The Law of Illegal Gains

No. (1) of 2005 A. D.

The President of the Palestinian National Authority,

Having reviewed the Amended Basic Law; and

Based upon what the Legislative Council approved during its session convened on January 6th, 2005 A. D.,

I hereby promulgate the following Law:

Article (1)

The following terms and expressions, mentioned in this Law, shall have the meanings specified below, unless the context determines otherwise:

The Commission: The Commission of the Elimination of Illegal Gains.

The Head: The head of the Commission of the Elimination of Illegal Gains.

The Illegal Gain: Each fund which one of the persons, who are subjects to the provisions of this Law, gains for himself or herself or for others by virtue of the exploitation of the position or capacity, or as a result of a conduct which violates a legal provision or public manners, or through any other illegal manner, even though it does not constitute a crime. Also deemed an illegal gain shall be each increase to the wealth which takes place following the assumption of the service or the rendering of the capacity upon the person subject to the provisions of this Law or to his or her spouse, or his or her minor descendants, in the event it is not compatible with their income and he or she fails to provide evidence of a legitimate source thereof. Also included under the provision of the illegal gain shall be each fund which any natural or judicial person gains by means of collusion with any person subject to the provisions of this Law as to exploit his or her position or capacity.

Article (2)

Subject to the provisions of this Law shall be:

The President of the National Authority and his deputies and advisers.

Chairman and Members of the Council of Ministers, and the persons alike.

Members of the Palestinian Legislative Council (PLC).

Members of the Judicial Authority and Public Prosecutors.

Heads of Agencies and Directors of Departments in the Security and Police Forces.

Governors and heads and members of the Councils of Local Bodies.

Heads and Members of the Boards of Directors and the Executive Directors of public shareholding companies in which the National Authority or any of its institutions is a shareholder.

Employees subject to the Law of Civil Service from the first and second special categories.

Collection officers, their deputies, trustees of deposits, changers, purchases and sales representatives, members of purchases and sales committees from the third, fourth, and fifth categories provided for under the Law of Civil Service, and the persons alike, including officers of the security and police forces.

Employees, officers, and members of entities which receive their budgets or any support from the General Budget of the State.

Any other person whom the Council of Minister decides to submit to the provisions of this Law.

Article (3)

In accordance with the provisions of this Law, a commission to be called the Commission of the Elimination of Illegal Gains shall be established. The Commission shall enjoy the judicial personality and administrative and financial independence, and shall be allotted a private budget within the General Budget of the State.

The President of the State shall constitute a head of the Commission in pursuance of the recommendation by the Council of Ministers, and the Palestinian Legislative Council shall approve the constitution of him or her with absolute majority.

The head of the Commission shall appoint a sufficient number of employees as to enable the Commission to assume its tasks.

Article (4)

A person constituted to head the Commission shall be required to meet the following:

To be Palestinian descending from Palestinian parents and grandparents and not to hold any other nationality.

To be competent and qualified.

To be approved for his or her integrity and good reputation.

No to be less than forty years old.

Not a definitive judgment has been passed against him or her by a competent court regarding a crime or misdemeanour violating honour or trust or regarding crime from among those relating to funds.

Article (5)

A person appointed as an employee in the Commission shall be required to meet the following:

To be Palestinian.

To be competent and qualified.

To be approved for his or her integrity and good reputation.

Not to have been convicted by a competent court regarding any financial crime or a crime violating honour or trust.

Article (6)

The duration of the presidency of the Commission shall last for seven non-renewable years.

The head may not be revoked nor changed except with the approval of the absolute majority of the members of the Legislative Council.

The head shall be held accountable before the Legislative Council.

Article (7)

In accordance with provisions of the Law, the head and employees of the Commission shall enjoy immunity regarding all deeds they perform relating to the execution of their tasks.

Article (8)

The Commission shall be competent of the following:

Keep all the declarations of financial asset and request any information or clarifications relating thereto.

Examine the financial asset of the persons subject to the provisions of this Law.

Investigate the complaints which are to be lodged with reference to an illegal gain.

