

ROYAL DECREE 19 October 1930, no. 1398

Approval of the final text of the Criminal Code

In force as of 19-5-2020

TITLE V: CRIMES AGAINST PUBLIC ORDER

Article 416
(Criminal association)

When three or more persons associate for the purpose of committing more than one crime, those who promote or constitute or organise the association shall be punished, for that alone, by a term of imprisonment of three to seven years.

For the sole fact of participating in the association, the punishment shall be a term of imprisonment of one to five years.

The leaders shall be subject to the same punishment prescribed for the promoters.

If the associates roam the countryside or public roads in arms, the term of imprisonment shall be of five to fifteen years.

The punishment shall be increased if the number of associates is ten or more.

If the association is aimed at committing any of the crimes as per Articles 600, 601 ((, **601-bis**)) and 602, and Article 12, paragraph 3-bis of the Consolidated Text on migration and the provisions governing the status of foreigners as set forth in Legislative Decree no. 286 of 25 July 1998, ((**and Article 22, paragraphs 3 and 4, and Article 22-bis, paragraph 1, of Law of 1 April 1999, no. 91,**)) imprisonment shall be of five to fifteen years in the cases set out in the first paragraph and of four to nine years in the cases set out in the second paragraph.

If the association is aimed at committing any of the crimes as per Articles 600-bis, 600-ter, 600-quater, 600-quater.1, 600-quinquies, 609-bis, when the fact is committed against a person under the age of eighteen, as per Articles 609-quater, 609-quinquies, 609-octies, when the fact is committed against a person under the age of eighteen, and as per Article 609-undecies, imprisonment shall be of four to eight years in the cases set out in the first paragraph and of two to six years in the cases set out in the second paragraph.

(33) (96) (125) (233)

UPDATE (33)

Law of 31 May 1965, no. 575, stipulates (by Article 7, paragraph 1) that the punishment prescribed for the offence referred to in this article shall be increased if the fact is committed by a person who has already received preventive measures by a final order.

UPDATE (96)

Law of 31 May 1965, no. 575, as amended by Law of 13 September 1982, no. 646, stipulates:
- (by Article 7, paragraph 1) that the punishment prescribed in this article shall be increased if the fact is committed by a person who has already received a preventive measure by a final order,
-(by Article 7, paragraph 3) that a security detention measure shall be added to the punishment.

UPDATE (125)

Law of 31 May 1965, no. 575, as amended by Decree-Law of 13 May 1991, no. 152, converted with amendments by Law of 12 July 1991, no. 203, stipulates (by Article 7, paragraph 1) that the punishment prescribed for the offence referred to in this article shall be increased by one third up to one half if the fact is committed by a person who received a preventive measure by a final order during the application period and up to three years starting from when enforcement ceased.

UPDATE (233)

Legislative Decree of 6 September 2011, no. 159, stipulates:
- (by Article 71, paragraph 1) that the punishment prescribed for the offence referred to in this article shall be increased of one third up to one half if the fact is committed by a person who received a preventive measure on persons by a final order during the application period and up to three years starting from when enforcement ceased,
- (by Article 71, paragraph 3) that a security detention measure shall be added to the punishment.

Article 416-bis
Mafia-type associations, including foreign associations

Any person who forms part of a mafia-type association, made up of three or more persons, shall be punished with imprisonment *((of ten to fifteen years))*.

Those who promote, direct or organise the association shall be punished, for that alone, with imprisonment *((of twelve to eighteen years))*.

The association is of mafia type when those who form part thereof avail themselves of the force of intimidation of the bond deriving from being a member of the association and of the consequent condition of subjection and "omertà" (silence of a culpable nature), in order to commit crimes, directly or indirectly take over the management or, in any case, the control of economic activities, concessions, authorisations, public contracts and services, or in order to obtain profits or unjust advantages for themselves or others, or in order to prevent or hinder the free exercise of the right of voting or to procure votes for themselves or others on the occasion of elections.

If the association is an armed one, the penalty of imprisonment *((of twelve to twenty years))* shall be applied in the cases provided for in the first paragraph, and *((of fifteen to twenty-six years))* in the cases set forth in the second paragraph.

The association shall be considered to be an armed one when its participants have arms or explosive materials available to them in order to achieve the aims of the association, even if such arms or explosives are concealed or kept in a warehouse.

If the economic activities of which the associates intend to take over or maintain control are in whole or in part financed with the price, product or profit of crimes, the penalties established in the preceding paragraphs shall be increased by one-third up to one-half.

