering their nature or timing in order to preempt them in ranking, to the detriment of other creditors, even when this occurs before the bankruptcy declaration.
2. Having assisted the bankrupt in the removal, theft or concealment of his assets.
3. Concealing from the bankruptcy administrators the existence of assets belonging to the bankruptcy that are in the possession of the responsible party, or handing them over to the bankrupt and not to the administrators.
4. Verify with the bankrupt private agreements to the detriment of other creditors.

#### **Lifting of assets**

**ARTICLE 352.-** Whoever, on purpose and in order to avoid paying his obligations, takes possession of his property, alienates it, encumbers or conceals it, simulates credits or alienations, without leaving a person to represent him, or sufficient property to respond to the payment of his debts, will be punished with imprisonment of two to six years and a fine of two hundred to three thousand quetzales.

If the person responsible is a merchant, he or she will also be punished with special disqualification for twice the length of the sentence.

#### **Bankruptcy of an irregularly constituted company**

**ARTICLE 353.-** For the purposes of the provisions of this Code, the bankruptcy of any company formed without the legal requirements shall be considered fraudulent, and those who form them shall be subject to the sanctions established in article 350.

#### **Non-merchant bankrupt**

**ARTICLE 354.-** The non-commercial bankrupt whose insolvency is the result, in whole or in part, of any of the following facts, shall be punished with imprisonment of one to two years:

1. Having incurred excessive and unbalanced domestic or personal expenses in relation to his fortune, taking into account the circumstances of his rank and family.
- 2nd. Having suffered, in any kind of game, losses that exceed what a good father of a family risks in entertainment of this kind by way of recreation.
3. Having suffered losses in large bets, simulated purchases and sales, and other profiteering operations, the success of which depends exclusively on chance.
- 4th. Having sold, with significant depreciation, assets whose price was owed.
5. Delaying the filing for bankruptcy when its liabilities are three times greater than its assets.

Those who carry out any of the acts listed in Article 351 of this Code against the bankrupt shall be punished as accomplices of the crime provided for in this article.

### **CHAPTER III**

#### **ON CRIMES AGAINST INDUSTRY AND COMMERCE**

##### **Infidelity**

**ARTICLE 355.-** *(Repealed by Article 220 of Decree 57-2000 of the Congress of the Republic, Industrial Property Law)*. Whoever, knowing a secret of industry or commerce, or of another economic importance and which he cannot freely dispose of, divulges it or uses it for himself or for a third party, shall be punished with imprisonment of six months to two years and a fine of two hundred to two thousand quetzales.

##### **Misuse of trade name**

**ARTICLE 356.-** *(Repealed by Article 220 of Decree 57-2000 of the Congress of the Republic, Industrial Property Law)*. Anyone who improperly uses a trade name or the name of an establishment belonging to another or non-existent company shall be punished with imprisonment of six months to two years and a fine of one hundred to five hundred quetzales. The same penalty shall apply to anyone who, as a means of propaganda, attributes to themselves a reward or distinction that they have not obtained.

##### **Commercial discredit**

**ARTICLE 357.-** Whoever falsely imputes to another a fact that harms the credit, trust or prestige that he deserves in his commercial activities, shall be punished with a fine of two hundred to two thousand quetzales, if the fact does not constitute another more serious crime.

## Unfair competition

**ARTICLE 358.-** *(Amended by Article 217 of Decree 57-2000 of the Congress of the Republic, Industrial Property Law)*. Whoever carries out an act classified as unfair competition, in accordance with the provisions on this matter contained in the Industrial Property Law, shall be punished with a fine of fifty thousand to one hundred thousand quetzales, except when the act constitutes an act of violation of industrial property rights as defined in Article 275 of this Code.

## CHAPTER IV

### OF CRIMES AGAINST THE TAX REGIME

#### Tax evasion

**ARTICLE 358 "A".** *(Amended by Article 4 of Decree 30-2001 of the Congress of the Republic)*. Anyone who, through simulation, concealment, maneuvering, trickery, or any other form of deception, misleads the tax administration in the determination or payment of a tax obligation, in such a way as to cause detriment or impairment to tax collection, commits the crime of tax evasion.

Anyone responsible for this crime will be punished with imprisonment of one to six years, which the judge will determine based on the severity of the case, and a fine equivalent to the amount of the omitted tax.

If the crime is committed by a foreign person, in addition to the penalties to which they have been subject, they will be subject to expulsion from the national territory, which will be carried out immediately after they have served their sentence.

#### Special cases of tax evasion

**ARTICLE 358 "B".** The following shall be subject to the penalties indicated in the previous article:

1. Anyone who uses goods, objects or products benefiting from exemptions or franchises for purposes other than those established in the law granting the exemption or franchise, without having paid the taxes that would be applicable to the benefited goods, objects or products.

2. *(Amended by Article 5 of Decree 30-2001 of the Congress of the Republic)*. Anyone who clandestinely markets goods, evading fiscal control or the payment of taxes.

A person acting clandestinely is considered to be someone who, whether or not they have an establishment open to the public, engages in commercial activities and lacks a business license; or who, having one, fails to keep the accounting records required by the Commercial Code and the Value Added Tax Law.

3. *(Amended by Article 5 of Decree 30-2001 of the Congress of the Republic)*. Anyone who falsifies, tampers with, or destroys stamps, seals, stamps, or other means of tax control, as well as anyone who, while in charge of said means of tax control, misuses them or allows others to do so.

4. Anyone who destroys, alters or conceals the characteristics of the goods, or fails to indicate their destination or origin.

5. Anyone who creates a false invoice or document, in whole or in part, that is not authorized by the Tax Administration, with the intention of affecting the determination or payment of taxes.

6. Anyone who keeps double or multiple accounts to negatively affect the determination or payment of taxes.

7. *(Amended by Article 5 of Decree 30-2001 of the Congress of the Republic)*. Anyone who falsifies, on forms, receipts, or other means used to verify payment of taxes, the stamps or transaction marks of the receiving offices of the banks of the system, of other entities authorized to collect taxes, or of the receiving offices of the Tax Administration.

8. Anyone who alters or destroys fiscal control mechanisms placed on cash registers or stamp machines, fiscal stamps, and similar items.

If this offense is committed by employees or legal representatives of a legal entity, seeking to benefit the entity, in addition to the penalties applicable to those involved in the offense, the legal entity will be imposed a fine equivalent to the amount of the omitted tax. If the offense is repeated, the legal entity will be sanctioned with the permanent cancellation of its business license.

9. **(Added by Article 6 of Decree 30-2001 of the Congress of the Republic).** A taxpayer of the Value Added Tax who, for his own benefit or that of a third party, does not declare all or part of the tax charged to his clients on the sale of goods or the provision of taxed services, which he must pay to the Tax Administration after having subtracted the corresponding tax credit.

10. **(Added by Article 6 of Decree 30-2001 of the Congress of the Republic).** The taxpayer who, in order to simulate the acquisition of goods or services, falsifies invoices, obtains them from another taxpayer, or assumes the existence of another taxpayer who issues them, in order to simulate expenses that were not actually incurred, with the purpose of distorting the income obtained and evading the reduction of the tax rate that would be payable, or to fraudulently increase their tax credit; and the taxpayer who issues them.

11. **(Added by Article 70 of Decree 4-2012 of the Congress of the Republic).** Anyone who, in order to simulate the acquisition of goods or merchandise of any nature or to prove ownership thereof, whose origin is illicit or contraband, falsifies invoices, uses falsified invoices, obtains invoices from a third party, or simulates the existence of a taxpayer.

12. **(Added by Article 70 of Decree 4-2012 of the Congress of the Republic).** Anyone who issues, facilitates, or provides invoices to a third party to simulate the acquisition of goods or merchandise of any nature, or to prove ownership of such goods or merchandise, whose origin is illicit or contraband.

13. **(Added by Article 75 of Decree 22-2014 of the Congress of the Republic, which was declared unconstitutional by the Constitutional Court in its Judgment of 09/17/2015 Files 1-2015, 6-2015, 7-2015, 44-2015, 68-2015, 71-2015, 101-2015, 118-2015 and 167-2015).** Anyone who simulates, conceals, modifies, manipulates or in any way alters the content of detailed telecommunications records, with the aim of undermining the payment of the Tax on fixed or mobile telephone lines.

#### **Misappropriation of taxes**

**ARTICLE 358 "C". (Amended by Article 7 of Decree 30-2001 of the Congress of the Republic).** The crime of misappropriation of taxes is committed by anyone who, acting as a collection or withholding agent for their own benefit, that of a company or a third party, fails to report to the Tax Administration all or part of the taxes collected or withheld after the deadline established by the specific tax laws for reporting them has elapsed.

The person responsible for this crime will be punished with imprisonment of one to six years, which the Judge will determine according to the severity of the case, and a fine equivalent to the appropriate tax.

If the offense is committed by directors, managers, administrators, officers, employees, or legal representatives of a legal entity, for the benefit of the latter, in addition to the penalty applicable to those responsible, the legal entity will be imposed a fine equivalent to the amount of the unpaid tax, and will be warned that in the event of a repeat offense, the commercial license will be permanently cancelled.

If the crime is committed by a foreign person, in addition to the penalties to which they have been subject, they will be subject to expulsion from the national territory, which will be carried out immediately after they have served their sentence.

#### **Resistance to the tax administration's auditing actions**

**ARTICLE 358 "D".** Anyone who, after being summoned by the Tax Administration, with the intervention of a competent judge, prevents the actions and procedures necessary for the inspection and determination of their obligation, refuses to provide books, records, or other accounting documents necessary to establish the tax base, or prevents access to the computer system for recording their accounting transactions, commits the crime of resisting the tax administration's oversight action.

**(Paragraph amended by Article 8 of Decree 30-2001 of the Congress of the Republic).** The person responsible for this crime will be punished with imprisonment of one to six years and a fine equivalent to one percent (1%) of the taxpayer's gross income, during the monthly, quarterly or annual period under review.

If this offense is committed by employees or legal representatives of a legal entity, seeking to benefit the entity, in addition to the penalties applicable to those involved in the offense, the legal entity will be imposed a fine equivalent to the amount of the omitted tax. If the offense is repeated, the legal entity will be sanctioned with the permanent cancellation of its business license.

**(Paragraph amended by Article 8 of Decree 30-2001 of the Congress of the Republic).** If the crime is committed by a foreign person, in addition to the penalties to which they have been subject, they shall be subject to expulsion from the national territory, which shall be carried out immediately after they have served their sentence.

## TITLE XI

### ON CRIMES AGAINST STATE SECURITY

#### CHAPTER I

#### OF BETRAYAL

##### **Self-betrayal**

**ARTICLE 359.-** Any Guatemalan who takes up arms against the State, or joins the enemy, or places himself at its service, shall be punished with imprisonment of ten to twenty years.

##### **Attacks against the integrity and independence of the State**

**ARTICLE 360.-** Any Guatemalan who commits acts that directly tend to undermine the integrity of the territory of the Republic, subject it totally or partially to foreign domination, compromise its sovereignty or threaten national unity, shall be punished with imprisonment of ten to twenty years.

##### **Improper betrayal**

**ARTICLE 361.-** Any foreigner residing in the territory of the Republic who commits any of the crimes included in the two preceding articles shall be punished with imprisonment of five to fifteen years.

##### **Concert for war purposes**

**ARTICLE 362.-** Any Guatemalan who induces or colludes with the government of a foreign State or its agents, proposing to provoke a war or carry out acts of hostility against the Republic, shall be punished with imprisonment from four to ten years.

If war is declared, or acts of hostility are carried out, the penalty will be five to fifteen years.

#### **Weakening of defenses**

**ARTICLE 363.-** Anyone who, when the country is in a state of war, damages installations, communication routes, works or objects necessary or useful for national defense, or who in any other way tries to harm the war effort of the Nation, shall be punished with imprisonment from ten to twenty years.

