

# THE CRIMINAL LIABILITY OF THE DOCTOR FOR ISSUING A FALSE MEDICAL CERTIFICATE FOR FAVORITISM IN ALGERIAN LEGISLATION

**SELKH MOHAMMED LAMINE**  
University of El-oued - Algeria  
selkh-mohammedlamine@univ-eloued.dz

**ATMANE HOUIDEG,**  
University of El-oued - Algeria  
atmane-houideg@univ-eloued.dz

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## Abstract

*Although the law grants doctors the authority to issue medical certificates that describe a person's condition or grant them a certain legal status, this authority is restricted in some cases, especially when it involves certificates containing incorrect or false information. The trust that society places in doctors is not absolute and without condition. The reason for limiting a doctor's authority in this area is due to the significant impact of such documents and the potential rights, benefits, and undeserved legal statuses that a false medical certificate could grant its holder. To prevent manipulation of these documents, the Algerian legislator intervened by issuing a set of legal provisions that regulate and penalize any illegal and unlawful issuance and delivery of these documents. The most recent legislation in this area is Law No. 24-02, dated 26/02/2024, which addresses the fight against forgery and the use of forged documents. In this paper, we will study and analyze the crime of a doctor issuing and delivering a false medical certificate for the purpose of favoritism. We will outline the conditions and elements of this crime against the doctor and the penalties prescribed for the perpetrator under Algerian law.*

**Keywords:** doctor, medical documents, medical certificate, forgery, favoritism, falsehood, Algerian law.

## Introduction:

Medical certificates are among the documents and records issued and delivered by a doctor. They can take the form of an official document if issued by a practicing doctor in the public sector, as an official public servant authorized to issue them during or on the occasion of performing their duties. Alternatively, they can be an ordinary document if issued or delivered by a practicing doctor in the private sector. The trust society places in a doctor's certificate is not absolute and unconditional (1). Therefore, the Algerian legislator has considered the act of a doctor issuing a certificate that contradicts the truth, intending to favor someone, as a crime of forgery punishable under Article 26 of Law No. 24-02, dated 26/02/2024, related to combating forgery and the use of forged documents (2). This was previously stipulated and punished under Article 226 of the Penal Code.

In principle, these certificates are subject to the general provisions related to the forgery of documents, similar to official or customary documents. However, the legislator has exempted these certificates related to the medical profession and regulated them with a specific text, subjecting forgery committed by the issuing doctor to severe penalties. It makes no difference whether the perpetrator (the doctor) is a public employee or not, as the text is general and thus does not justify differentiation (3).



The legislator also considered the act of a doctor issuing this certificate upon request or acceptance of an offer, promise, or any other benefit as a crime of bribery punishable under Articles 25 and 40 of Law No. 06-01, dated 20/02/2006, related to the prevention and combating of corruption (4).

Regarding comparative legislation in North Africa and Europe, this crime is stipulated in penal codes. The Moroccan legislator has included it in Article 364 of the Penal Code, which is almost identical to the Algerian text. The Tunisian legislator, in Article 197 of the Penal Code, also has a similar provision to those of the Algerian and Moroccan legislators, differing in the penalty. Similarly, the Egyptian legislator has included it in Article 222 of the Penal Code, adding Article 223, which imposes the same penalty if the certificate is prepared for use in court. Another difference lies in giving the judiciary the option between imprisonment or a fine. The French legislator has also stipulated it in Article 441-7 of the French Penal Code.

From the above, we pose the following issue: How has the Algerian legislator addressed the criminal responsibility of a doctor for issuing a false medical certificate intending to favor someone to prevent and combat the phenomenon of forgery of medical documents?

To answer this issue, we divide this study into two parts: first, we discuss the elements of the crime of issuing a false medical certificate (Section One), and then we address how to prove this crime and the penalties prescribed for it (Section Two).