Article (9)

In accordance with the provisions of this Law, the Commission, in order to perform its tasks and powers, shall be entitled to the following:

1. Request information and clarifications and obtain papers and documents, or copies thereof, from relevant parties, including those which are deemed to be confidential.

2. All competent authorities must perform what the Commission assigns them to do and may seek assistance from police officers or any other competent authority.

Article (10)

All competent authorities must submit to the Commission at the commencement of each fiscal year a statement of 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 the financial asset relating to him and to his spouse and descendants in which all that they possess as of real estate and movable property and shares and bonds and cash funds inside and outside Palestine, and the debts they owe shall be detailed. Such declaration shall be kept sealed and confidential by the Supreme Court of Justice and may not be viewed except by permission of the Court upon litigation and within the limits permissible by the Law.

2. The President of the National Authority may not purchase or hire or sell or grant or present something from the properties of the State, or one of the public judicial persons, or to have a financial interest in any of the contracts which the governmental or administrative authorities conclude. In addition, he may not, during the duration of his presidency, be a member on the board of directors of any company, nor exercise commerce or any of the professions, nor earn another salary or remunerations or grants from any other person and under any capacity whatsoever other than the one salary allotted for the President and his allowances.

Article (12)

1. In the event it appears to the head of the Commission or the Prosecutor General the existence of suspicions regarding an illegal gain [conducted] by the President of the Palestinian National Authority, he or she shall submit an initial application to the Legislative Council and the Constitutional Court, in which he or she requests the verification of the legal capacity of the President of the Authority in accordance with the rules provided for under the Basic Law.

2. The President of the National Authority shall be suspended from the exercising of the duties of his position upon the levelling of the accusation. The Chairman of the Legislative Council shall assume the duties of the President of the National Authority temporarily until the settlement of the accusation. The Prosecutor General shall assume the procedures of investigation. The litigation of the President of the National Authority shall convene before a special court which the Law shall regulate its formation and the litigation procedures therewith. In the event a definitive judgment is issued regarding his conviction, he shall be exempted from his position provided that the other penalties are not violated in pursuance of the Law.

Article (13)

1. The President of National Authority shall have the right to refer the Prime Minister to interrogation with reference to crimes of illegal gains ascribed to him during the performance of the duties relating to his position or by virtue thereof in accordance with the provisions of the Law.

2. The Prime Minister shall have the right to refer any of the Ministers to interrogation based upon any of the reasons mentioned under Paragraph (1) above in accordance with the provisions of the Law.

Article (14)

1. Any of the Ministers who is accused shall be suspended from the exercising of the duties of his position immediately following the issuance of the decision of accusation. The termination of his or her service shall not impede the continuance of investigation and pursuance.

2. The Prosecutor General, or his representative from among the members of the Public Prosecution, shall assume the procedures of investigation, and litigation shall convene before the competent court. The provisions and rules provided for under the Penal Law and Criminal Procedures shall be adopted.

3. The provisions aforementioned shall be applicable to the deputies of Ministers and under-secretaries, and the persons alike.

Article (15)

The head of the Commission or the Prosecutor General, in the event of the existence of suspicions regarding an illegal gain [conducted] by a member of the Legislative Council, may request the Council to uplift the immunity in the due form in the manner provided for under the Internal Standing Orders of the Council.

The member of the Legislative Council shall be suspended from exercising his duties immediately upon the uplifting of the immunity and the Prosecutor General shall assume the procedures of investigation and accusation. The litigation shall take place before the competent court and provisions and rules provided for under the Penal Law and the Law of Criminal Procedures shall be enforced. In the event he is convicted by a final judgment, he shall lose his membership on the Legislative Council provided that the other penalties approved in accordance with the Law are not violated.

