

## Law No. 1 of 2005 Concerning Illegal Gains

**The President of the Palestinian National Authority,**

Having reviewed the Amended Basic Law, and

Based upon what the Legislative Council approved during its session of 6 January 2005,

**I hereby promulgate the following law:**

### Article 1

In applying the provisions of this law, the following terms and expressions shall have the meanings specified below, unless the context determines otherwise:

<b>The Commission:</b>	The Commission for the Elimination of Illegal Gains.
<b>The Chairman:</b>	The Chairman of the Commission for the Elimination of Illegal Gains.
<b>Illegal Gain:</b>	Any fund which a person subject to the provisions of this law gains for himself or others by virtue of the exploitation of a position or capacity, conduct violating a legal provision or public manners, or through any other illegal manner, even if it may not constitute a crime. An illegal gain shall also be any increase in wealth which occurs after the availment of a service or the rendering of a capacity upon a person subject to the provisions of this law or to his spouse or minor descendants, if this is not compatible with their income and the person fails to submit evidence of a legitimate source thereof. Also included shall be any funds gained by a natural or juridical person through collusion with any person subject to the provisions of this law to exploit his position or capacity.

### Article 2

Subject to the provisions of this law shall be:

1. The President of the National Authority and his deputies and advisers.
2. The Prime Minister and the members of the Council of Ministers and those alike.
3. Members of the Legislative Council.
4. Members of the Judicial Authority and the Public Prosecution.
5. Heads of organisations and directors of departments in the Security Forces and the Police.
6. Governors and heads and members of the councils of local bodies.
7. Heads and members of boards of directors and executive directors of public shareholding companies in which the National Authority or any of its bodies is a shareholder.
8. Employees subject to the Law of Civil Service from the first and second special categories.
9. Purchase officers and their deputies, trustees of deposits, changers, purchase and sales representatives, members of purchase and sales committees from the third, fourth, and fifth categories of the Law of Civil Service, and those alike, including officers of the Security Forces and the Police.
10. Employees, officers, and members of bodies which receive their budgets or any support from the General Budget.
11. Any other person whom the Council of Minister decides to include under the provisions of this law.

### **Article 3**

1. Pursuant to the provisions of this law, a commission called the ‘Commission for the Elimination of Illegal Gains’ shall be established. The Commission shall enjoy juridical personality and administrative and financial independence, and it shall be allotted a special budget within the General Budget.
2. The President of the National Authority shall appoint the Chairman of the Commission upon the nomination of the Council of Ministers, and the Legislative Council shall approve his appointment with an absolute majority.
3. The Chairman of the Commission shall appoint a sufficient number of employees to enable the Commission to perform its tasks.

### **Article 4**

The person to be appointed as the Chairman the Commission shall meet the following requirements:

1. Be Palestinian descending from Palestinian parents and grandparents and not hold any other nationality.
2. Be competent and qualified.
3. Be known for his integrity and good reputation.
4. Be at least forty (40) years of age.
5. Not have been convicted by a competent court of any financial crime or any crime or misdemeanor violating honor or trust.

### **Article 5**

A person appointed as employee of the Commission shall meet the following requirements:

1. Be Palestinian.
2. Be competent and qualified.
3. Be known for his integrity and good reputation.
4. Not have been convicted by a competent court of any financial crime or any crime violating honour or trust.

### **Article 6**

1. The Chairman of the Commission shall serve for seven (7) non-renewable years.
2. The Chairman may not be deposed nor changed except with the approval of the absolute majority of the members of the Legislative Council.
3. The Chairman shall be held accountable before the Legislative Council.

### **Article 7**

Pursuant to the provisions of the law, the Chairman and the employees of the Commission shall enjoy immunity regarding all actions they perform in the performance of their duties.

### **Article 8**

The Commission shall be competent to:

1. Collect all declarations of financial assets and to request any information or clarification relating thereto.
2. Examine the financial assets of the persons subject to the provisions of this law.
3. Investigate complaints which are filed with reference to illegal gains.

### **Article 9**

Pursuant to the provisions of this law, the Commission, in order to perform its tasks and powers, shall be competent to:

1. Request information and clarification and obtain papers and documents or copies thereof from relevant parties, including, but not limited to, those which are confidential.
2. Seek assistance from police officers or any other competent authority. All competent authorities must perform whatever the Commission may request them to do.

#### **Article 10**

At the beginning of the fiscal year, all competent authorities shall submit to the Commission a statement with the names of the competent persons subordinate thereto and who are subject to the provisions of this law.