The same penalty will be applied to anyone who conceals, diverts, destroys or removes from the country goods declared necessary for national defense.

#### **Political defeatism**

**ARTICLE 364.-** Anyone who, in time of war, disseminates or communicates false, exaggerated or biased news that may cause alarm and undermine the State's resistance to the enemy, or carries out any activity that harms national interests, shall be punished with imprisonment from five to ten years.

#### **Instigation to violate duties**

**ARTICLE 365.-** Anyone who, in time of war, publicly incites disobedience to an order of the military authorities, or violation of service duties, or desertion, shall be punished with imprisonment of five to ten years.

#### **Revelation of State Secrets**

**ARTICLE 366.-** Anyone who, in any way, reveals secrets relating to the security of the State, whether by communicating or publishing documents, drawings, plans or other data relating to material, fortifications or military operations, shall be punished with imprisonment of two to five years and a fine of five hundred to three thousand quetzales.

#### **Survey of fortification plans**

**ARTICLE 367.** Anyone who, without being legally authorized, draws up plans of fortresses, barracks, ships or boats, arsenals, hangars, roads or other military works, shall be punished with imprisonment from six months to two years and a fine of two hundred to two thousand quetzales.

#### **Aggravation**

**ARTICLE 368.-** If the acts included in the two previous articles are committed during an armed conflict, the penalties will be doubled.

## **CHAPTER II**

### **OF ESPIONAGE**

#### **Generic espionage**

**ARTICLE 369.-** Commits this crime:

1. Anyone who acts as a spy for the enemy in time of war shall be punished with imprisonment of ten to twenty years.
2. If the espionage is committed in peacetime or on behalf of a neutral power, the penalty will be five to ten years.
3. Whoever improperly procures or obtains secret information concerning the security, means of defense or foreign relations of the State shall be punished with imprisonment of six months to two years and a fine of two hundred to two thousand quetzales.

#### **Aggravation**

**ARTICLE 370.-** If the acts provided for in paragraph 3 of the previous article are committed during an armed conflict, the person responsible shall be imposed double the penalty.

### **CHAPTER III**

#### **OF THE CRIMES THAT COMPROMISE THE FOREIGN RELATIONS OF THE STATE**

#### **Intrusion**

**ARTICLE 371.-** Anyone who, in Guatemalan territory, carries out activities intended to violently alter the public order of a foreign State, shall be punished with imprisonment of one to three years and a fine of two hundred to two thousand quetzales.

#### **Hostile acts**

**ARTICLE 372.-** Anyone who, without being included in the cases of the previous article, carries out hostile acts not approved by the national government, against a foreign State, which could give rise to a declaration of war against Guatemala, will be punished with imprisonment of two to eight years.

The same penalty will be applied to anyone who, under the same circumstances, exposes Guatemalans to harassment or reprisals against their persons or property, or disrupts the friendly relations of the national government with a foreign government.

If war results from such hostile acts, the penalty will be doubled.

#### **Truce violation**

**ARTICLE 373.-** Whoever violates a truce or armistice agreed between Guatemala and a foreign power or between their belligerent forces, shall be punished with imprisonment from six months to three years.

#### **Violation of immunities**

**ARTICLE 374.-** Anyone who violates the immunities of the head of a foreign State or of a diplomatic representative to the government of the Republic shall be punished with imprisonment from six months to three years.

#### **Outrage against the symbols of a foreign nation**

**ARTICLE 375.-** Anyone who publicly insults, disparages or vilifies the flag, emblem, coat of arms or anthem of a foreign nation shall be punished with imprisonment from four months to one year, provided there is reciprocity.

### **CHAPTER IV**

#### **OF CRIMES OF INTERNATIONAL TRANSCENDENCE**

**ARTICLE 376.- Genocide.** Anyone who, with the purpose of destroying a national, ethnic, or religious group in whole or in part, commits any of the following acts:

1st. Death of group members.

2nd. Injury that seriously affects the physical or mental integrity of members of the group.

3rd. Subjection of the group or its members to conditions of existence that may lead to their physical destruction, in whole or in part.

4th. Compulsive displacement of children or adults from the group to another group.

5. Measures intended to sterilize members of the group or otherwise prevent their reproduction.

*(Paragraph amended by Article 13 of Decree 20-96 of the Congress of the Republic).* Anyone responsible for genocide shall be punished with imprisonment of 30 to 50 years.

#### **Incitement to genocide**

**ARTICLE 377.-** Anyone who publicly instigates the commission of the crime of genocide shall be punished with imprisonment of five to fifteen years.

The proposal and conspiracy to commit acts of genocide shall be punished with the same penalty.

#### **Crimes against the duties of humanity**

**ARTICLE 378.-** Whoever violates or infringes humanitarian duties, laws or agreements with respect to prisoners or hostages of war, wounded during war actions, or who commits any inhuman act against the civilian population, or against hospitals or places designated for the wounded, shall be punished with imprisonment from twenty to thirty years.

#### **Death of a foreign head of state**

**ARTICLE 379.-** Whoever kills a foreign head of state who is in the Republic in an official capacity shall be punished with imprisonment of twenty to thirty years.

Anyone who causes injuries to a foreign head of state who is in the Republic in an official capacity shall be punished with imprisonment of four to eight years.

Any other act of violence not included in the preceding paragraphs shall be punishable by imprisonment of two to four years.

### **Principle of reciprocity**

**ARTICLE 380.-** When the crimes provided for in the previous articles do not have a reciprocal penalty established in the laws of the country to which the offended person belongs, the person responsible shall be imposed the penalty that would be appropriate to the crime in accordance with the provisions of this Code, if the offended person does not have the official status mentioned.

## **TITLE XII**

### **OF CRIMES AGAINST INSTITUTIONAL ORDER**

#### **CHAPTER I**

### **OF CRIMES AGAINST THE CONSTITUTION**

#### **Violation of the constitution**

**ARTICLE 381.-** The following shall be punished with imprisonment from three to ten years:

1. Anyone who carries out acts that directly tend to vary, reform or replace, in whole or in part, the Constitution of the Republic by means not authorized by the constitutional order.
2. Anyone who carries out acts not authorized by the constitutional order that directly tend to limit or reduce, in whole or in part, the powers granted by the Constitution to State agencies.
3. Anyone who, through acts of a similar nature as those indicated in the two preceding paragraphs, tends to change the regime established in the Constitution of the Republic for the succession to the office of President of the Republic.
4. Anyone who carries out the same type of acts to deprive the Vice President of the Republic of the powers granted to him by the Constitution.

#### **Re-election propaganda**

**ARTICLE 382.-** Whoever makes public propaganda or carries out other activities tending towards the reelection of the person who exercises the Presidency of the Republic, or any other system by which it is intended to violate the principle of alternation or to increase the term established by the Constitution for the exercise of the Presidency of the Republic, will be punished with imprisonment of two to six years and a fine of two hundred to two thousand quetzales.

#### **CHAPTER II**

## ON CRIMES AGAINST PRESIDENTS

### OF STATE AGENCIES

#### Case of death

**ARTICLE 383.-** *(Amended by Article 14 of Decree 20-96 of the Congress of the Republic)*. Anyone who kills the President of the Republic, the Vice President of the Republic, or any of the Presidents of other State Agencies shall be punished with imprisonment of 30 to 50 years.

\*In the event of the death of the President of the Republic or the Vice President, if the circumstances of the act, the means employed to carry it out and the determining motives reveal the greater and particular dangerousness of the person responsible, the death penalty shall be imposed.

*\*(The underlined paragraph was declared unconstitutional by ruling of the Constitutional Court dated October 24, 2017, File 5986-2016).*

#### Attack against high-ranking officials

**ARTICLE 384.-** Anyone who attempts against the life, physical integrity or freedom of the President of the Republic, any of the Presidents of other State bodies or the Vice President of the Republic, shall be punished with imprisonment of five to fifteen years.

## CHAPTER III

### OF CRIMES AGAINST THE POLITICAL ORDER

#### INTERNAL STATE

#### Rebellion

**ARTICLE 385.-** Those who take up arms with the aim of promoting civil war or to depose the constitutional government, to abolish or change the Constitution of the Republic, to vary or suspend, in whole or in part, the existing constitutional regime or to prevent the integration, renewal, free exercise or operation of the State Agencies, commit the crime of rebellion.

The promoters, leaders, or ringleaders of the crime of rebellion shall be punished with imprisonment of five to ten years and a fine of five hundred to five thousand quetzales.

The mere perpetrators of the rebellion will be punished with imprisonment of one to four years.

Anyone who, as a result of the uprising, commits other crimes will be subject to the provisions of this Code on bankruptcy proceedings.

#### Proposition and conspiracy

**ARTICLE 386.-** The proposal and conspiracy to commit the crime of rebellion shall be punished with imprisonment of six months to two years and a fine of two hundred to two thousand quetzales.

## **Sedition**

**ARTICLE 387.-** Those who, without disregarding the authority of the constituted Government, publicly and tumultuously rise up to achieve by force or violence any of the following objectives commit the crime of sedition:

1. To depose one or more public officials or employees or to prevent those who have been legitimately appointed or elected from taking office.
2. Prevent, by direct acts, the promulgation or execution of laws or judicial or administrative resolutions.
3. Carry out acts of hatred or revenge against the person or property of any authority or its agents.
4. To carry out, for political or social purposes, any act of coercion against individuals, against a social class, or against the property of the State or any public entity.
5. Raid prisons or places of detention or attack those who transport prisoners or detainees from one place to another, in order to free them or mistreat them.

The instigators, leaders, or ringleaders of the crime of sedition shall be punished with imprisonment of one to five years and a fine of one hundred to two thousand quetzales.

The mere perpetrators of sedition will be punished with imprisonment from six months to two years.

## **Exemption from punishment for the perpetrators**

**ARTICLE 388.-** Those who commit rebellion or sedition shall be exempt from punishment when they dissolve or submit to the authority, before the latter inflicts intimidation upon them or as a result of it.

## **Public incitement**

**ARTICLE 389.-** Those who, publicly or through any means of dissemination, formally and directly incite rebellion or sedition, or give instructions to carry it out, shall be punished with imprisonment from six months to two years and a fine of one hundred to one thousand quetzales.

## **Activity against the internal security of the Nation**

**ARTICLE 390.-** Those who shall be punished with imprisonment of one to five years and a fine of three hundred to three thousand quetzales:

1. Propagate or promote, by word of mouth or in writing, or by any other means, doctrines that tend to destroy, through violence, the political, social, and legal organization of the Nation.
2. Carry out acts aimed at sabotage and the destruction, paralysis, or disruption of companies that contribute to the country's economic development, with the aim of harming national production or important public utility services.
3. Assist or contribute to financing the organization, development, or execution of the activities sanctioned in the preceding paragraphs.
4. Maintain relations with foreign persons or associations in order to receive instructions or assistance of any nature whatsoever to carry out any of the punishable acts contemplated in this article.

## OF CRIMES AGAINST PUBLIC ORDER

### Terrorism

**ARTICLE 391.-** *(Amended by Article 2 of Decree 58-2005 of the Congress of the Republic)*. The crime of terrorism is committed by anyone who, with the purpose of altering the constitutional order, the public order of the State or coercing a legal entity of Public Law, national or international, carries out an act of violence, attacks human life or integrity, property or infrastructure, or who, with the same purpose, carries out acts aimed at causing a fire or causing havoc or disasters to railways, maritime, rivers or air.

The person responsible for said crime will be punished with non-commutable imprisonment of ten (10) to thirty (30) years, plus a fine of twenty-five thousand dollars (US\$ 25,000.00) to eight hundred thousand dollars (US\$ 800,000.00) of the United States of America, or its equivalent in national currency. If explosive materials of great destructive power are used to commit this crime, the person or persons responsible will be punished with double the penalties.