### **Section One: Elements of the Crime of Issuing a False Medical Certificate**

Various legislations differentiate between the forgery of medical certificates by ordinary individuals and by those belonging to the medical or health professions. This is the approach taken by the Algerian legislator through Article 26 of Law No. 24-02, which addresses the moral forgery committed by a doctor by including false data in the certificates they issue regarding specific matters defined by law (5). The Egyptian judiciary has confirmed that the misdemeanor penalty stipulated in Article 222 of the Penal Code (corresponding to Article 26 of Law No. 24-02 in Algeria) "was intended by the legislator for moral forgery rather than material forgery." The judiciary also confirmed that "the forgery punishable here is moral forgery, making a false incident appear as a true incident when the certificate is issued by the doctor or surgeon by falsely certifying a disease or disability in the person for whom it is issued." (6)

The rationale for criminalizing forgery in documents, in general, is evident, as modern societies rely on them for many aspects of life. This reliance is based on trust that they express a certain truth. Therefore, tampering with this truth results in these documents losing their social and legal function. The social function involves instilling confidence in individuals that their rights and relationships are protected and stable as long as they are documented in written records. The legal function manifests in the reliance on these documents - if prepared according to certain regulations - in court to resolve disputes due to the special evidentiary value assigned to them by law (7). Hence, it is natural for the legislator to protect public trust in these documents by criminalizing various behaviors that undermine this trust. This rationale necessarily applies to the forgery of medical certificates, given their significant role in society. Some certificates indicate the occurrence of a crime, as in the case of medical certificates related to the cause of death. Others determine the extent of the criminal result or harm, as in the case of medical certificates related to assault crimes, work accidents, occupational diseases, or traffic accidents (8).

For this crime to be established against the doctor, its essential elements must be present: the material element (second) and the moral element (third), in addition to a presumed element (first), which is represented by the content of the medical certificate as the object of forgery, and the specific status of the perpetrator required by the legislator in the criminal provision.



## **First: The Presumed Element**

This consists of two components: the specific status of the perpetrator and the forged medical certificate.

### **I. Status of the Perpetrator:**

The certificate issuer must be a practicing doctor or dentist during their professional practice, whether in the public or private sector. The text does not require the perpetrator to be a public employee (9), hence there is no basis for differentiation or distinction given the generality of the text (10).

The legislator stipulated that the certificate must be issued by persons with a specific status. Some legal scholars argue that the legislative text applies only if the certificate issuer is a doctor (11). This status is not achieved merely by obtaining a medical degree or qualification but requires obtaining a license to practice the profession and issuing the certificate during the practice of the doctor or other persons mentioned in the article (12). The term "doctor" here refers to a doctor who practices their profession legally and legitimately, not just someone with academic qualifications or a license to practice (13).

Some legal scholars refer to the status of the perpetrator as the source of the medical certificate. The source of the document, in general, refers to the person who authenticates the medical certificate so that it is attributed to them or is connected to them in some way. The source of the document, in this sense, indicates the social importance of the document, as it reflects a social relationship between the source of the document and other legal persons in society (14). In this case, the perpetrator is the person who dictated and signed the certificate (15), not the one who wrote it down, such as when a doctor dictates to a nurse. The principal, not the deputy, if the latter dictated the certificate, as the intention is to be bound by the content of the document or for the document to be issued expressing this intention (16).

### **II. The Forged Medical Certificate:**

For a medical certificate to be considered forged, and thus for the crime of forging a medical certificate by a doctor to be established under Article 26 of Law No. 24-02, four conditions must be met (17):

- a. The certificate must be issued by a licensed practicing doctor and written in the course of performing their duties. The medical certificate must contain specific information indicating the conclusion reached by the doctor and must falsely state the presence or absence of a disease, disability, or pregnancy, or include false information about the source of the disease, disability, or cause of death. It must also indicate the person for whom the certificate was written or in whose favor it was issued.
- b. The certificate must be issued with the intent to favor someone.
- c. The doctor issuing it must be aware of the purpose for which the certificate will be used.
- d. Finally, the certificate must be issued as an act of favor or courtesy, without the doctor receiving any compensation for issuing it. If compensation is received, the criminal description of the act changes from forging a medical certificate to the crime of bribery.