#### **Article 11**

1. The President of the National Authority shall submit a declaration of his financial assets and those of his spouse and descendants, in which shall be declared all of their possessions, including, but not limited to, real estate, movable property, shares, bonds and cash money inside and outside of Palestine, as well as the debts which they owe. Each such declaration shall be kept sealed and confidential with the High Court of Justice and may not be viewed except by permission of that Court upon litigation and within the limits of the law.
2. The President of the National Authority may not purchase, rent, sell, grant or offer any other thing belonging to the State or any public juridical person, or have financial interests in any of the contracts which the governmental or administrative authorities may conclude. In addition, he may not, for the duration of his presidency, be a member of a board of directors of any company, nor may he engage in business or any other profession or earn any other salary, remuneration or grant from anybody and in any capacity whatsoever other than the salary allotted to him and his allowances as President of the National Authority.

#### **Article 12**

1. If the Chairman of the Commission or the Attorney-General suspects the President of the National Authority of an illegal gain, the Chairman or the Attorney-General shall submit an initial request to the Legislative Council and the Constitutional Court to challenge the legal capacity of the President of the National Authority pursuant to the rules set forth under the Basic Law.
2. The President of the National Authority shall be suspended from the duties of his position upon the lodging of the accusation. The Speaker of the Legislative Council shall assume the duties of the President of the National Authority temporarily until the accusation has been resolved. The Attorney-General shall assume the procedures of the investigation. The litigation of the President of the National Authority shall take place before a special court, whose formation and litigation procedures shall be regulated by the law. If a final judgement of conviction is issued, President of the National Authority shall be removed from his position, without prejudice to other penalties pursuant to the law.

#### **Article 13**

1. The President of the National Authority shall have the right to request an interrogation of the Prime Minister with reference to alleged crimes of illegal gains during the performance of the duties relating to the Prime Minister's position or by virtue thereof pursuant to the provisions of the law.
2. The Prime Minister shall have the right to request an interrogation of any minister on the grounds of the reasons set forth under paragraph 1 above pursuant to the provisions of the law.

#### **Article 14**

1. Any minister who is accused shall be suspended from the duties of his position immediately without pay upon the issuance of the accusation. The end of his service shall not impede the continuation of the investigation.
2. The Attorney-General, or his representative from among the members of the Public Prosecution, shall assume the procedures of the investigation. Such litigation that may result from the accusation shall take place before the competent court. The provisions and rules set forth in the Penal Law and the Law of Penal Procedure shall apply.
3. The aforementioned provisions shall be applicable to the deputies-ministers, assistant-minister and those alike.

#### **Article 15**

1. If a member of the Legislative Council is suspected of an illegal gain, the Chairman of the Commission or the Attorney-General may request the Council to suspend such member's immunity in the manner set forth under the Bylaw of the Council.
2. The member of the Legislative Council shall be suspended from exercising his duties immediately without pay upon the suspension of immunity, and the Attorney-General shall assume the procedures of the investigation and accusation. The resulting litigation shall take place before the competent court, and the provisions and rules set forth under the Penal Law and the Law of Penal Procedures shall apply. If the member is convicted by a final judgement, he shall lose his membership of the Legislative Council, without prejudice to other penalties pursuant to the law.

#### **Article 16**

1. With the exception of the categories set forth under paragraphs 1, 2, 3 and 4 of Article 2 above, which apply to the President of the National Authority, the Prime Minister and the members of the Council of Ministers, the Speaker and the members of the Legislative Council, the members of the Judicial Authority and the Public Prosecution, any person subject to the provisions of this law shall submit to the Commission the following:
  - a) A declaration of his financial assets and the assets of his spouse and minor descendants, including, but not limited to, the movable and immovable properties which each of them may possess, stocks, bonds, shares in companies, bank accounts, cash money, jewelry, precious stones and metals, their sources of income and the value of such income received within two (2) months prior to becoming subject to the provisions of this law.
  - b) A declaration of the financial assets every three (3) years or upon request, including, in addition to what is set forth in the above paragraph, the source of every increase in his financial assets.
  - c) In addition to the declarations set forth above, each person subject to the provisions of this law must submit a declaration of his financial assets within one (1) month from the date of ceasing to be subject to the provisions of this law.
2. With reference to the categories set forth under paragraphs 1, 2, 3 and 4 of Article 2 above, which apply to the President of the National Authority, the Prime Minister and members of the Council of Ministers, the Speaker and the members of the Legislative Council, the members of the Judicial Authority and the Public Prosecution, the Commission shall have the right to review their declarations of financial assets. For such purpose, it may request from the High Court permission to review such declarations, which the High Court must permit within the limits of the law.

### **Article 17**

If the Commission, regarding the categories set forth under paragraph 1, 2, 3 and 4 of Article 2 above, strongly suspects an illegal gain, it shall refer the matter to the President of the National Authority with respect to the Prime Minister, to the Prime Minister with respect to ministers, to the Legislative Council with respect to the President of the National Authority, the Speaker and the members of the Legislative Council, and to the High Judicial Council with respect to the members of the Judicial Authority and the Public Prosecution, for adopting the necessary legal procedures.