### Public intimidation

**ARTICLE 392.-** Anyone who, in order to instill public fear, cause alarm or provoke riots or disorders, sets off firecrackers or any other similar device, or uses explosive materials, or publicly threatens with a disaster of common danger, shall be punished with imprisonment from six months to two years.

### Aggravated public intimidation

**ARTICLE 393.-** If the acts included in the previous article are committed in a large gathering of people, or on the occasion of fire, destruction, or any other disaster or calamity, the person responsible shall be punished with imprisonment from three to ten years.

### Incitement to commit a crime

**ARTICLE 394.-** Anyone who publicly instigates the commission of a specific crime shall be punished with imprisonment from one to four years.

### Apology for crime

**ARTICLE 395.-** Anyone who publicly defends a crime or a person convicted of a crime shall be punished with a fine of one hundred to one thousand quetzales.

### Illicit associations

**ARTICLE 396.-** *(Repealed by Article 111 of Decree 21-2006 of the Congress of the Republic)*. Those who promote the organization or operation of associations that act in agreement with or in subordination to international entities that advocate communist ideology or any other totalitarian system, or are intended to commit crimes, or who take part in them, shall be punished with imprisonment of two to six years.

### Illegal meetings and demonstrations

**ARTICLE 397.-** Those who organize or promote any public meeting or demonstration in violation of the provisions regulating this right or participate in them, shall be punished with imprisonment from six months to two years.

## CHAPTER V

### OF CRIMES AGAINST SOCIAL TRANQUILITY

#### Illegal groups of armed people

**ARTICLE 398.-** *(Amended by Article 110 of Decree 21-2006 of the Congress of the Republic)*. Those who organize, constitute, or direct groups of armed men or militias that are not those of the State or authorized by it shall be punished with imprisonment of six to eight years.

The same penalty will be imposed on those who help or financially contribute to the maintenance of such groups.

#### Militancy in illegal groups

**ARTICLE 399.-** Those who form part of the groups or militias referred to in the preceding article shall be punished with imprisonment from two to eight years.

#### Possession and carrying of firearms

**ARTICLE 400.-** *(Repealed by Decree Number 39-89 of the Congress of the Republic, Law on Arms and Ammunition)*.

#### Weapons or ammunition depots

**ARTICLE 401.-** *(Repealed by Decree Number 39-89 of the Congress of the Republic, Law on Arms and Ammunition)*.

#### Unauthorized deposits

**ARTICLE 402.-** Those who, without being legally authorized, have or establish a deposit of weapons or ammunition that are not for the exclusive use of the Army, will be punished with imprisonment of one to two years and a fine of one hundred to one thousand quetzales.

For the purposes of this article, a non-war weapons depot is considered to be the gathering of five or more weapons, even if they are in disassembled parts.

#### Exceptions

**ARTICLE 403.-** *(Repealed by Decree Number 39-89 of the Congress of the Republic, Law on Arms and Ammunition)*.

#### Explosives trafficking

**ARTICLE 404.-** *(Repealed by Decree Number 39-89 of the Congress of the Republic, Law on Arms and Ammunition).*

**Special disqualification**

**ARTICLE 405.-** *(Repealed by Decree Number 39-89 of the Congress of the Republic, Law on Arms and Ammunition).*

**Illegal possession of weapons**

**ARTICLE 406.-** *(Repealed by Decree Number 39-89 of the Congress of the Republic, Law on Arms and Ammunition).*

**Improper delivery of a weapon**

**ARTICLE 407.-** Whoever entrusts a firearm, or allows one to be carried, to a minor or to any person incapable or inexperienced in the handling of weapons, shall be punished with a fine of one hundred to one thousand quetzales.

**CHAPTER VI**

**\*ON ELECTORAL CRIMES**

*(Chapter added by Article 33 of Decree 33-96 of the Congress of the Republic and amended in its name by Article 4 of Decree 4-2010 of the Congress of the Republic).*

**Disturbance of the electoral act**

**ARTICLE 407 "A".** *(Added by Article 34 of Decree 33-96 of the Congress of the Republic).* Anyone who, through violence, intimidation, or threats, seriously disrupts or impedes the voting or counting of votes in a national or municipal election shall be punished with imprisonment of two to eight years.

**Coercion against elections**

**ARTICLE 407 "B".** *(Added by Article 35 of Decree 33-96 of the Congress of the Republic).* Anyone who, through violence, intimidation, or threats, prevents a voter from voting, forces him or her to do so when he or she is not required to, or forces him or her to do so in a specific manner, shall be punished with imprisonment of one to five years.

**Voter coercion**

**ARTICLE 407 "C".** *(Added by Article 36 of Decree 33-96 and amended by Article 1 of Decree 21-97 and by Article 5 of Decree 4-2010. all of the Congress of the Republic).* Anyone who pays or delivers money or personal property

a citizen to abstain or cast his vote in favor of a certain candidate or political organization, thirty-six hours before and during the election, will be punished with imprisonment of two to eight years.

Any voter who accepts money or personal property for the purposes indicated in the preceding paragraph shall be punished with half the penalty.

The penalty shall be increased by half when the conduct is committed by a public official or employee of any of its autonomous, decentralized, and non-governmental bodies or institutions, regardless of their form of election or type of legal employment relationship. In addition to the penalty, the employee shall be disqualified from holding any public office or position.

#### **Voter fraud**

**ARTICLE 407 "D".** *(Added by Article 37 of Decree 33-96 of the Congress of the Republic).* Anyone who impersonates another voter, or votes more than once in the same election, or votes without having the right to do so, shall be sentenced to one to five years in prison.

*(Paragraph added by Article 6 of Decree 4-2010 of the Congress of the Republic).* The penalty shall be increased by half if the crime is committed by an official or employee of the Supreme Electoral Tribunal, a member of the Departmental Electoral Board, Municipal Electoral Board, Voting Reception Board, an official or employee of the State of any of its autonomous, decentralized and non-governmental bodies or institutions, regardless of their form of election or type of legal employment relationship, and in addition to the penalty, disqualification from holding any public office or position they hold shall be applied.

#### **Violation of the secrecy of the vote**

**ARTICLE 407 "E".** *(Added by Article 38 of Decree 33-96 of the Congress of the Republic and amended by Article 7 of Decree 4-2010 of the Congress of the Republic).* Anyone who, by any means, attempts to discover or discovers how a voter voted shall be punished with imprisonment of one to five years.

The penalty will be increased by half if the crime is committed by an official or employee of the Supreme Electoral Tribunal, a member of a Departmental Electoral Board, a Municipal Electoral Board, a Voting Reception Board, a member of any political organization, an official or employee of the State of any of its autonomous, decentralized, and non-governmental bodies or institutions, regardless of their form of election or type of legal employment relationship. In addition to the penalty, the offender will be disqualified from holding any public office or position.

#### **Concealment, retention, and unlawful possession of a document proving citizenship.**

**ARTICLE 407 "F".** *(Added by Article 8 of Decree 4-2010 of the Congress of the Republic).* Anyone who removes or retains the document proving citizenship, preventing a citizen from presenting it to vote, shall be punished with imprisonment of one to five years.

The penalty will be increased by half when:

- a) The citizen is prevented from obtaining the document that proves such status from the respective authority; and,
- b) If the crime is committed by an official or employee of the Supreme Electoral Tribunal, a member of the Departmental Electoral Board, Municipal Electoral Board, Voting Board, an official or employee of the State in any of its autonomous, decentralized and non-governmental bodies or institutions, regardless of their form of election or type of legal employment relationship, in addition to the penalty, disqualification from holding the public office or position they hold will be applied.

#### **Abuse of authority for electoral purposes**

**ARTICLE 407 "G".** *(Added by Article 9 of Decree 4-2010 of the Congress of the Republic).* Any public official or employee who uses his or her authority or influence to benefit or harm a political organization electorally shall be punished with imprisonment of one to three years and disqualification from holding any public office or position he or she holds.

#### Abuse for electoral purposes

**ARTICLE 407 "H".** *(Added by Article 10 of Decree 4-2010 of the Congress of the Republic).* Any individual who directly or indirectly destroys, obstructs, or impedes the free exercise of political propaganda shall be punished with imprisonment of one to three years.

#### Illegal official propaganda

**ARTICLE 407 "I".** *(Added by Article 11 of Decree 4-2010 of the Congress of the Republic).* Any official, public employee in the exercise of his or her office, or State contractor who, for electoral purposes and during the electoral process, makes propaganda regarding the works and activities carried out in compliance with his or her functions and obligations, shall be punished with imprisonment from one to five years and disqualification from holding the public office or position he or she holds, or cancellation of the contract.

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#### Attack on the transport of electoral material

**ARTICLE 407 "J".** *(Added by Article 12 of Decree 4-2010 of the Congress of the Republic).* Anyone who, by any means, directly or indirectly prevents, detains, or delays the transportation of ballot boxes, ballots, electoral rolls, stationery, furniture, utensils, and electoral equipment shall be punished with imprisonment of two to eight years.

The same penalty will apply to anyone who violates, alters, or destroys seals, ballot boxes, and ballot bags.

If the crime is committed by a magistrate, official or employee of the Supreme Electoral Tribunal, Member of the Electoral Board Departmental, Municipal Electoral Board, Voting Reception Board, member of any political organization body, official or employee of the State in any of its autonomous, decentralized and non-governmental agencies or institutions, regardless of their form of election or type of legal employment relationship, will be subject to, in addition to the penalty, disqualification from holding the public office or position they hold.

#### On the electoral supervision of funds

**ARTICLE 407 "L".** *(Added by Article 13 of Decree 4-2010 of the Congress of the Republic).* Any legal representative or member of a political organization's governing body who prevents the Supreme Electoral Tribunal from performing its function of oversight and supervision of public and private funds with respect to the financing of political organizations for ongoing activities and electoral campaigns shall be punished with imprisonment of one to five years.

#### Electoral financing

**ARTICLE 407 "M".** *(Added by Article 14 of Decree 4-2010 of the Congress of the Republic).* Any individual or legal entity that contributes more than ten percent (10%) of the maximum campaign spending limit to a political organization shall be punished with imprisonment of one to five years.

The same penalty shall be imposed on the legal representative or any member of the organs of political organizations who:

- a) Receive aid or contributions that exceed ten percent (10%) of the maximum campaign spending limit.
- b) Receives aid or contributions from other States and from foreign individuals or legal entities. This does not apply to aid from academic institutions or foundations granted for training purposes.
- c) Do not channel through the respective political organization, contributions made in favor of a candidate for popular election.

#### Illicit electoral financing

**ARTICLE 407 "N".** *(Added by Article 15 of Decree 4-2010 and amended by Article 1 of Decree 23-2018, both from the Congress of the Republic).* Any individual or legal entity that contributes, receives, or authorizes the receipt of resources intended to finance political organizations or their candidates for ongoing activities, campaigns, and electoral events, knowing that such contributions or resources come from organized crime, money laundering, or any other activity classified as a crime by the Penal Code and other related laws, shall be punished with imprisonment of four to twelve years.

non-commutable and a fine of two hundred to five hundred thousand Quetzales.

The penalty will be increased by two-thirds when the crime is committed by someone holding a job, public office, or elected position. In addition to the sentence imposed, the person will be barred from holding public office.

#### Advance promotion, propaganda, campaign or publicity

**\*ARTICLE 407 "Ñ".** *(Added by Article 16 of Decree 4-2010 of the Congress of the Republic).* Any person or persons who, individually or collectively, carry out or execute in: a) any of the mass media, b) banners, billboards, leaflets, decals, signs in public streets or any similar means, activities of various kinds that directly or indirectly seek to promote, disseminate, publicize or make known one or more persons to occupy an elected public office, prior to the official call made by the Supreme Electoral Tribunal, will be punished with imprisonment of four to seven years and a fine of twenty to fifty thousand Quetzales.

The same sanction will be imposed on:

- a) the person who allows his/her image, silhouette or name to be used for the same purpose,
- b) the legal representative or the person exercising the legal status of the political organization, political party, committee for the formation of a political party, political association or society, civic committee, civil association, civil or commercial society that allows the symbols of its organization or name to be used in any of the above activities.