Forgery occurs in the certificate when the act of altering the truth pertains to the document itself without falling within the scope of its writing, as the alteration of the truth here pertains to the interconnected idea expressed by the document or at least what branches from it. A document is defined as any written material containing letters or marks that, when read, convey a specific meaning (18). The Algerian legislator did not define forgery in the Penal Code but defined it through Law No. 24-02 related to combating forgery as: "Any alteration of the truth through fraud in any



document or record or the means specified in this law in a way that causes harm and aims or is likely to result in the establishment of a right, status, or fact that has legal consequences." The Moroccan legislator defined document forgery in Article 351 of the Moroccan Penal Code as: "Forgery of documents is the alteration of the truth in them with malicious intent in a way that causes harm when it occurs in a document by one of the means specified in the law." Legal scholars define forgery as: "Any alteration of the truth through (positive or negative) behavior by one of the methods specified by the legislator in a fundamental statement in a document that has evidentiary value, thereby affecting the right of others or an interest protected by law." (19)

Legal scholars define forgery as "the alteration of the truth with the intent to deceive in a document by one of the methods specified by law, causing harm (20)." This means that the subject of the certificate may include a false declaration or concealment of the existence of a disease, disability, or pregnancy, or it may contain false information about the source of the disease, disability, or cause of death. For example, a doctor might falsely certify a chronic illness to exempt someone from national service or issue a certificate of disability to be presented in court (21).

The law punishes the doctor or equivalent for committing a criminal act by falsely certifying the existence of a disease, disability, or pregnancy, or providing false information about the source of the disease, disability, or cause of death. Additionally, the law punishes the act of omission, which involves concealing the existence of a disease, disability, or pregnancy when issuing the certificate, known as forgery by omission (22).

The form of the certificate and the method of writing it, whether handwritten, typewritten, or using a computer, do not matter. The subject of the medical certificate is irrelevant as long as it relates to one of the conditions mentioned in Article 26 of Law No. 24-02, or if it seeks to favor someone or intentionally harm them as per Article 238 of the repealed Health Protection and Promotion Law. It could also be to gain an unjustified financial benefit for a patient or a courtesy certificate under Article 24 of the Medical Ethics Code (23). The language used or the method of writing in shorthand symbols is also irrelevant, as long as it is done as an act of courtesy as mentioned in Article 58 of the Medical Ethics Code. If the certificate is issued for a fee, it becomes a crime of bribery, as will be explained below.

If the subject of the medical certificate is different from what was mentioned, the provisions of Article 26 of Law No. 24-02 should be excluded, and recourse should be made to Article 24 of the same law, which punishes "whoever deliberately issues a declaration or certificate that confirms materially incorrect facts," corresponding to Article 366 of the Moroccan Penal Code stating: "Whoever knowingly creates a declaration or certificate that contains materially incorrect facts," and Article 199 of the Tunisian Penal Code stating: "Anyone who deliberately issues a certificate or document stating untrue facts materially." Some legal scholars argue that if the subject of the certificate is other than the conditions stipulated in Article 26 of Law No. 24-02, such as age, the forgery case falls outside the scope of Article 26 and is subject to the general provisions of forgery (24).

It is not required for all information in the certificate to be forged for the forgery to be established; it is enough for some or part of it to be false or contrary to reality.

## **Second: The Material Element**

The material element consists of three components: the criminal behavior, the methods of forgery, and the criminal result (harm).

