

Syria: Two New Decrees to Regulate Use of Foreign Currencies and Money Exchange: The Accused is Guilty Until Proven Innocent

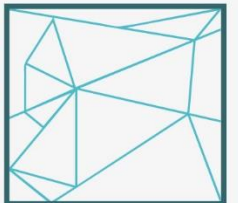


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On 20 January 2024, Syrian President Bashar al-Assad issued two Legislative Decrees, [No. 5](#) and [No. 6](#) of 2024. The decrees prohibit dealing in currencies other than the Syrian pound, practicing money exchange without a license, and transferring or converting foreign currencies outside Syria. The two decrees were issued to manage all foreign exchange transactions in Syria, increase public treasury revenue, and control the constantly rising exchange rate. Notably, multiple laws have been issued recently, imposing unprecedented strict penalties on anyone involved in foreign currency transactions, regardless of the amount or purpose of the transaction.

The Director of Legal Affairs at the Central Bank of Syria, Majdi Abu al-Fakhr, believes that the two decrees are urgently needed to "preserve national sovereignty" in Syria's current "transitional" phase, which requires tighter procedures through "prosecution." According to Abu al-Fakhr, unlicensed companies that transfer foreign currencies raise suspicions of money laundering and terrorist financing because transfers outside supervision lead to such suspicion that must be deterred.¹

Determine Penalties Based on Foreign Exchange Value and Double the Penalty for Unlicensed Money Exchange

Despite the repeal of Legislative Decrees [No. 54 of 2013](#) and [No. 3 of 2020](#),² which prohibited the use of currencies other than the Syrian pound as a means of payment, Decree No. 5 of 2024 still prohibits Syrians and foreign residents – non-investors – from using any other currency other than the Syrian pound and punishes anyone found committing this "crime",³ with [the Central Bank of Syria](#) being a personal plaintiff entitled to civil compensation as determined by the court.⁴

Even though the decree banned using any currency other than the Syrian pound, the penalty imposed on the defendant was determined based on the value of the foreign currency or precious metals traded, not the value of the national pound. The punishment for this crime is categorized from a simple misdemeanor to a serious felony based on the amount involved. That is, if the amount in which the transaction was detected is less than 10,000 US dollars (USD) (or its equivalent in other foreign currencies or precious metals), the accused shall be imprisoned for one to three years. The same crime becomes a felony if the amount is between 10,000 USD and 50,000 USD (or its equivalent), and the penalty is temporary imprisonment. However, the exact length of imprisonment is not explicitly specified. Finally, if the amount is greater than 50,000 USD (or its equivalent), the penalty becomes temporary imprisonment for at least seven years, although the maximum penalty is not specified. In all cases, the accused must also pay a fine equal to twice the value of the traded amount.⁵

Furthermore, Legislative Decree No. 6 of 2024 introduced stricter penalties for those who engage in unauthorized money exchange. The decree amended Article 25 of [Law No. 24 of 2006](#) (previously amended by [Decree No. 29 of 2012](#)) and increased the penalty to five times its previous amount. As per the new decree, anyone who practices money exchange or transfers

¹ [A special symposium on Decrees No. 5 and 6 regarding the use of foreign currency in Syria](#), Syrian Channel on YouTube, 21 January 2024.

² Article 10 (a) of Legislative Decree No. 5 of 2024.

³ Article 5 of Legislative Decree No. 5 of 2024.

⁴ Article 1(c) of Legislative Decree No. 5 of 2024.

⁵ Article 1(b) of Legislative Decree No. 5 of 2024.

foreign or national currencies without a license will face temporary imprisonment for five to 15 years. Additionally, the fine for this offense will be three times the seized amounts, with a minimum of 25 million Syrian pounds (SYP).⁶ Previously, the punishment was imprisonment for one to three years and a fine of only one million SYP.⁷

The Exception of “Preventing the Release of the Accused” has Become the Norm

Even though [the 2012 Syrian Constitution](#) states, “Freedom shall be a sacred right and the state shall guarantee the personal freedom of citizens and preserve their dignity and security”,⁸ both decrees, along with Legislative Decree No. 3 of 2020,⁹ prevented the accused from their right of requesting release.¹⁰