Any legal entity of any nature used for such purposes will have its registration or the current procedure cancelled if the judgment condemns its legal representative. While the legal status of the aforementioned legal representative is definitively resolved, the procedure or operation of the corresponding legal entity will be suspended. This is independent of the application of cancellation as an accessory penalty.

***\*(Declared unconstitutional by ruling of the Constitutional Court of February 17, 2011, Accumulated Files 1119-2010 and 1273-2010).***

#### Unregistered election financing

**ARTICLE 407 "O".** *(Added by Article 2 of Decree 23-2018 of the Congress of the Republic).* Anyone who consents to or receives contributions for ongoing activities or electoral campaigns and fails to report them to the political organization for accounting purposes shall be punished with imprisonment of one to five years and a fine of twenty thousand to one hundred thousand Quetzales.

Anyone who makes monetary or in-kind contributions to Political Organizations or their candidates, for permanent activities or electoral campaigns without proving their identity according to the procedures established in the Electoral and Political Parties Law, will be punished with imprisonment of one to five years and a fine of one hundred percent of the unregistered amount and disqualification from being a contractor and supplier of the State of Guatemala, for up to a period of five years.

Administrative actions that do not constitute a crime will be punished in accordance with the Electoral and Political Parties Law.

**OF CRIMES AGAINST THE  
PUBLIC ADMINISTRATION**

**CHAPTER I**

**OF CRIMES AGAINST THE  
PUBLIC ADMINISTRATION DUTIES  
BY INDIVIDUALS**

**Attack**

**ARTICLE 408.-** The following commit an attack:

1. Those who, without publicly speaking out, use violence for any of the purposes indicated in the crimes of rebellion or sedition.
2. Those who attack an official, authority or their agents, or use violence against them, when they are in the exercise of their functions or positions, or on the occasion or because of them.

Those responsible for the attack will be sentenced to one to three years in prison.

**Endurance**

**ARTICLE 409.-** Anyone who opposes the execution of a legal act of an official or authority or its agents, through violence, shall be punished with imprisonment of one to three years.

**Specific aggravations**

**ARTICLE 410.-** The sanctions indicated in the two preceding articles shall be increased by one third when, in the respective cases, any of the following circumstances occur:

1. If the act was committed with an armed hand.
2. If the act is committed by three or more persons.
3. If the perpetrator of the act is an official, authority or agent thereof.
4. If, as a result of the action, the authority has agreed to the aggressors' demands.

5. If hands are laid on the official, authority or agent thereof.

### **Contempt of the Presidents of State Agencies**

**ARTICLE 411.-** *(Declared unconstitutional by judgment of the Constitutional Court of February 1, 2006, File 1122-2005)*. Whoever offends the dignity or decorum of, or threatens, insults, or slanders any of the Presidents of State Agencies, shall be punished with imprisonment of one to three years.

### **Contempt of authority**

**ARTICLE 412.-** *(Declared unconstitutional by judgment of the Constitutional Court of February 1, 2006, File 1122-2005)*. Whoever threatens, insults, slanders or in any other way offends the dignity or decorum of an authority or official in the exercise of their functions or on the occasion of them, shall be punished with imprisonment of six months to two years.

### **Proof of the charge**

**ARTICLE 413.-** *(Declared unconstitutional by judgment of the Constitutional Court of February 1, 2006, File 1122-2005)*. A person accused of slander against a public official or authority shall be admissible if the accusation relates to facts related to the performance of his or her duties. In such a case, the defendant shall be acquitted if the accusation is proven to be true.

### **Disobedience.**

**ARTICLE 414.-** *(Amended by Article 218 of Decree 57-2000 of the Congress of the Republic, Industrial Property Law)*. Anyone who openly disobeys an order from an official, authority or agent of authority, issued in the legitimate exercise of their powers, shall be punished with a fine of five thousand to fifty thousand quetzales.

### **Failure of individuals to comply with legislative appointments.**

**ARTICLE 414 BIS.** *(Added by Article 1 of Decree 13-2016 of the Congress of the Republic and DECLARED UNCONSTITUTIONAL by judgment of the Constitutional Court of June 13, 2017, File 2105-*

Any individual or legal representative of a legal entity, duly registered in the respective registries, who for any reason manages, administers, safeguards, or receives public funds, who fails to appear after being summoned or invited to report before the Congress of the **Republic**, its Committees, or Legislative Blocs, with four business days' notice, or who fails to attend without just cause, shall be punished with imprisonment of two to three years.

Illness proven before or twenty-four hours after the time set for the appointment will be considered fully justified.

### **Public disorder**

**ARTICLE 415.-** The following commit the crime of public disorder:

1. Those who disturb the order in a court hearing or in public events or sessions of a corporation of any authority.
2. Those who cause a disturbance or seriously disturb public order in a public establishment or an establishment open to the public, in cultural centers or in centers intended for occasional or permanent meetings, shows, solemn events, or large gatherings.

3. Those who, in a public place or at any large association or gathering, display slogans, flags or symbols that directly cause disruption to public order.

4. Those who prevent or hinder an official from performing an act inherent to his or her duties.

Those responsible for public disorder will be punished with imprisonment of six months to one year and a fine of fifty to five hundred quetzales.

#### **Outrage against national symbols**

**ARTICLE 416.-** Anyone who publicly insults, belittles or vilifies the national flag, emblem, coat of arms or anthem shall be punished with imprisonment from six months to two years.

#### **Violation of seals**

**ARTICLE 417.-** Whoever violates the seals placed by the authority to ensure the conservation or identity of a thing, will be sanctioned with a fine of one hundred to one thousand quetzales.

## **CHAPTER II**

### **OF CRIMES COMMITTED BY PUBLIC OFFICIALS OR EMPLOYEES**

#### **Abuse of authority**

**ARTICLE 418.-** *(Amended by Article 14 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law)*. Any public official or employee who, abusing his or her position or function, orders, performs, or permits any arbitrary or illegal act to the detriment of the public administration or third parties, whether private individuals, public officials, or employees, that is not specifically provided for in the provisions of this Code, commits the crime of abuse of authority. Any person responsible for this crime shall be punished with imprisonment of three to six years and special disqualification.

The same sanction will be imposed on any public official or employee who uses illegitimate or unnecessary pressure.

#### **Breach of duties**

**ARTICLE 419.-** *(Amended by Article 17 of Decree 4-2010 and by Article 15 of Decree 31-2012, both of the Congress of the Republic)*. Any public official or employee who omits, refuses, or delays performing any act inherent to his or her function or position commits the crime of non-compliance with duties. Any person responsible for this crime shall be punished with imprisonment of three to six years and special disqualification.

#### **Failure to comply with the duty to submit a sworn statement of assets**

**ARTICLE 419 BIS.** *(Added by Article 16 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. Any public official, public employee or person exercising public functions who is legally required to submit or update his or her sworn statement of assets and fails to do so within sixty days after taking office, or does so without complying with the requirements set forth in the law on the matter, shall be punished with a fine, which shall correspond to the multiplication of the monthly salary or wage of the responsible party by the months of delay in submitting the declaration.

### **Falsehood in sworn statement of assets**

**ARTICLE 419 TER.** *(Added by Article 17 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law)*. Any public official, public employee, or person exercising public functions who, while in office, commits falsification when making sworn asset declarations to the Comptroller General's Office, commits the crime of falsification in a sworn asset declaration.

The criminal prosecution of this crime is independent of the accountability processes established in current ordinary legislation.

The person responsible for this crime will be punished with imprisonment of two to six years, a fine of twenty-five thousand to two hundred thousand Quetzales and special disqualification.

### **Disobedience**

**ARTICLE 420.-** *(Amended by Article 18 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law)*. Any public official or employee who refuses to duly comply with sentences, resolutions, or orders of a higher authority issued within the limits of their respective jurisdiction and vested with legal formalities commits the crime of disobedience. The person responsible for this crime shall be punished with imprisonment of one to three years, a fine of five thousand to twenty thousand Quetzales, and special disqualification.

### **Failure of public officials and employees to attend legislative summons.**

**ARTICLE 420 BIS.** *(Added by Article 2 of Decree 13-2016 of the Congress of the Republic and DECLARED UNCONSTITUTIONAL by ruling of the Constitutional Court of June 13, 2017, File 2105-*

**2016)**. Any Minister or Vice Minister who is supposed to represent him or any public official or employee who, for any reason, manages, administers, safeguards, executes or receives public funds, or who is required to deal with matters related to state business, who fails to appear without just cause after having been summoned or invited to attend to report before the Congress of the Republic, its committees or legislative blocs, with four business days' notice, shall be punished with imprisonment of two to three years.

Illness that is fully accredited before or twenty-four hours after the time set for the appointment will be considered fully justified.

### **Denial of assistance**

**ARTICLE 421.-** The chief or agent of the police or any public security force who refuses, omits or delays, without just cause, the provision of assistance legally required by a competent authority, shall be punished with imprisonment of one to three years.

### **Denial of assistance in the event of disruption to the installation, use or repair of data transmission equipment.**

**Article 421 BIS.** *(Added by Article 12 of Decree 12-2014 of the Congress of the Republic; Provisionally suspended by Order of the Constitutional Court dated June 5, 2014, Accumulated Files 2089-2014, 2303-2014, 2352-2014, 2412-2014, 2521-2014 and 2547-2014; declared unconstitutional by judgment of the Constitutional Court of March 10, 2016, Accumulated Files 2089-2014, 2303-*

**2014, 2352-2014, 2412-2014, 2521-2014, 2547-2014, 2667-2014, 2689-2014, 2788-2014, 2859-2014, 3145-2014, 3171-2014, 3211-2014, 3257-2014 and 3678-2014)**. Any state or municipal public order official who refuses to assist a private individual who has reported the commission of the crime of disturbing the installation, use or repair of data transmission equipment shall commit the crime of refusal to provide assistance in the event of a disturbance to the installation, use or repair of data transmission equipment. The person responsible for this crime shall be punished with imprisonment of one to three years, a fine of five thousand to twenty-five thousand Quetzales and special disqualification.

#### **Revelation of secrets**

**ARTICLE 422.-** *(Amended by Article 19 of Decree 31-2012 of the Congress of the Republic, the Law against Corruption)*. Any public official or employee who reveals or facilitates the revelation of facts, actions or documents of which he or she has knowledge by reason of his or her position and which, by provision of the law, must remain secret, commits the crime of disclosure of secrets.

The person responsible for this crime will be punished with imprisonment of one to three years and a fine of five thousand to twenty thousand Quetzales and special disqualification.

#### **Resolutions that violate the constitution**

**ARTICLE 423.-** Any public official or employee who issues resolutions or orders contrary to the express provisions of the Constitution of the Republic or knowingly executes orders or resolutions of this nature issued by another official, or fails to execute laws whose compliance is his responsibility, shall be punished with imprisonment of one to two years and a fine of two hundred to two thousand quetzales.

#### **Irregular detention**

**ARTICLE 424.-** Any official or person in charge of a prison facility who admits someone without a legal order from a competent authority, does not place the detainee at the disposal of the judge or the respective authority, or does not duly and immediately comply with a legally issued release order, shall be punished with imprisonment from one to five years.

The same penalty shall be incurred by any public official or employee who conceals, orders or carries out the concealment of a detainee.

#### **Abuse against individuals**

**ARTICLE 425.-** Any public official or employee who orders undue coercion, torture, degrading punishment, harassment, or measures not authorized by law against a prisoner or detainee shall be punished with two or five years' imprisonment and absolute disqualification. The same penalty shall apply to those who execute such orders.

#### **Anticipation of public functions**

**ARTICLE 426.-** Anyone who enters into public office or employment without having complied with the formalities required by law shall be punished with a fine of two hundred to one thousand quetzales.