### **I. Criminal Behavior:**

This is the alteration of the truth through the medical certificate. The concept of altering the truth here means replacing the truth recorded or supposed to be recorded in the certificate with something



that contradicts it. There is no forgery if all the data recorded in the document are truthful, even if this data causes harm to others. It is not required for all the data in the certificate to be false for the meaning of forgery to be realized; it is enough for part of it to be false. Also, it is not required that the alteration of truth in the medical certificate be done secretly or that its detection requires special knowledge; it is enough that it deceives some people (25).

## **II. Methods of Forgery:**

Forgery committed by the doctor issuing the medical certificate is moral forgery (26), i.e., it pertains to the content of the document or its circumstances without leaving a sensory trace and occurs at the time of document creation. Therefore, it is difficult to prove, unlike material forgery, which can be detected by examining the document itself. Moral forgery is proven by other means that are sometimes available and sometimes not, so proving it does not rely on sensory observation but on other evidence like witness testimonies. It also requires identifying the true intention of the document's author (27). Moral forgery can be committed in various ways, including:

### **a. Changing the Declaration Made to the Doctor:**

This involves the doctor altering the statements made by the patient or the certificate requester in general, by changing the data provided for inclusion in the medical certificate, whether all or some of the essential data, i.e., related to the subject of the certificate, so that it affects the proof (28).

### **b. Making a False Incident Appear as a True Incident:**

This involves writing a report on an incident that did not happen as stated. Any distortion or alteration made by the certificate issuer in the facts recorded in it when writing it down constitutes moral forgery. This method is the most common and frequent form of moral forgery and is what the Algerian legislator punished under Articles 26 and 24 of Law No. 24-02, "Whoever deliberately issues a declaration or certificate that confirms materially incorrect facts." In all cases, it does not matter if the alteration of the truth pertains to the entire incident or just some elements of it, as both constitute the crime of forging a medical certificate.

## **III. Harm:**

Since forgery assumes causing actual or potential harm to others, a forged medical certificate must be a source of a right or evidence of it. This condition leads to two consequences: first, there is no forgery if the examined document does not create any obligation against others; second, there is no crime if the alteration in the document only affects supplementary statements without affecting the essence of the subject. Generally, the judiciary is stricter when examining the legal effects or evidential strength of a document with moral forgery compared to material forgery. This is because material forgery leaves tangible traces that can be detected by light examination, unlike moral forgery, which can only be detected by thoroughly reviewing the document and understanding its core subject. Additionally, the law does not punish false maneuvers unless they are embodied in a document with legal significance (29). Therefore, for this crime to be established, there must be harm resulting from issuing this certificate or affecting a legally protected interest (30).

Accordingly, the intended harm here is any infringement on a right or interest protected by law due to the alteration of truth in a document, including medical certificates. This harm can be serious or minor, and it does not matter who suffers the harm from the forgery; all persons are equal before the law. Therefore, if the perpetrator intends to harm a specific person or interest through the forgery of a medical certificate, but the harm affects someone else, the crime of forgery is still established (31).

The absence of harm results in the absence of forgery. The Egyptian Court of Cassation ruled in this regard: "There is no punishment for forgery due to the absence of harm if what is proven in the document is done to get rid of an accepted matter." (32)



Judges must ascertain the existence of harm in the judgment's pronouncement, otherwise, it would be flawed and subject to annulment (33). Nevertheless, a judgment is not flawed if it does not explicitly discuss the presence of harm, provided the harm is presumed, as in the case of forgery of official and customary documents which the law recognizes as having explicit evidential power (34). Determining whether harm is present or not is considered a factual matter that falls within the jurisdiction of the trial court without oversight from the Court of Cassation.