### **Article 18**

Any person acquiring reliable information or documents with reference to an illegal gain may submit them to the Commission or file a complaint thereof against any of the persons subject to the provisions of this law.

### **Article 19**

1. Any public employee who learns of an illegal gain must promptly notify the Commission thereof.
2. Compliance with paragraph 1 above shall not result in any disciplinary procedures against the public employee or the implementation of any procedures which may jeopardise his position or status.

### **Article 20**

If the Commission considers the complaint to be justified, it shall request the person against whom it is lodged to state the source of his wealth.

### **Article 21**

If a strong suspicion of an illegal gain arises through declarations of financial assets or complaints, the Chairman of the Commission shall decide, upon the necessary investigation, to refer the matter to the Attorney-General to perform the following:

1. To initiate action thereof in order to take legal measures.
2. To submit it directly to the competent court of first instance if the suspicion of the illegal gain is of an unknown origin, if time has elapsed on such crime, or if it is extinguished in accordance with the common right.

### **Article 22**

The declarations set forth under this law and the procedures adopted for the investigation and examination of complaints regarding an illegal gain shall be confidential and may not be revealed except by a decision of the competent court.

### **Article 23**

If the spouse of the person who is liable to submit the declarations set forth under this law refrains from giving and signing the necessary information, the person shall notify the Commission thereof. The Commission shall request the refraining spouse to submit a declaration of financial assets within two (2) months from the date of notification.

### **Article 24**

The Commission may request the competent court to seize the funds of the person whose wealth is suspected, or any funds which are suspected to be belonging to him in the possession of any other person, by means of a precautionary attachment. The Commission shall be entitled to review the books of the person and his documents and seek necessary

information from official and unofficial departments, as well as assistance for such procedures from such experts as it deems appropriate.

#### **Article 25**

Any person who obtains an illegal gain for himself or others, or enables others to do so, shall be punished by the following:

1. Temporary imprisonment.
2. Restitution of the value of the illegal gain and of everything that is proven to be in his financial assets and to have been obtained by means of the illegal gain.
3. Payment of a fine that is equal to the value of the illegal gain.

#### **Article 26**

1. Extinguishment of the criminal action upon death shall not prevent the restitution of the illegal gain by decision of a competent court, based upon the request of the Commission.
2. The competent court may order the inclusion of each person who gains a significant benefit other than those set forth Article 13 above, to the effect that the decision of restitution be enforced upon him in correspondence of his financial benefit.

#### **Article 27**

1. If the perpetrator of a crime of illegal gain or a partner therein notifies the public authorities of the crime and the respective funds before they are uncovered, he shall be exempted from the penalties of imprisonment and fine.
2. If the perpetrator of a crime of illegal gain or a partner therein during his interrogation cooperates with uncovering the crime and its perpetrators, the penalty shall be reduced to imprisonment and he shall be exempted from the penalty of the fine.

#### **Article 28**

Any person who fails to submit the required declaration of financial assets on the prescribed date shall be punished with a fine between one-hundred (100) and one-thousand (1000) Jordanian Dinars or the equivalent in legal tender, for each month of delay, starting on the date he becomes subject to the provisions of this law or the date allotted to him by the Commission.

#### **Article 29**

1. Any person who intentionally gives incorrect information in the declarations set forth under this law shall be punished with a fine between one-hundred (100) and one-thousand (1000) Jordanian Dinars or the equivalent in legal tender.
2. Any person who spontaneously corrects the information stated in the declarations prior to the discovery of the error shall be exempted from the penalty.

#### **Article 30**

Any person who, with the intention to commit offence, falsely informs of an illegal gain shall be punished with imprisonment for a period of not less than six (6) months, a fine between one-hundred (100) and one-thousand (1000) Jordanian Dinars or its equivalent in legal tender, or both.

#### **Article 31**

Any person against whom a final court judgement is issued regarding the perpetration of a crime of illegal gain shall be forever barred from assuming a public position.

**Article 32**

The penalties set forth under this law shall not preclude a more severe penalty pursuant to any other law.

**Article 33**

Lawsuits of illegal gains and all relevant procedures shall not be subject to limitations of time.

**Article 34**

The Commission shall draft the bylaws necessary for the enforcement of the provisions of this law, which shall be issued by the Council of Ministers.

**Article 35**

Every provision contradicting the provisions of this law is hereby repealed.

**Article 36**

Each competent authority shall, within its sphere of jurisdiction, implement the provisions of this law, which shall enter into force thirty (30) days after the date of its publication in the Official Gazette.

**Issued in the city of Ramallah on 8 January, 2005, corresponding to 27 Al Qi'dah 1425 AH.**

**Rawhi Fattouh**

**President of the Palestinian National Authority**