It is important to note that [the Syrian Code of Criminal Procedure No. 112 of 1950](#) outlines cases of release and divides them into two categories. The first is “mandatory” release, where the judge must release the detainee when specific conditions mentioned in the law are met. In this case, the judge has no choice but to release the accused and does not require a request from the detainee.¹¹ The second is “permissive” release, based on the detainee's request. In cases where the detainee does not need to be released, the investigating judge may choose to release the detainee with or without bail.¹²

As per the aforementioned law, the accused has the right to request release at any stage of investigation or trial, irrespective of the kind of crime they are charged with.¹³ However, Decree No. 5 and 6 prohibit this right, despite the fact that the decision to grant or deny release should not be based on the severity of the crime, or until the guilt of the accused is proven¹⁴.

As its name indicates, preventive detention is a precautionary measure not meant to be a punishment. Criminal jurisprudence believes that preventive detention has several justifications: protecting the accused, preventing them from communicating with witnesses or influencing them, preventing them from escaping or obliterating the traces of the crime, and appeasing public opinion.¹⁵ As per the criminal jurisprudence, these justifications should not be exceeded; otherwise, the detention will become illegal. Therefore, detention that does not serve these conditions abuses the authority's power. The Ministry of Justice Communication No. 37, issued on 17 October 1965, stated, “We have observed, based on the inspection reports, that the number of detainees in prisons is significantly higher than that of convicts. This contradicts the original purpose of establishing prisons and also goes against the goal sought by the public in supporting the preventive detention system.” The Communication added, “The judges should adhere to the objectives of pretrial detention, and the Public Prosecution Judges should properly implement the previous legal rules and principles and adopt the methods of appeal in every case in which detention deviates from these objectives.”

⁶ Articles 1 and 2 of Legislative Decree No. 6 of 2024.

⁷ Article 1 of Law No. 29 of 2012.

⁸ Article 33 of the 2012 Syrian Constitution.

⁹ Article 2 of Legislative Decree No. 3 of 2020.

¹⁰ Article 2 of Decree No. 5 of 2024 and Article 3 of Decree No. 6 of 2024.

¹¹ Article 117 (2) of the Syrian Code of Criminal Procedure No. 112 of 1950.

¹² Articles 117 (1) and 118 of the Syrian Code of Criminal Procedure No. 112 of 1950.

¹³ Articles 120 (1) of the Syrian Code of Criminal Procedure No. 112 of 1950.

¹⁴ Communication by the Ministry of Justice issued 27 May 1954.

¹⁵ The Specialized Legal Encyclopedia: [The Preventive Detention](#).

According to jurisprudence, “Detention is not considered a form of punishment, but rather a precautionary measure. The law permits the defendant to request their release at all investigation and trial stages.”¹⁶ This is particularly important in Syria, where legal proceedings can take a long time. An accused person may be detained for months or even years before a final judgment is made, which could ultimately lead to their acquittal.

It is important to recall that the [International Covenant on Civil and Political Rights](#) states in Article 9 (3), “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody.” This is because human freedom is the norm, and its restriction is the exception, not the other way around.¹⁷

Settlement Before the Court

Decree No. 5 grants the accused the right to settle their case before the judicial authority, contrary to Decree No. 6 of 2024. The settlement amount is determined by the same authority and is equal to the value of payments, amounts seized in kind, and those recorded in paper and electronic documents. This settlement value also includes the values of goods, products, services, and commercial transactions offered in a currency other than the Syrian pound.¹⁸ Anything seized in kind is considered a part of the settlement value.¹⁹

The case can be settled before or after the final judicial ruling. If settled before the ruling, the public lawsuit is dropped, and the accused is not required to pay civil compensation to the bank. Instead, they must pay an amount equal to the value of the crime committed. If settled after the ruling, the penalty of imprisonment can be avoided by paying a fine that is twice the amount involved in the crime. In addition, the accused must also fulfill their civil obligations and pay the compensation imposed.²⁰

The same Decree states that foreign trade and the possession of foreign currencies would not be considered criminal acts.²¹ Thus, on 28 January 2024, the Central Bank of Syria issued [Resolution No. 112/L.E.](#) to clarify the meaning of foreign trade, as it pertains to the implementation of Legislative Decree No. 5.

It is important to note that any foreign currencies, precious metals, fines, or settlement amounts that are confiscated go directly to feeding the state treasury²².