The law does not require actual harm to be inflicted for the material element of forgery of a medical certificate by a doctor to be complete (35); it is sufficient for the harm to be potential. Potential harm refers to any possible infringement on a protected right or interest, according to the normal course of events. If the forged medical certificate is not actually used but there is a potential for future use, the harm is established in this case, as the harm is linked to the likelihood of using the forged certificate for its intended purpose. This is because harm is associated with the act of use, not the act of forgery itself. Consequently, the harm is considered potential if there is a possibility of using the forged certificate in the future (36). This is because the legislator differentiates between forgery and the use of a forged document, making each an independent crime. Therefore, punishment for forgery does not depend on the use of the forged document. The legislator is satisfied with the potential harm if the forged document is used later, regardless of whether the harm is material or moral, and whether it affects an individual or a societal interest (37).

Material harm affects individual interests by impacting a person's financial liability, either by reducing its positive elements or increasing its negative elements, whether the harm is immediate or potential. An example is forging a medical certificate claiming that a worker has an occupational disease to obtain compensation. Moral harm has similar effects to material harm and includes anything that damages a person's reputation or dignity, such as forging a medical certificate to falsely claim that someone sexually assaulted another person, thus harming their reputation. Societal interests are harmed in a way that affects the entire social entity, impacting the public good as a whole without affecting any individual specifically. This can be material, such as forging a medical certificate to obtain compensation from the state, or moral, such as forging a medical certificate to exempt someone from national service, causing costs to the state (38).

To consider the alteration in the medical certificate as harmful to a legally protected interest, a criterion or standard is set to show the extent of harm caused by the alteration of truth in the medical certificate. This criterion is based on the rationale for punishment in forgery, which is to protect trust in the document as evidence of acquiring a right, status, or legal condition. Therefore, punishable forgery involves any alteration of truth in the document that has evidential power in establishing a right or fact with legal consequences.

Whether the document was originally intended to serve as evidence or it became suitable as evidence under certain circumstances, anything that leads to the belief in the accuracy of the data it contains falls under this category. This involves tampering with any essential data in the certificate, regardless of its evidential strength. The basis for this is that the law does not protect the certificate itself but the interests associated with it as a means of proof important in legal transactions. In other words, the protection extends to the trust placed in the document (39).

The invalidity of the forged medical certificate does not prevent the punishment of the forger, nor does the lack of benefit from the forged certificate prevent the punishment of the perpetrator (40).

### **Third: The Moral Element**

The phrase "falsely certifying..." in Article 26 of Law No. 24-02 indicates that this is an intentional crime requiring both general and specific criminal intent.

The general intent, with its elements of knowledge and will, involves the intent to commit the crime by altering the truth in the medical certificate using one of the methods specified by the legislator,





with the expectation of possible harm to others due to the alteration of truth (41). It does not matter whether the perpetrator intended to cause harm or not, as long as there is awareness of the legal elements of the crime. This means the doctor must be aware that what is stated in the certificate contradicts the truth, with the understanding that the forged medical certificate meets the criteria for validity and legal consequences (42). It is not required for the doctor to know the purposes for which the certificate will be used by the recipient, nor does it matter whether the certificate caused harm to others or the public interest. What matters is the doctor's awareness that they issued a forged statement willingly for the purpose of favoring someone.

If the doctor issuing the medical certificate is a public employee and the certificate falls within their official duties, there is no need to prove their awareness of the potential harm to society from issuing it. This awareness is inferred from their position and the nature of the certificate issued. It is unreasonable for a public employee to willfully forge a medical certificate within their jurisdiction and then claim ignorance of its potential harm to society (43). If the doctor certifies a disease or disability in the requester not out of a desire to alter the truth but due to ignorance or unintentional error in wording, such as confusion caused by negligence, this does not constitute the crime of forgery. Similarly, if someone impersonates the person for whom the certificate was issued, there is no crime (44)(45).

The specific intent involves issuing a false certificate to favor someone (46), with the intention that the forged document will be used as if it were genuine. Thus, if the specific intent is absent, the crime of forgery is also absent (47).