The same sanction will be imposed on any official who admits a subordinate to the performance of his duties or employment without having complied with the legal formalities.

#### **Extension of public functions**

**ARTICLE 427.-** Whoever continues to exercise employment, position or commission after it should cease in accordance with the respective law or regulation, will be sanctioned with a fine of two hundred to one thousand quetzales and special disqualification of one to two years.

#### **Restitution of emoluments**

**ARTICLE 428.-** The official or employee responsible for any of the crimes provided for in the two preceding articles, who has received rights or emoluments by reason of his position or employment before being able to perform it or after having had to cease, he will be obliged to restore them, without prejudice to compliance with the indicated sanction.

#### **Dereliction of duty**

**ARTICLE 429.-** Any public official or employee who, causing harm to the service, abandons his or her position without having legally ceased his or her performance, shall be punished with a fine of one hundred to one thousand quetzales.

#### **Collective abandonment of duties, positions or jobs**

**ARTICLE 430.-** Officials, public employees, employees or dependents of public service companies who collectively abandon their position, work or service shall be punished with imprisonment from six months to two years.

If the abandonment causes damage to the public cause or if it involves leaders, promoters or organizers of collective abandonment, will impose on those responsible double the indicated penalty.

#### **Breach of privilege**

**ARTICLE 431.-** Any public official or employee who detains or prosecutes an official who enjoys immunity or other prerogatives, without observing the formalities established by law, shall be punished with a fine of fifty to five hundred quetzales.

#### **Illegal appointments**

**ARTICLE 432.- (Amended by Article 20 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law).** Any public official or employee who knowingly appoints to a public office or job a person who does not meet the legal requirements shall commit the crime of illegal appointments. Anyone responsible for this crime shall be punished with imprisonment of six months to two years and a fine of ten thousand to twenty-five thousand Quetzales.

The same sanction will be imposed on anyone who appoints a person who meets the legal requirements for the position, but intentionally omits or alters the legally or regulatory established procedures.

If the person named is a legal relative of the perpetrator of the crime, the penalty will be increased by one-third and special disqualification will be imposed.

#### **Usurpation of powers**

**ARTICLE 433.- (Amended by Article 21 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law).** Any public official or employee who knowingly assumes powers that do not correspond to his or her position or powers that do not pertain to him or her commits the crime of usurpation of powers. The person responsible for this crime shall be punished with imprisonment of six months to two years and a fine of ten thousand to twenty-five thousand Quetzales.

#### **Violation of seals**

**ARTICLE 434.-** Any public official or employee who orders the opening, opens or allows another to open closed papers or documents whose custody has been entrusted to him, shall be punished with a fine of two hundred to two thousand quetzales.

#### **Falsification of telegraphic, radiographic or cable dispatches**

**ARTICLE 435.-** Any official or employee of the telegraph service who falsifies or assumes a telegraphic dispatch shall be punished with imprisonment from one to three years.

The same penalty shall apply to officials or employees of radiogram or cablegram services who falsify or misrepresent dispatches corresponding to their respective services.

Anyone who uses a false dispatch with the intention of making a profit or causing harm to another person will be punished as if they were the forger.

#### **Illegal trespass**

**ARTICLE 436.-** Any public official or employee who enters a home without the formalities prescribed by law or outside the cases determined by law, shall be punished with imprisonment of one to four years.

#### **Responsibility of the official**

**ARTICLE 437.-** Any duly authorized official or minister of worship who authorizes a marriage knowing of the existence of an impediment that causes its absolute nullity, shall be punished with imprisonment of two to six years and special disqualification for the term set by the court, which may not exceed six years.

If the official or minister of worship has acted negligently, he will be punished only with a fine of two hundred quetzales.

#### **Failure to observe formalities**

**ARTICLE 438.-** Any official or minister of worship, duly authorized, who proceeds to celebrate a marriage without having observed the formalities required by law, even if it does not produce nullity, shall be punished with a fine of two hundred to one thousand quetzales.

#### **Illicit consumption of alcoholic or fermented beverages**

**ARTICLE 438 BIS. (Added by Article 2 of Decree 82-92 of the Congress of the Republic).** Members of the police forces operating in the country who consume alcoholic or fermented beverages while wearing uniform, wearing external insignia or distinctive symbols of the institution to which they belong, or carrying their team's weapons, shall be punished with imprisonment of one to three years and absolute disqualification in accordance with the provisions of paragraphs 2 and 3 of Article 56 of the Penal Code.

### **CHAPTER III**

#### **OF BRIBERY CRIMES**

#### **Passive bribery**

**ARTICLE 439.- (Amended by Article 8 of Decree 38-2000, Article 118 of Decree 11-2006 and Article 22 of Decree 31-2012, all of the Congress of the Republic).** Any public official, public employee or person exercising public functions who requests or accepts, directly or indirectly, any object of pecuniary or other value commits the crime of passive bribery.

benefit, by way of favor, gift, present, promise, advantage or for any other reason, for himself or for another person, to carry out, order, delay or omit an act inherent to his position.

The person responsible for this crime will be punished with imprisonment of five to ten years, a fine of fifty thousand to five hundred thousand Quetzales, and special disqualification, without prejudice to the penalty applicable to the crime committed.

When a public official or employee obliges a favor, gift, present, promise or advantage, the penalty shall be increased by one third.

Persons who report the acts mentioned in this article will be protected by the relevant authorities, in accordance with current legislation.

#### **Concurrence with another crime**

**ARTICLE 440.-** When the gift or present requested, received, offered or promised has as its objective the realization of an act that constitutes a crime, the sanction indicated in the preceding article shall be imposed, without prejudice to the provisions relating to the concurrence of a crime.

#### **Bribery of arbitrators, experts or other persons holding public office**

**ARTICLE 441.-** The provisions of the two preceding articles are applicable to arbitrators, experts or any persons who perform, occasionally or permanently, a public function or office.

#### **Active bribery**

**ARTICLE 442.-** *(Amended by Article 119 of Decree 11-2006 and Article 23 of Decree 31-2012, both of the Congress of the Republic)*. Any person who offers or delivers to a public official, public employee or anyone exercising public functions, directly or indirectly, any object of pecuniary value or other benefit as a favor, gift, present, promise, advantage or for any other reason, for himself or herself or for another person, in order for him or her to perform, order, delay or omit an act inherent to his or her office, commits the crime of active bribery.

The person responsible for this crime will be punished with imprisonment of five to ten years, a fine of fifty thousand to five hundred thousand Quetzales, and special disqualification, without prejudice to the penalty applicable to the crime committed.

#### **Transnational Active Bribery.**

**ARTICLE 442 BIS.-** *(Added by Article 120 of Decree 11-2006 and amended by Article 24 of Decree 31-2012, both from the Congress of the Republic)*. Any person who offers or delivers to a public official or employee of another State or international organization, directly or indirectly, any object of pecuniary value or other benefit, as a favor, gift, present, promise, advantage or for any other reason, for themselves or for another person, to carry out, order, delay or omit an act inherent to their office, commits the crime of transnational active bribery.

The person responsible will be punished with imprisonment of five to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

#### **Transnational passive bribery**

**ARTICLE 442 TER.-** *(Added by Article 25 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. Any public official or employee of another State or international organization who requests or accepts, directly or indirectly, any object of pecuniary value or other benefit, as a favor, gift, present, promise, advantage or any other concept, for himself or herself or for another person, to perform, order or omit an act inherent to his or her office, commits the crime of passive transnational bribery.

The person responsible will be punished with imprisonment of five to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

#### **Unlawful acceptance of a gift**

**ARTICLE 443.-** *(Amended by Article 9 of Decree 38-2000 of the Congress of the Republic)*. Any public official or employee who accepts gifts, presents, offers or promises from persons who have any pending matter before him shall be punished with imprisonment of one to three years and a fine of five thousand to twenty-five thousand quetzales.

#### **Special disclaimer of liability**

**ARTICLE 444.-** *(Amended by Article 26 of Decree 31-2012 of the Congress of the Republic, the Law against Corruption)*. In cases of bribery offenses that violate the tax regime, the person who reports or assists in obtaining evidence of the commission of the crime shall be exempt from criminal liability.

### **CHAPTER IV**

#### **OF THE CRIMES OF EMBEZZLEMENT AND MISINMERSION**

##### **Embezzlement by theft**

**ARTICLE 445.-** *(Amended by Article 27 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. Any public official or employee who removes or allows another to remove money, effects or goods that he or she guards, receives, manages or keeps by reason of his or her functions commits the crime of embezzlement by subtraction. The person responsible for this crime will be punished with imprisonment of five to ten years, a fine of ten thousand to fifty thousand Quetzales and special disqualification.

If the money, effects or goods are intended for welfare purposes or social support programs, the penalty will be increased by two-thirds.

##### **Embezzlement by use**

**ARTICLE 445 BIS.-** *(Added by Article 28 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. Any public official or employee who, for purposes other than the services established in the public administration, uses or allows another to use, for his own benefit or that of third parties, vehicles, machinery, any other equipment or work instrument that is under his care, custody or administration belonging to the public administration, as well as work or services destined for the public office he holds, commits the crime of embezzlement by use. The person responsible for this crime will be punished with imprisonment of three to five years, fines of ten thousand to fifty thousand Quetzales and special disqualification.

This provision is applicable to the contractor of a public work or its employees, when the indicated assets belong to the State or any public agency.

If the vehicles, machinery, and any other work instruments, works or services are intended for assistance purposes or social support programs, the penalty will be increased by two-thirds.

##### **Culpable embezzlement**

**ARTICLE 446.- (Amended by Article 29 of Decree 31-2012 of the Congress of the Republic, Law against Corruption).** Any public official or employee who, through negligence, allows another person to steal money, effects or goods referred to in Articles 445 and 445 Bis of this Law shall commit the crime of negligent embezzlement. The person responsible for this crime shall be punished with imprisonment of one to three years and special disqualification.

The same penalty shall be imposed on any public official or employee who knowingly allows property, food, or perishable products under their custody or administration to be lost, destroyed, spoiled, or expire, even if they do not belong to the State.

If the money, effects or goods are intended for welfare purposes or social support programs, the penalty will be increased by one third.

#### **Misappropriation**

**ARTICLE 447.- (Amended by Article 30 of Decree 31-2012 of the Congress of the Republic, the Law against Corruption).** Any public official or employee who uses the funds, effects, or assets they administer for any purpose other than that for which they were intended shall commit the crime of embezzlement. Any person responsible for this crime shall be punished with imprisonment of two to six years and a fine of twenty thousand to fifty thousand Quetzales.

If, as a result of committing this crime, damage or obstruction of service is caused, the penalty will be increased by one third.

If the funds, effects or assets were destined for assistance purposes or social support programs, the penalty will be increased by two thirds.

#### **Default on payment**

**ARTICLE 448.-** Any public official or employee who, having available funds, unjustifiably delays an ordinary payment or one ordered by a competent authority, shall be sanctioned with a fine of one hundred to one thousand quetzales.

The same sanction will be imposed on any public official or employee who, when legally required, refuses to hand over money or effects deposited or placed under his custody or administration.

#### **Illicit enrichment**

**ARTICLE 448 BIS.- (Added by Article 31 of Decree 31-2012 of the Congress of the Republic, Law against Corruption).** Any public official, employee or person exercising public functions, and up to five years after having ceased to exercise public office, who obtains for himself or herself or for any other person a patrimonial benefit, an increase in his or her level of expenses, cancellation of debts or obligations that do not correspond to what he or she may have obtained, derived from the exercise of his or her position or from any income and whose lawful origin cannot be justified, commits the crime of illicit enrichment.

The person responsible for this crime will be punished with imprisonment of five to ten years, a fine of fifty thousand to five hundred thousand Quetzales and special disqualification.