¹⁶ The criminal collection of the decisions of the Syrian Court of Cassation. Yassin Darkzli.

¹⁷ Article 9 (3) of the International Covenant on Civil and Political Rights.

¹⁸ Article 3 (b) of Legislative Decree No. 5 of 2024.

¹⁹ Ibid.

²⁰ Articles 3(a) and 4 of Legislative Decree No. 5 of 2024.

²¹ Articles 6 and 7 of Legislative Decree No. 5 of 2024.

²² Article 3(b) of Legislative Decree No. 5 of 2024.

Exceptional Powers to Central Bank Employees (Prolonging the Detention of Defendants Before Trial)

Decree No. 5 of 2024 has assigned the task of controlling the crimes mentioned in the decree to the judicial police. As per the decree, the Governor of the Central Bank of Syria must appoint a number of employees in the bank with the authority of the judicial police. These employees are responsible for controlling crimes and must take an oath before the President of the Civil Court of First Instance in the governorate²³.

Additionally, the two decrees, the subject of the present paper, brought [Legislative Decree No. 55 of 2011](#) into effect.²⁴ As per this decree, the judicial police or authorized personnel have the right to investigate crimes, collect evidence, listen to suspects, and detain them for up to sixty days. However, this contradicts the stance of the Human Rights Committee, which maintains that suspects must be presented before a judicial authority within 48 hours, irrespective of the presence of any criminal charges.²⁵

Although the Syrian Constitution of 2012 states that "The rule of law shall be the basis of governance in the state."²⁶ and appears to adopt the principle of separation of powers among the three branches of government, the powers granted to the executive branch violate this principle. Additionally, the Constitution does not mention the powers granted to the judicial police, including the security services. Any illegal interference by the executive branch in the judiciary's work is considered a breach of the United Nations General Assembly's [Basic Principles on the Independence of the Judiciary](#), as issued in 1985.

Series of Resolutions Fail to Stop the Syrian Pound Devaluation

In recent years, several laws and decisions have been issued to regulate the use of currencies other than the Syrian pound. The most important of these is Legislative Decree No. 54 of 2013, which prohibits the use of currencies other than the Syrian pound. This law has been amended by Legislative Decree No. 3 of 2020. Additionally, [Monetary and Credit Council Resolution No. 210/M.N. of 2023](#) provides guidelines for the possession, entry and exit of the Syrian pound and foreign currencies to and from Syria.

Despite these regulations, the exchange rate of the Syrian pound continues to decrease in value, and the laws have not been effective in preventing citizens, including merchants, from using the black market. This is due to the large gap in the exchange rate of the Syrian pound between the black market and the central bank rate. According to the local [Syrian Pound Today](#) website, the exchange rate of the Syrian pound against the USD is 14,700 buying and 14,850 selling, while the [official market bulletin](#) indicates an exchange rate of 12,500 buying and 12,625 selling.²⁷

²³ Article 8 of Legislative Decree No. 5 of 2024.

²⁴ Article 9 of Legislative Decree No. 5 of 2024 and Article 3 of Legislative Decree No. 6 of 2024.

²⁵ UN Human Rights Committee General comment no. 35, Article 9 (Liberty and security of person) CCPR/C/GC/35. Paragraph 33. 16 December 2014.

²⁶ Article 50 of the 2012 Syrian Constitution.

²⁷ These prices were released on 25 April 2024.



ABOUT STJ

Syrians for Truth and Justice (STJ) started as an idea in a co-founder's mind while attending the U.S. Middle-East Partnership Initiative's (MEPI) Leaders for Democracy Fellowship program (LDF) in 2015. The idea became a reality and flourished into an independent, non-profit, impartial, non-governmental human rights organization.

STJ's beginnings were more than humble; initially, it only reported stories of Syrians who experienced arbitrary arrest, enforced disappearance, or torture. Planted in fertile soil, the seed of this project grew into an established human rights organization licensed in the Middle East and the European Union. STJ today undertakes to detect and uncover violations of all types committed in all Syrian parts by the various parties to the conflict.

Convinced that Syria's diversity is a wealth, our researchers and volunteers serve with unfailing dedication to monitor, expose, and document human rights violations that continue unabated in Syria since 2011, regardless of the affiliation of the victims or perpetrators.