In determining the presence of specific intent, the motives driving the doctor to alter the truth are not considered, as motive is not an element of the crime. The defendant's claim that they did not benefit from the forgery but did it out of courtesy is not valid, as the legislator punished this crime even if it was done out of courtesy. There is no doubt that the crime of forging a medical certificate falls under temporal crimes, so the general and specific intent must be present at the time of committing the criminal act. This matter falls within the discretionary power of the trial judge, who infers it from the facts of the case. The judgment should indicate the presence of criminal intent in the forgery crime, although it is not flawed if it does not explicitly and separately discuss this intent, as long as the facts of the case indicate its presence (48).

## **Section Two: Proving the Crime of Forgery of a Medical Certificate by a Doctor and the Prescribed Penalty**

First, we will address the methods of proving this crime due to the difficulty of proof, considering that forgery in a medical certificate issued by a doctor as a courtesy is moral forgery that is hard to detect (First). Then, we will discuss the penalty prescribed by the legislator for this crime, which is considered lenient compared to other types of document forgery despite the seriousness of the medical certificate compared to its intended purpose (Second).

### **First: Proving Forgery of a Medical Certificate**

The primary way to prove this crime is through the perpetrator's confession, whether before the court, the public prosecutor, the investigating judge, or in the report of the competent judicial police. This was established in a ruling by the Fes Primary Court in Morocco, dated 05/08/1999, under number 6710 in file number 5965/99 (unpublished), where a doctor was convicted of this crime based on his confession in the judicial police report. The doctor stated that due to his relationship with the second defendant, a lawyer, who had been sending him traffic accident victims for over four years, he often received his fees directly from the lawyer. One day, the lawyer called for him, and at his office, he found the victim (A) and issued a medical certificate upon the lawyer's request, indicating a disability duration of 90 days without examining the victim. This ruling was upheld by the Fes Court of Appeal on 15/11/1999 under number 7061/99 in file number 3951/99 (unpublished), on the grounds



that the charge against the doctor was proven based on his signed confession in the judicial police report (49).

This crime can also be proven through circumstantial evidence if the defendants deny it. This was demonstrated in a ruling by the Sefrou Primary Court in Morocco, dated 04/02/2000 under number 40.99 in file number 25/2000 (unpublished), which led to the conviction of two doctors for "providing false information about the source of the disability and issuing medical certificates containing false facts." The denial of the two doctors was contradicted by the clear and consistent confessions of the defendant (A), who confirmed that he received medical certificates from the defendants as directed by (B). The certificates were issued in the absence of the supposed victims and without examining them. The names were given by phone by (B), and an authenticated copy of these certificates was submitted by the defendant, which the defendants did not dispute issuing. The presence of these certificates with the defendant (A) was considered evidence that he received them in the absence of the owners, otherwise, he could not have obtained and kept them (50).

The truth is that proving this crime is not easy, given that the forgery in a medical certificate issued by a doctor as a favor is moral forgery. Even in cases where it is apparent that the beneficiary of the potentially forged certificate is not sick, it remains possible that the beneficiary sent someone else for the examination, impersonating them. The doctor might not notice this and issue a certificate in the name of the impersonated patient without having any criminal intent (51). Therefore, it is possible to acquit the doctor on the basis that doubt is interpreted in favor of the defendant, and the court lacks jurisdiction over civil claims for compensation.

This was ruled by the Primary Court in Taza, Morocco, in case number 297/87 on July 22, 1989. The case involved a complainant who alleged that the first defendant married her and upon consummating the marriage, discovered she was not a virgin. The second defendant, a doctor, examined her and confirmed she was not a virgin, issuing a certificate to her husband stating this. Later, the complainant consulted several other doctors, including the defendant, who confirmed her virginity. The doctor explained that he indeed examined the complainant at her husband's home and found her not to be a virgin, issuing a certificate accordingly. He received his fee from her father. After a long time, she came to him, and he issued another certificate stating she was a virgin, justifying it by saying only a specialist could differentiate between an original hymen and a reconstructed one.