#### **Illicit enrichment of individuals**

**ARTICLE 448 TER.- (Added by Article 32 of Decree 31-2012 of the Congress of the Republic, Law against Corruption).** The crime of illicit enrichment of individuals is committed by anyone who, without being a public official or employee, administers, executes or handles public resources or State assets, up to five years after having ceased in said function, who obtains for himself or herself or for any other person a patrimonial benefit, increase in his or her level of expenses, or cancellation of debts or obligations that do not correspond to what he or she may have obtained derived from his or her administration, execution or management or other lawful income.

The person responsible for this crime will be punished with a prison sentence of four to eight years and a fine of fifty thousand to five hundred thousand Quetzales.

If the person responsible for this crime is a legal entity, the provisions of Article 38 of the Penal Code shall apply to the imposition of the penalty.

#### **Front man**

**ARTICLE 448 QUÁTER.-** *(Added by Article 33 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. Any individual or legal entity that lends its name or business name to collaborate in the commission of any of the crimes contemplated in Title XIII of this Code commits the crime of fronting; the person responsible for this crime will be:  
punishable by imprisonment of five to ten years and a fine of fifty thousand to five hundred thousand Quetzales.

### **CHAPTER V**

#### **OF ILLEGAL NEGOTIATIONS**

#### **Concussion**

**ARTICLE 449.-** *(Amended by Article 10 of Decree 38-2000 of the Congress of the Republic)*. They commit the crime of concussion:

1. Any public official or employee who, directly or indirectly, or through simulated acts, takes an interest in any contract or transaction in which they intervene by virtue of their position. This provision applies to arbitrators, experts, accountants, guardians, executors, and trustees, with respect to the functions they perform as such.

*(Paragraph deleted by Article 34 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. 2. Any public official or employee who, for the purpose of profit, uses his or her influence to obtain a resolution from any authority, or an opinion that must be issued before it.

Those responsible will be punished with imprisonment of two to six years and a fine of five thousand to twenty-five thousand quetzales.

#### **Influence peddling**

**ARTICLE 449 BIS.-** *(Added by Article 35 of Decree 31-2012 of the Congress of the Republic, Law against Corruption)*. Any person who, by themselves or through an intermediary, or acting as an intermediary, influences a public official or employee, taking advantage of their hierarchy, position, friendship or any other personal ties, to obtain an undue benefit, for themselves or for a third party, in a matter that said public official or employee is dealing with or must resolve, whether or not there is detriment to the assets of the State or a third party.

Anyone responsible for this crime will be punished with two to six years in prison and special disqualification.

The same penalty shall apply to any person who, directly or indirectly, requests or accepts a benefit with the aim of using their real or perceived influence over a public official or employee to obtain an undue benefit for themselves or a third party.

If the public official or employee who is hearing, must hear, or resolve the matter is an official or employee of the administration of justice, the penalty will be doubled.

#### **Fraud**

**ARTICLE 450.- (Amended by Article 36 of Decree 31-2012 of the Congress of the Republic).** Commits the crime of Fraud in public administration: any official, public employee, person exercising public functions, or anyone who, on the occasion of one or more contracts with the State for the execution of works or services, intervenes in any phase of the bidding, quotation, acquisition, purchase, concession, auction, or liquidation processes, whether processed directly or through another executing unit, \*or uses any other artifice to defraud the State. Anyone responsible for this crime shall be punished with — imprisonment of five to ten years and special disqualification. *\*(The highlighted words were declared unconstitutional by the Constitutional Court in its Judgment of 03/03/2016, File 3292-2015).*

If the operation in which he or she is involved is related to or intended for assistance purposes or social support programs, the penalty will be increased by two-thirds.

#### **Illegal collection of commissions**

**ARTICLE 450 BIS.- (Added by Article 37 of Decree 31-2012 of the Congress of the Republic, Law against Corruption).** Any public official or employee who directly requests, manages, or receives a commission, economic compensation, payment, promise, or any type of benefit in order for any type of contract or public work to be carried out or awarded, by themselves or through a third party. The person responsible for this crime will be punished with imprisonment of five to ten years, a fine of fifty thousand to five hundred thousand Quetzales, and special disqualification.

#### **Illegal exactions**

**ARTICLE 451.- (Amended by Article 38 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law).** Any public official or employee who demands an illegal tax, contribution, fee, or levy or imposes greater than the corresponding amount commits the crime of illegal exactions. The person responsible for this crime shall be punished with imprisonment of one to three years, a fine of five thousand to twenty-five thousand Quetzales, and special disqualification.

If the public official or employee converts the proceeds of the exactions expressed in the previous paragraph for his own benefit or that of third parties, the penalty shall be increased by one third.

#### **Improper collection**

**ARTICLE 452.- (Amended by Article 39 of Decree 31-2012 of the Congress of the Republic).** Any public official or employee who authorizes fictitious, altered, or unjustified receipts or vouchers, or who collects them, commits the crime of improper collection. The person responsible for this crime shall be punished with imprisonment of one to three years, a fine of five thousand to twenty-five thousand Quetzales, and special disqualification.

#### **Improper charging for installation or repair of data transmission infrastructure.**

**ARTICLE 452 BIS. (Added by Article 13 of Decree 12-2014 of the Congress of the Republic; Provisionally suspended by Order of the Constitutional Court dated June 5, 2014, Accumulated Files 2089-2014, 2303-2014, 2352-2014, 2412-2014, 2521-2014 and 2547-2014; declared unconstitutional by judgment of the Constitutional Court of March 10, 2016, Accumulated Files 2089-2014, 2303-**

**2014, 2352-2014, 2412-2014, 2521-2014, 2547-2014, 2667-2014, 2689-2014, 2788-2014, 2859-2014, 3145-2014, 3171-2014, 3211-2014, 3257-2014 and 3678-2014).** Any public official, member of a Development Council or municipal official who charges sums of money for any reason from individuals who are authorized in accordance with the Law on the Control of Mobile Telecommunications in Centers of Deprivation of Liberty and Strengthening of the Infrastructure for Data Transmission, for the installation or repair of any data transmission equipment or for the construction necessary for the installation of data transmission equipment or for the use of property of public or communal domain or use for the installation of data transmission equipment, commits the crime of improper collection for the installation or repair of data transmission infrastructure. The person responsible for this crime will be punished with imprisonment of six to eight years, a fine of five thousand to twenty-five thousand Quetzales and special disqualification.

## TITLE XIV

### OF CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

#### CHAPTER I

##### OF CRIMES AGAINST JUDICIAL ACTIVITY

###### False accusation and complaint

**ARTICLE 453.-** Whoever falsely accuses a person of facts that, if true, would constitute a crime giving rise to ex officio proceedings, if this accusation is made before an administrative or judicial official who, by reason of his position, should proceed to the corresponding investigation, shall be punished with imprisonment from one to six years.

It may not be proceeded when the complainant or accuser except when in the respective dismissal or acquittal judgment, it is has declared the accusation or complaint to be slanderous.

###### Simulation of crime

**ARTICLE 454.-** Anyone who falsely claims before an administrative or judicial official that a crime giving rise to ex officio proceedings has been committed, or who simulates the existence of material evidence in order to induce the investigation of a case, shall be punished with imprisonment from six months to two years.

###### False accusation of private crime

**ARTICLE 455.-** The provisions of the two preceding articles are also applicable to the accusation or complaint of crimes that cannot be prosecuted ex officio, when they are made by persons to whom the law recognizes the right to formulate them.

###### Self-imputation

**ARTICLE 456.-** Whoever, through a declaration before a competent authority, attributes to himself a crime that he did not commit or that another person perpetrated, shall be punished with a fine of one hundred to one thousand quetzales.

###### Failure to report

**ARTICLE 457.-** Any public official or employee who, by reason of his position, has knowledge of the commission of an act classified as a crime of public action and, knowingly, fails to report it or delays making the corresponding complaint to the competent judicial authority, shall be punished with a fine of one hundred to one thousand quetzales.

The same penalty will be incurred by any individual who, being legally obliged, fails to report.

###### Collusion

**ARTICLE 458.- (Amended by Article 11 of Decree 38-2000 of the Congress of the Republic).** Whoever, through collusive agreement or by employing any other illicit means, avoids the summons or appearance in court of a third party or causes resolutions that harm the rights of the same, will be punished with imprisonment of one to four years and a fine of five thousand to twenty-five thousand quetzales.

Lawyers who knowingly direct, sponsor, or carry out the respective procedures and requests will incur the same penalties, in addition to the corresponding additional penalties.

#### **Obstruction of criminal action**

**ARTICLE 458 BIS.- (Added by Article 40 of Decree 31-2012 of the Congress of the Republic, Law against Corruption).** *The following person* commits the crime of obstructing criminal prosecution:

Anyone who influences another person to prevent them from providing information or evidence to the competent bodies of the justice system.

Anyone who uses physical force, intimidation, threats, or coercion against any public official or employee who is a member of the Judicial Branch or auxiliary institutions of the administration of justice, translator, interpreter, or expert, to hinder the performance of their duties.

Anyone who, in order to avoid obtaining evidence or means of proof, refuses to provide the Public Prosecutor's Office, the Judicial Body, the National Civil Police or the General Directorate of Criminal Investigation with documents or information that they know or that are in their possession, and is obliged to do so.

Anyone who, for the same purpose, destroys or conceals information or documents, or provides false documents or information to the Public Prosecutor's Office, the Judicial Branch, the National Civil Police, or the General Directorate of Criminal Investigation.

Any person responsible for any of the aforementioned actions will be punished with imprisonment of three to six years and special disqualification.

## **CHAPTER II**

### **OF PERJURY AND FALSE TESTIMONY**

#### **Perjury**

**ARTICLE 459.-** Anyone who, before a competent authority, swears to tell the truth and maliciously breaks it commits perjury.

The person responsible for this crime will be punished with imprisonment of six months to three years and a fine of fifty to one thousand quetzales.

#### **False testimony**

**ARTICLE 460.-** Any witness, interpreter, translator or expert who, in his statement or opinion before a competent authority or notary, states a falsehood, refuses to testify when obliged to do so, or conceals the truth, commits false testimony.

Anyone responsible for false testimony will be punished with imprisonment of six months to three years and a fine of fifty to one thousand quetzales.

If false testimony is committed in a criminal proceeding against the accused, it will be punished with imprisonment of two to six years and a fine of two hundred to two thousand quetzales.

The penalties indicated will be increased by one third if the false testimony is committed through bribery.

### **Presentation of false witnesses**

**ARTICLE 461.** Anyone who knowingly presents false witnesses in judicial or administrative matters or before a notary shall be punished with imprisonment of six months to two years and a fine of fifty to one thousand quetzales.

If the presentation was made by bribing false witnesses, the same penalty as that applicable to those who were bribed shall be imposed.

## **CHAPTER III**

### **OF PREVARICATION**

#### **Prevarication**

**ARTICLE 462.-** Any judge who knowingly issues rulings contrary to the law or bases them on false facts shall be punished with imprisonment from two to six years.

If the ruling issued consists of a conviction in a criminal case, the penalty will be three to six years.

#### **Culpable prevarication**

**ARTICLE 463.-** Any judge who, through inexcusable negligence or ignorance, issues resolutions contrary to the law or bases them on false facts shall be punished with a fine of one hundred to one thousand quetzales and special disqualification of one to two years.

#### **Prevarication of arbitrators**

**ARTICLE 464.-** The provisions of the first paragraph of article 462 and the previous article shall apply, where applicable, to the arbitrators.

#### **Unfaithful sponsorship**

**ARTICLE 465.-** Any lawyer or judicial representative who, in any way, deliberately harms the interests entrusted to him, shall be punished, provided that the act does not constitute a more serious crime, with imprisonment of one to three years and special disqualification for twice the term of the sentence.

#### **Double representation**

**ARTICLE 466.-** Any lawyer or judicial representative who, having taken on the defense, direction or representation of a party, later represents the other party in the same matter, assists or advises the other party, shall be punished with a fine of two hundred to two thousand quetzales and special disqualification of one to two years.