It is always mandatory to confiscate from the convicted person the items that were used or intended for use in the commission of the crime, and the items which are the price, product or profit thereof or which constitute the use thereof. PARAGRAPH REPEALED BY LAW OF 19 MARCH 1990, NO. 55. (118)

The provisions of this article shall also apply to the "camorra", "ndrangheta" and other associations, however they may be called locally, including foreign ones, which by availing themselves of the force of intimidation of the bond deriving from being a member of the association, pursue aims that correspond to those of mafia-type associations.

(96) (125) (233)

UPDATE (96)

Law of 31 May 1965, no. 575, as amended by Law of 13 September 1982, no. 646, stipulates:
- (by Article 7, paragraph 1) that the punishment prescribed for the offence referred to in this article shall be increased if the fact is committed by a person who has already received a preventive measure by a final order,
-(by Article 7, paragraph 3) that a security detention measure shall be added to the punishment.

UPDATE (118)

Law of 19 March 1990, no. 55, stipulates (by Article 36, paragraph 2) that there is no prejudice to the loss of any prerogatives pursuant to the law under paragraph seven, second part, of this article as a result of judgments that became final before the entry into force of the same law of 19 March 1990, no. 55.

UPDATE (125)

Law of 31 May 1965, no. 575, as amended by Legislative Decree of 13 May 1991, no. 152, converted with amendments by Law of 12 July 1991, no. 203, stipulates (by Article 7, paragraph 1) that the punishment prescribed for the offence referred to in this article shall be increased by one third up to one half if the fact is committed by a person who received a preventive measure by a final order during the application period and up to three years starting from when enforcement ceased.

UPDATE (233)

Legislative Decree of 6 September 2011, no. 159, stipulates:
- (by Article 71, paragraph 1) that the punishment prescribed for the offence referred to in this article shall be increased from one third to one half if the fact is committed by a person who received a preventive measure on persons by a final order during the application period and up to three years starting from when enforcement ceased,
- (by Article 71, paragraph 3) that a security detention measure shall be added to the punishment.

Article 416-bis.1

((*Aggravating and mitigating circumstances for offences related to mafia-type activities*)).))

((Punishment shall be increased by one third up to one half for the offences punishable by a penalty other than life imprisonment, committed under the conditions referred to in Article 416-bis or to facilitate the activity of the associations indicated in that same article.

Mitigating circumstances, other than those referred to in Articles 98 and 114, concurring with the aggravating circumstance referred to in the first paragraph, may not be considered equivalent to, or prevailing over, that circumstance, and any reduction in the penalty shall be made on the amount of sentence resulting from the increase deriving from the aforementioned aggravating circumstance.

For the offences under Article 416-bis and those committed under the conditions indicated in the previous article or to facilitate the activity of mafia-type associations, with respect to a defendant who, after opting out of the association, endeavours to avoid any further consequences of the criminal activity, including by effectively providing assistance to police and judicial authorities in collecting conclusive evidence with a view to identifying or arresting perpetrators, life imprisonment shall be replaced by a term of imprisonment of twelve to twenty years and the other penalties shall be reduced by one third up to one half.

In the cases referred to in the third paragraph the provisions of the first and second paragraphs shall not apply.))

Article 416-ter

(((Exchange of votes between politicians and mafia members).))

((Any person who accepts, directly or through intermediaries, a promise to procure votes on the part of subjects who are members of the associations referred to in Article 416-bis or through the conduct indicated in the third paragraph of Article 416-bis in exchange for money, or the promise thereof, or any other property or in exchange for readiness to act in the interest of mafia-type associations or to satisfy their needs, shall be punished in accordance with Article 416-bis, first paragraph.

The same punishment shall be imposed on those who promise, directly or through intermediaries, to procure votes in the cases referred to in the first paragraph.

If the person who has accepted a promise of votes, based on the agreement mentioned in the first paragraph, is elected in the relevant elections, the punishment prescribed in Article 416-bis, first paragraph, shall apply and it shall be increased by one half.

In case of a conviction for the offences referred to in this article, disqualification from holding public offices shall always be ordered)).

UPDATE (281)

Legislative Decree of 6 September 2011, no. 159, as amended by Law of 17 October 2017, no. 161, stipulates (by Article 71, paragraphs 1 and 3) that the punishment prescribed for the offence referred to in this article shall be increased by one third up to one half if the fact is committed by a person who has received a preventive measure on persons by a final order during the application period and up to three years starting from when its enforcement ceased. A security detention measure shall be added to the punishment.