The investigating judge then ordered a medical examination of the complainant, which revealed she was a virgin, but it was not possible to determine whether her hymen was original or reconstructed, as suturing marks disappear after fourteen days from the procedure (52).

### **Second: Penalty for Forging a Medical Certificate**

This crime has several dimensions, including economic ones by granting rights to individuals without justification, social dimensions by favoring one person over another or harming individuals or their interests, and misleading justice. The Algerian legislator removed this crime from the Penal Code and included it in a special law related to combating forgery and the use of forged documents, attempting to put an end to this phenomenon that has impacted society in various ways. If this crime is proven with its elements, including the intent to favor or show courtesy, the doctor is punished according to Article 26 of Law No. 24-02 with imprisonment from three to five years and a fine of 300,000 to 500,000 DZD, unless the act constitutes a more severe crime under the law related to preventing and combating corruption. Additionally, the convicted individual may be sentenced to one or more supplementary penalties stipulated in the Penal Code (53). In case of recidivism, the above penalty is doubled (54).

The penalty set by the Moroccan legislator is similar to that of the Algerian legislator, as per Article 364 of the Penal Code. The Tunisian legislator stipulated a one-year prison sentence and a fine of 1,000 Tunisian dinars for this crime under Article 197 of the Penal Code and allowed for supplementary penalties under Article 200 of the same code. The Egyptian legislator imposed a





penalty of imprisonment or a fine not exceeding 500 Egyptian pounds, whether the certificate is intended for administrative authorities or courts, under Articles 222 and 223 of the Penal Code. The French legislator, through Article 441-7 of the Penal Code, imposed a one-year prison sentence and a fine of 15,000 euros.

This crime is considered a misdemeanor in Algerian law and comparative laws. However, some legislators have classified it as a felony, such as the UAE legislator in Article 219 of the Federal Penal Code, which states: "Any doctor or midwife who issues a false certificate or statement concerning pregnancy, birth, illness, disability, or death, or any other matter related to their profession, knowing it to be false, shall be punished with imprisonment for a term not exceeding five years." (55)

A question arises whether it is conceivable to attempt this crime, and the answer is affirmative. For example, a doctor might prepare a false medical certificate and send it by mail or messenger, which is intercepted before it reaches the intended recipient. In this case, the question of punishment for attempting to forge a medical certificate arises. The answer is simple: if the legislator considers it a misdemeanor, the attempt is punishable only by an explicit provision. Article 76 of Law No. 24-02 states that anyone who attempts to commit the misdemeanors specified in this law is subject to the same penalty as for the complete crime, and the accomplice and instigator are subject to the same penalty as for the complete crime according to the same article.

The Algerian legislator, through Article 29 of Law No. 24-02, and the Moroccan legislator, through Article 367 of the Penal Code, linked the criminal description and penalty of this crime to harm. They considered that if this crime causes harm to the public treasury or others, such as using the forged certificate to unjustly obtain financial compensation, the harm here is material as long as it is related to the public treasury. The term "others" refers to those who might replace the public treasury in paying compensation, such as insurance companies or social security funds.

The penalties for forgery in documents apply. If the forged medical certificate is issued by a practicing doctor in the public sector as a public employee during their duties, causing harm to the public treasury or others, the criminal description becomes a felony, and the penalty for forging public or official documents applies. If the forged medical certificate is issued by a practicing doctor in the private sector, causing harm to the public treasury or others, the criminal description becomes a misdemeanor, and the penalty for forging customary documents applies, considering the penalty for the attempt, aggravating circumstances, and supplementary penalties.

The French legislator, in the last paragraph of Article 441-7 of the Penal Code, increased the penalty for forgery if it causes harm to the public treasury or others to three years of imprisonment and a fine of 45,000 euros.