#### **Illegal representation**

**ARTICLE 467.- (Amended by Article 41 of Decree 31-2012 of the Congress of the Republic, the Anti-Corruption Law).** Any official or employee of the Public Prosecutor's Office, the General Directorate of Criminal Investigation, or the Judicial Branch who, during or after his or her tenure in office, represents, advises, or assists one of the parties in a matter in which he or she has intervened or participated by reason of his or her position, commits the crime of illegal representation; he or she shall be punished with imprisonment of two to five years and special disqualification.

## CHAPTER IV

### ON THE DENIAL AND DELAY OF JUSTICE

#### Delay of justice

**ARTICLE 468.- (Amended by Article 12 of Decree 38-2000 and by Article 42 of Decree 31-2012, both of the Congress of the Republic).** Any judge who fails to process a legally submitted request or who knowingly delays or orders the administration of justice to be delayed shall commit the crime of delaying justice; he shall be punished with imprisonment of two to four years, a fine of one hundred thousand to five hundred thousand Quetzales, and special disqualification.

The same sanction will be applied to representatives of the Public Prosecutor's Office, the National Civil Police, and the General Directorate of Criminal Investigation who knowingly delay the criminal investigation or the exercise of criminal prosecution.

#### Denial of justice

**ARTICLE 469.- (Amended by Article 43 of Decree 31-2012 of the Congress of the Republic).** Any public official or employee of the Judiciary, the Public Prosecutor's Office, the National Civil Police, and the General Directorate of Criminal Investigation who maliciously commits the crime of denial of justice:

- a) Divert the criminal investigation or criminal action ex officio to avoid linking or to separate the person(s) responsible for the crime.
- b) I will cease to promote the criminal investigation or criminal action ex officio.
- c) Conceal, alter or destroy any indication or evidence that allows establishing the commission of a crime, authorship or criminal participation.

The person responsible for this crime will be punished with three to eight years' imprisonment and special disqualification; the same penalties will apply to any judge who refuses to judge, under the pretext of legal obscurity, inadequacy, or silence.

## CHAPTER V

### BREACH OF SENTENCE AND ESCAPE OF PRISONERS

#### Evasion

**ARTICLE 470.- (Amended by Article 1 of Decree 30-97 and by Article 13 of Decree 38-2000, both of the Congress of the Republic).** Whoever, while detained or convicted, evades prison, shall be punished with imprisonment of ten to twenty years and a fine of fifty thousand to one hundred thousand quetzales.

If the act was committed using violence, the penalty will be doubled.

#### **Cooperation in evasion**

**ARTICLE 471.-** *(Amended by Article 2 of Decree 30-97 and by Article 14 of Decree 38-2000, both of the Congress of the Republic).* Whoever procures or facilitates the escape of a person detained or convicted of a crime shall be punished with imprisonment of eight to eighteen years and a fine of forty thousand to eighty thousand quetzales.

If the person responsible is a trusted official or employee in charge of the custody or safekeeping of the fugitive, or if the act was committed using violence, the penalty will be doubled.

#### **Culpable evasion**

**ARTICLE 472.-** *(Amended by Article 3 of Decree 30-97 and by Article 15 of Decree 38-2000, both of the Congress of the Republic).* Any public official or employee directly in charge of the custody or safekeeping of a person detained or convicted of a crime that negligently provides an opportunity for escape shall be punished with imprisonment of five to fifteen years.

#### **Inadmissibility**

**ARTICLE 472.- "A"** *(Added by Article 4 of Decree 30-97 of the Congress of the Republic).* Conditional suspension of the sentence or any alternative measure shall not be applicable to the perpetrator or accomplice of the crimes contemplated in Articles 470 and 471 of this Code.

#### **Prisoner riot**

**ARTICLE 473.-** Detainees or convicted persons who riot, disturbing the order or discipline of penal establishments, shall be punished with imprisonment of one to three years.

The ringleaders or leaders of the riot will be punished with the indicated penalty increased by one third.

## **CHAPTER VI**

### **OF THE COVER-UP**

#### **Self-concealment**

**ARTICLE 474.-** Anyone who, without prior agreement, collusion or collaboration with the authors or accomplices of the crime but with knowledge of its perpetration, intervenes subsequently, carrying out any of the following acts, is responsible for concealment:

1. Hide the offender or facilitate his escape
2. Refusing to allow the authorities, without justified reason, to hand over a suspect, a wanted person, or a criminal who is at the residence or dwelling of the requested person.

3. Assisting the perpetrator or accomplice to evade investigations by the authorities or to evade their investigation.

4. Receive, conceal, suppress, render useless, exploit, store, hide, traffic or negotiate, in any way, objects, effects, instruments, evidence or traces of the crime.

Those responsible for the crime of concealment will be punished with imprisonment from two months to three years.

#### **Improper concealment**

**ARTICLE 475.-** The person responsible for the crime of improper concealment is the following:

1. Habitually harbors, conceals, or protects criminals or, in any way, conceals weapons or criminal property, even if he has no specific knowledge of it.

2. Given the circumstances, the commission of a crime must be presumed if any of the acts referred to in the previous article are committed.

The person responsible for the crime referred to in the first paragraph of this article shall be punished with imprisonment of two to four years.

The person responsible for the crime referred to in the second paragraph of this article shall be punished with a fine of fifty thousand quetzales.

If the person responsible has a business dealing in the objects in question or carries out regular trafficking activities with them, whether new or used, the penalty will be six months to two years and a fine of one hundred to two thousand quetzales.

#### **Exemption from punishment**

**ARTICLE 476.-** Those who have committed crimes of concealment in favor of a relative within the legal degrees, common-law spouse or person in a common-law relationship are exempt from punishment, unless they have taken advantage of or helped the offender or taken advantage of the effects of the crime.

## **TITLE XV**

### **ABOUT ILLEGAL GAMES**

#### **SINGLE CHAPTER**

#### **Illicit gambling**

**ARTICLE 477.-** Bankers, administrators, businessmen, managers or other persons in charge and owners of gambling houses, bets or games of chance, shall be punished with imprisonment of one to five years and a fine of one thousand to ten thousand quetzales.

#### **Assistance**

**ARTICLE 478.-** Persons who go to gambling houses, bets or games of chance, will be sanctioned with a fine of two hundred to two thousand quetzales.

**Illegal lotteries and raffles**

**ARTICLE 479.-** Entrepreneurs and sellers of lottery or raffle tickets, not legally authorized, shall be sanctioned with a fine of fifty-one thousand quetzales.

**BOOK THIRD**

**OF THE FAULTS**

**SINGLE TITLE**

**CHAPTER I**

**Of the general provisions**

**ARTICLE 480.-** In the matter of offenses, the provisions contained in Book One of this Code are applicable, as appropriate, with the following modifications:

- 1st. Only the perpetrators of violations may be sanctioned.
- 2nd. Only completed offenses are punishable.
3. The confiscation of the instruments and effects of the offenses, provided for in article 60, will be decreed by the courts, according to the circumstances.
4. Recidivism will not be considered after one year has elapsed from the date of the previous sentence.
5. The security measures established in this Code may be applied to the perpetrators of the offenses, but in no case shall they exceed one year.
6. Only those acts that, according to this Code, do not constitute a crime shall be punished as misdemeanors.

**CHAPTER II**

**OF OFFENSES AGAINST PERSONS**

**ARTICLE 481.-** The following shall be punished with arrest from twenty to sixty days:

1. Anyone who causes another person injuries that result in illness or incapacity for work for ten days or less.
2. Anyone who, finding a child under twelve years of age abandoned or lost, does not present him or her to his or her family or to the authorities, or fails to take him or her to a safe place.

3. Anyone who, in a riot, has used any violence against the victim, provided that the victim only suffered minor injuries and the perpetrator is not known.

**ARTICLE 482.-** If the act is not included in the provisions of Book Two of this Code, it will be punished with arrest from twenty to sixty days:

1. Anyone who fails to rescue or assist a person found in an unpopulated area, injured or in danger of dying, when he or she can do so without personal risk or harm.

2. Whoever, in words, driven by anger, threatens another with causing harm that constitutes a crime, and by his subsequent actions demonstrates that he does not persist in the idea that he meant with his threat.

3rd. Whoever causes unjust coercion or vexation to another.

4. Spouses, persons in a common-law relationship or cohabitants who cause scandal with their domestic disputes.

5. Anyone who threatens another with a weapon or draws one in a fight, except in self-defense.

**ARTICLE 483.-** The following shall be punished with arrest from fifteen to forty days:

1st. Anyone who causes injuries that do not prevent the injured party from carrying out his or her usual work.

2. Anyone who mistreats his or her spouse, a person with whom he or she is in a de facto union or a cohabitant, when it does not cause injury.

3. Anyone who, without being included in article 141, throws stones or objects at another person without causing harm.

4. Anyone who physically mistreats another person without causing injury.

5. Anyone who verbally threatens another with causing harm that does not constitute a crime.

6. The parent or guardian of a minor who exceeds his or her restraint, provided that he or she does not cause injury.

7. Those responsible for the care or custody of minors who abandon them, exposing them to corruption, or who fail to provide them with assistance and education.

8. Anyone who accompanies minors in vagrancy or begging, or forces them to work in violation of labor laws and regulations.

9. Anyone who, being obligated and able to provide support, refuses to fulfill his obligation, giving rise to legal action.

**ARTICLE 484.-** The following shall be punished with arrest from ten to thirty days:

1st. Anyone who slightly insults another, if the offended party reports it.

2nd. Anyone who, when required by another to avoid an evil, fails to provide assistance if it could not result in harm or damage.

### CHAPTER III

#### OF OFFENSES AGAINST PROPERTY

**ARTICLE 485.-** The following shall be punished with arrest from twenty to sixty days:

1st. *(Amended by Article 4 of Decree 2-96 of the Congress of the Republic)*. Anyone who commits theft of personal property whose value does not exceed one hundred quetzales.

2nd. *(Amended by Article 4 of Decree 2-96 of the Congress of the Republic)*. Anyone who commits fraud, misappropriation or other misappropriation, the financial loss of which does not exceed two hundred quetzales.

3rd. *(Amended by Article 4 of Decree 2-96 of the Congress of the Republic)*. Anyone who finds a lost item and does not deliver it to the authority or to its owner if he knows who it is, and disposes of it as his own, when its value does not exceed three hundred quetzales.

4. Whoever, for interest or profit, interprets dreams, makes divinations or predictions, or abuses public credulity in any other similar manner.

5. Anyone who acquires objects of suspicious origin, bought from a minor or a person who can be presumed not to be a minor, is its legitimate owner.

6. Whoever destroys, damages or harms, partially or totally, another's property, causing damage that does not exceed ten quetzales.

7. Anyone who destroys or vandalizes, in whole or in part, a hut, shelter, hedge, fence, enclosure or other property defenses, if the act does not constitute a crime, or anyone who causes damage by throwing any kind of objects from outside.

8. Anyone who enters another's fenced property, even if its condition as private property or the prohibition to enter is manifest.

9. Anyone who, without authorization, enters to hunt or fish on closed property or in a protected field.

10. Whoever enters another's field or property to gather fruit and eat it immediately.

11. Anyone who enters another's property or field or collects fruits, crops or other forest products, to immediately throw them to animals, if the value does not exceed ten quetzales.

12. Anyone who causes arson, if the act does not constitute a crime.

**ARTICLE 486.-** Anyone who intentionally introduces animals into another's property or fenced field and causes damage shall be punished with arrest from thirty to sixty days, if the act does not constitute a crime.

The same penalty will be applied if the livestock enters due to abandonment or negligence of the owner or the person in charge of its care.

**ARTICLE 487.-** The following shall be punished with arrest from fifteen to sixty days:

1st. Anyone who causes a fire of any kind that is not included as a crime in the Second Book of this Code.

2nd. *(Amended by Article 5 of Decree 2-96 of the Congress of the Republic)*. Anyone who causes damage included in this Code, the amount of which does not exceed five hundred quetzales.

3rd. Anyone who cuts down trees on another's property, causing damages that do not exceed twenty quetzales.

4. Whoever, taking advantage of waters belonging to another or diverting them from their course, causes damage whose amount does not exceed twenty quetzales

**ARTICLE 488.-** If the acts referred to in this chapter are committed with violence and do not constitute a crime, the penalty shall be doubled.

## **CHAPTER IV**

### **OF THE FOULS AGAINST**

#### **GOOD CUSTOMS**

**ARTICLE 489.-** The following shall be punished with arrest from ten to fifty days:

1. Anyone who, while intoxicated, causes a scandal or endangers or risks his or her own safety or that of others.

If the drunkenness is habitual, the court may apply the security measure it deems appropriate.

2. Anyone who, in a public place or place open to the public, or in private meeting places of any kind, is caught in a state of mental disturbance due to the use of drugs or toxic or narcotic substances.

In this case, the court may order the security measure it deems appropriate.

3. Anyone who incites a minor to gamble, or become drunk, or engage in any other kind of immoral or harmful acts, or facilitates entry to gambling dens, brothels, or other similar places.

4. Anyone who, in establishments or places open to the public, serves or provides alcoholic or intoxicating beverages to minors, or allows them to remain there.

5. The owner of public shows, in charge of their administration, supervision, or admission, who allows the entry of minors when exhibitions prohibited for their age are being held, as well as anyone who brings them to present them.

6. Anyone who publicly offends modesty with songs, allegories or other pornographic or obscene material.

7. Whoever, in any way, offends women with inappropriate, incorrect, disrespectful or offensive demands or propositions obscene or follow or harass them for any improper purpose.

## **CHAPTER V**

### **OF OFFENSES AGAINST GENERAL INTERESTS AND THE REGIME OF POPULATIONS**

**ARTICLE 490.-** Whoever commits acts of cruelty against animals or unnecessarily molests them, or makes them pull or carry an obviously excessive load, shall be punished with arrest from five to twenty days.

**ARTICLE 491.-** Any doctor, surgeon, midwife or person who exercises any health activity who, having provided professional assistance in cases that present characteristics of public crime against persons, does not immediately report it to the authorities, shall be punished with arrest from twenty to sixty days.

**ARTICLE 492.-** Whoever, having received counterfeit currency in good faith and after realizing its falsity, circulates it in an amount not exceeding five quetzales, shall be punished with arrest from five to thirty days.

**ARTICLE 493.-** The following shall be punished with arrest from twenty to sixty days:

1. Owners or managers of establishments that sell or serve beverages or food without observing the regulations or provisions of the health authorities regarding the use and preservation of utensils intended for the service, or who sell adulterated products or products that are in any way harmful to health.
2. Those who violate health provisions relating to corpses, burials or exhumations, in cases not provided for in Book Two of this Code.
3. Those who, through acts that do not constitute a crime, fail to show due respect to corpses, cemeteries or burial sites.

**ARTICLE 494.-** The following shall be punished with arrest from ten to sixty days:

1. The person in charge of the care or custody of a mentally ill person who allows him or her to wander the streets or public places without proper supervision.
2. The owner of wild animals that may cause harm and who leave them loose or in a situation that could cause harm.
3. Anyone who violates the regulations or ordinances of the authority regarding the production and storage of flammable or corrosive materials.
4. Anyone who, in violation of orders from the authorities, fails to carry out or neglects the repair or demolition of dilapidated or poorly maintained buildings.
- 5th. Anyone who fires a firearm in a public or frequented place.
6. Anyone who obstructs sidewalks, streets or public places with objects or artifacts of any kind.
7. Anyone who has objects outside their home, on the street or public highway, that could cause harm.
8. Anyone who violates the safety rules concerning the storage of materials, the opening of wells or excavations.
9. Anyone who travels in vehicles or horses, in a dangerous manner, through sites or places where there are crowds of people.
10. Anyone who refuses to receive legitimate currency in payment.
11. Any trafficker or seller who has measures or weights arranged with artifice to defraud or who in any way violates the regulations corresponding to the trade in which he is dedicated.
12. Anyone who commits fraud in the sale of substances, articles or objects, whether in their quality, quantity or by any means not expressly penalized.
13. Anyone who violates regulations, orders or decrees regarding epidemics or the extinction of plagues.
14. Anyone who throws dead animals, garbage or debris in the streets or in public places or where it is prohibited to do so, or pollutes fountains or watering troughs.
15. Anyone who violates legal provisions regarding the production of foul-smelling, unhealthy or dangerous substances or throws them into the streets.
16. Anyone who gives public shows or holds meetings without the proper license or exceeding the license granted.
17. Anyone who opens an establishment of any kind without a license from the authority, when necessary.
18. Anyone who tears down, breaks or renders useless posters, signs or notices posted by the authority for public knowledge.

**ARTICLE 495.-** Those who, in any way, violate the regulations or provisions of the authorities related to common security, public order, or public health, shall be punished with arrest for fifteen to thirty days.

## CHAPTER VI

### OFFENSES AGAINST PUBLIC ORDER

**ARTICLE 496.-** The following shall be punished with arrest from twenty to sixty days:

1. Anyone who slightly disturbs public order or the order of a court, or in public acts, shows, solemnities or meetings numerous.
2. The subordinate of the civil order who fails to show the respect and submission due to his superiors, when the act does not have a greater penalty in this Code or in other laws.
3. Anyone who lacks the respect and consideration due to authority or who slightly disobeys it.
4. Anyone who offends law enforcement officers in a manner that does not constitute a crime when they are exercising their duties.
5. Anyone who fails to provide due assistance in the event of a crime, fire, shipwreck, accident, flood or other calamity, when they could do so without personal harm or risk.
6. Anyone who, through noise or revelry or by abusing loud instruments, disturbs the occupations or rest of people or public shows, meetings or entertainment.
7. Anyone who stones or defiles statues, paintings, monuments, buildings or causes any damage to streets, parks, gardens, promenades, streetlights and other objects of public interest or recreation, even if they belong to private individuals, and anyone who, in any way, violates the provisions issued regarding the decoration of towns.
- 8°. Anyone who, during patrols or other nocturnal entertainment, disturbs public order without committing a crime.

**ARTICLE 497.-** Anyone who conceals his or her true name, status, address or other identification data from a public official or employee who requires it by reason of his or her position shall be punished with arrest from ten to sixty days.

## CHAPTER VII

### OF OFFENSES AGAINST THE TAX LEGAL ORDER

**ARTICLE 498.-** *(Repealed by Article 75, paragraph c) of Decree 4-2012 of the Congress of the Republic).* It will be punishable by arrest from ten to sixty days:

1. Any public official or employee who authorizes or loads tax stamping machines without the machines being duly authorized to operate, or without the tax that may be carried having been previously paid into the tax offices.

2. The withholding agent who does not issue to the taxpayer the withholding certificate that corresponds according to the law.
3. Any public official or employee who, by virtue of his or her position, receives taxes paid by check and fails to identify them on the back of the check.
  - a) To the individual or legal entity holding the account from which the check is drawn.
  - b) The tax that is paid, and,
  - c) The cash transaction number.

In the case of the offenses described in paragraphs one and three of this article, in addition to the penalty of arrest, the public official or employee responsible for the offense shall be dismissed from his or her position.

## **\*CHAPTER VIII**

### **\*ON ELECTORAL OFFENSES**

*(Chapter added by Article 18 of Decree 4-2010 of the Congress of the Republic).*

#### **Electoral Offenses**

**ARTICLE 499.** *(Added by Article 18 of Decree 4-2010 of the Congress of the Republic).* Anyone who:

- a) Advertise by pasting or painting labels on effigies, walls, signs, signs, bridges and monuments, except in the case of private property.
- b) During the electoral process, from eight o'clock in the morning until seven o'clock in the morning the following day, use vehicles of any type with loudspeakers for electoral propaganda purposes.
- c) Sell or distribute liquor, alcoholic or fermented beverages from twelve o'clock on the day before the elections until six o'clock on the day following them.
- d) Consume liquor, alcoholic or fermented beverages in public places, from twelve o'clock on the day before the elections until six o'clock on the day after them.
- e) Limit the free use of poles placed within streets, avenues or highways of the country, for electoral propaganda.

#### **GENERAL PROVISIONS**

**ARTICLE I.-** *(Amended by Article 56 of Decree 9-2009 and by Article 44 of Decree 31-2012, both of the Congress of the Republic).*  
**General Provisions of the Penal Code.** For criminal purposes, the following are understood:

1. Movable property means property that can be moved from one place to another, without damaging the property itself or the property where it is located, and livestock, in any case.

2. Public official: (i) any person holding a legislative, executive, administrative, or judicial office, whether appointed or elected, permanent or temporary, paid or honorary, regardless of that person's length of service; (ii) any other person performing a public function, including for a public body or public enterprise, or providing a public service.

A foreign public official is any person holding a legislative, executive, administrative, or judicial office in a foreign country, whether appointed or elected; and any person performing a public function for a foreign country, including for a public agency or public enterprise.

By an official of a public international organization, an international public employee, or any person authorized by such organization to act on its behalf.

3. A weapon is any object or instrument intended to offend or defend, explosive or corrosive substances, asphyxiating or corrosive gases, and any instrument capable of causing harm when carried in a manner intended to instill fear.

4. By violence, physical and psychological or moral. The former is the manifestation of force against people or things; the latter is intimidation of persons. The latter is deemed to exist when hypnosis, narcosis, or deprivation of reason or sense is present, whether the perpetrator provokes the situation or takes advantage of it.

5th. For unjust, what is illegal.

**ARTICLE II.-** The judge, in all cases of concurrent crimes, is obliged to apply the provisions relating to competitions.

**ARTICLE III.-** The owner of a rural property, his legal representative, tenant, usufructuary, administrator or whoever acts in his place, is considered an agent of the authority, within the jurisdiction of the property in question.

**ARTICLE IV.-** The provisions of this Code do not affect matters covered by constitutional laws or special jurisdictions.

**ARTICLE VI. (Added by Article 57 of Decree 9-2009 of the Congress of the Republic).** If the crimes of using minors in labor activities that are harmful to their integrity and dignity, possession of pornographic material of minors, self-abduction of minors, self-abduction, improper abduction, aggravated abduction, assumed childbirth, substitution of one child for another, suppression and alteration of civil status, irregular adoption and irregular adoption proceedings are committed for the purpose of exploitation in the crime of trafficking in persons, the penalties shall be applied without prejudice to the penalties applicable for the commission of the crime of trafficking in persons.

## FINAL PROVISIONS

### SINGLE ARTICLE:

1. Until the corresponding centers for compliance with the respective provisions of this Code are created, organized, and installed, the existing official centers will be used. In special cases and in a duly regulated manner, with the intervention of the necessary agencies and entities, the provision of such services may be arranged with private individuals or entities.

2°. This Code shall enter into force on September 15, 1973, and shall be published in the Official Gazette.

3. From the moment this Code comes into force, the Penal Code currently in force, contained in Decree No. 2164 of the Legislative Assembly of the Republic of Guatemala, issued on April 29, 1936, is hereby repealed, and the laws that modified it are hereby repealed, as well as all other legal provisions that conflict with this Code.

4. The laws and provisions of a criminal nature contained in special laws remain in force in all matters not provided for in this Code.

Forward to the Executive Branch for publication and compliance.

Given at the Palace of the Legislative Body, in the city of Guatemala, on the fifth day of the month of July of nineteen hundred and seventy-three.

MARIO SANDOVAL ALARCÓN,

President.

MANFREDO HEMMERLING MORALES,

3rd. Secretary.

Juan Antonio Gonzalez Ortega,

4th. Secretary

National Palace: Guatemala, July 27, 1973.

PUBLISH AND COMPLY.

Carlos Arana Osorio,

The Minister of the Interior.

ROBERTO HERRERA IBARGÜEN.