If the doctor issued the forged certificate based on a request, acceptance of an offer, or promise, or received a gift, the doctor is then punished according to the penalties stipulated in the law related to preventing and combating corruption. Article 226 of the Algerian Penal Code, before its repeal, referred to Articles 126 to 134 in the section on bribery and abuse of power in the same law, which was repealed by Article 71 of Law No. 06-01 related to preventing and combating corruption. However, the mistake the legislator made is in Article 72 of Law No. 06-01, which states: "Any reference to the repealed articles in the current legislation shall be replaced by the corresponding articles in this law as follows: - Articles 126 and 126 bis and 127 and 129 of the Penal Code shall be replaced by Article 25 of this law," which speaks about the bribery of public employees as defined in Article 02, Paragraph (b) of Law No. 06-01.

However, Article 226 of the Penal Code was general, stating: "Any doctor or surgeon or dentist..." thus referring to any practicing doctor, whether in the public or private sector. The same applies to the repealed Article 126 of the Penal Code, which also generally punished bribery, stating: "Any person who, being a doctor or surgeon or dentist, falsely certifies..." If the new reference is applied, this crime applies only to public employees (i.e., doctors practicing in the public sector), as defined



in Article 02 of Law No. 06-01. Private practitioners are not mentioned in this definition. However, the Algerian legislator corrected this in Article 26 of Law No. 24-02, which replaced Article 226 of the Penal Code and referred to the law on preventing and combating corruption without specifying the article, which was a good move.

The Algerian legislator, in Article 73 of Law No. 24-02, also punishes anyone who knows of this crime and does not report it to the competent public authorities immediately, with imprisonment from six months to three years and a fine of 60,000 to 300,000 DZD. The penalty increases to two to five years of imprisonment and a fine of 200,000 to 500,000 DZD if the person learned of these actions due to their position or profession.

A forged medical certificate and any resulting rights and effects are null and void according to Article 74 of Law No. 24-02, which mandates that the judicial authority, in case of conviction, must confiscate the tools used to commit the crime and the proceeds obtained, considering the rights of good-faith third parties, and destroy the forged medical certificate.

A doctor who forged a medical certificate can benefit from extenuating circumstances if they report the crime or enable the confiscation of the forged certificate before any legal proceedings. The penalty is halved if the doctor helps apprehend one or more persons involved in committing the crime or reveals the identities of those who contributed to it after legal proceedings have begun (56).

### **Conclusion:**

In conclusion, a doctor is not exempt from criminal responsibility arising from practicing medicine, including issuing and delivering medical certificates, despite the noble goal of the profession. This is due to various considerations, including that doctors are human and can err or intentionally violate the law and professional practice rules, causing harm to individuals and society as a whole. This is especially important regarding medical documents, as undermining trust in these documents can severely impact society.

The Algerian legislator, like other legislators, has established a clear legal framework for issuing medical certificates, reserving this task exclusively for doctors. The legislator has set legal conditions for issuing and delivering these certificates, obligating the issuer to adhere to several commitments when practicing the profession. The trust society places in doctors, and consequently in the medical certificates they issue, necessitates protecting the credibility of these certificates in terms of their content and source.

Thus, the legislator has deemed doctors criminally responsible for issuing false medical certificates, whether as a favor or for receiving gifts, stipulating criminal penalties discussed in this article.

From the above, it can be concluded that the Algerian legislator has removed the crime of forging medical certificates from the Penal Code and included it in a special law, Law No. 24-02 on combating forgery and the use of forged documents, attempting to sanitize public life and combat various forgery crimes that have spread in society, with stricter primary penalties and new supplementary penalties and precautionary measures.

There is a noticeable shift in criminal policy in all areas. Will the new legislation succeed in curbing or at least reducing the phenomenon of forging medical certificates where the Penal Code failed previously? This will be answered by future statistics on this crime. From our perspective, one way to eliminate this crime and others is to generalize digitization and technology use in all fields, as technology makes such crimes ineffective and easy to detect, thus discouraging criminals due to the resulting criminal responsibility and the futility of committing them, as the goal of forging medical certificates would not be achieved.



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