Article (16)

With the exception of the categories provided for in Items (1, 2, 3, and 4) under Article (2) above (The President of the National Authority, the Chairman and Members of the Council of Ministers, the Chairman and Members of the Legislative Council, the Members of the Judicial Authority and Public Prosecution), each person subject to the provisions of this Law shall submit to the Commission the following:

a) A declaration of his or her financial asset and the asset of his or her spouse and his or her minor descendants, in which he details the movable and immovable properties which they possess, including the stocks, bonds, and shares in the companies and accounts at the banks, and the money and jewelry and precious stones and metals and their sources of income and the value of such income, within two months from his or her becoming subject to the provisions of this Law.

b) A declaration of the financial asset each three years or upon request provided that it includes, in addition to the information provided for under the Paragraph above, the source of any increase to the financial asset.

c) In addition to the declarations provided for above, each person subject to the provisions of this Law must submit a declaration of his or her financial asset within one month from the date of the termination of his being subject to the provisions of this Law.

With reference to the categories provided for in Items (1, 2, 3, and 4) under Article (2) above (The President of the National Authority, the Chairman and Members of the Council of

Ministers, the Chairman and Members of the Legislative Council, the Members of the Judicial Authority and Public Prosecution), the Commission shall have the right to view the declarations of the financial assets related to them. For such purpose, it may request from the Supreme Court to permit it to view the declarations of their financial assets and the Supreme Court must thus permit within the limits allowable by the Law.

Article (17)

In the event it appears to the Commission, in respect of the categories provided for in Items (1, 2, 3, and 4) under Article (2) above, the existence of strong suspicions regarding an illegal gain, the Commission shall refer the matter to the President of the National Authority in respect of the Prime Minister, and to the Chairman of the Council of Ministers in respect of the Ministers, and to the Legislative Council in respect of the President of the National Authority and the Chairman and Members of the Legislative Council, and to the High Judicial Council in respect of the Members of the Judicial Authority and Prosecution for adoption of necessary legal procedures.

Article (18)

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

Article (19)

Each public employee who learns about an illegal gain must notify the Commission thereof.

The notification, which the employee submits in accordance with Paragraph (1) above, must not constitute a cause for the adoption of any of disciplinary procedures against him or the enforcement of any procedures which [may] jeopardise the status of his position status.

Article (20)

In the event it appears to the Commission the seriousness of the complaint, it shall request the person against whose wealth a contest is lodged to state the source of such wealth.

Article (21)

In case it becomes evident through the declarations or through the complaints lodged the existence of strong suspicions regarding an illegal gain, the Head of the Commission shall

decide, following the conduct of the necessary examination, the referring of the papers to the Prosecutor General in order to perform the following:

1. To bring the action thereof as to adopt the legal exigency.

2. To submit it to the competent Court of First Instance in a direct manner in case the suspicion regarding the illegal gain is of an unknown origin or that time has elapsed on such crime or has abated by one of the manners of the abatement of the public right action.

Article (22)

The declarations provided for under this Law and the procedures adopted for the investigation and examination of the complaints lodged in regard of the illegal gain shall be deemed to be from among the secrets which may not be revealed except by a decision to be made by the competent court.

Article (23)

In the event the spouse of the person required to submit the declarations provided for under this Law refrains from the giving of the information necessary and signing thereon, the person must notify the Commission of such refrain. The Commission must require the refraining spouse to submit a declaration of his or her financial asset within two months from the date of his or her being notified.

Article (24)

The Commission may request from the competent court to attach the funds of the person whose wealth is suspected, or any funds which are suspected to be belonging to him or her in the possession of any person whosever, by means of a precautionary attachment, and it shall be entitled to view the books of the defendant and his or her documents and seek necessary information from the official and unofficial departments and seek assistance for the performance of such task from experts whom it deems appropriate.

Article (25)

Each person who gains for himself or herself or for others or facilitates to them the gaining of an illegal gain shall be punished by the following:

1. Temporary imprisonment.

2. Restitute the value of the illegal gain, and all that is proved to be in his or her financial asset as of funds which he or she has gains by means of the illegal gain.

3. Pay a financial fine that is equal to the value of the illegal gain.

Article (26)

The abatement of the criminal action upon decease shall not prevent the restitution of the illegal gain by a judgment to be passed by the competent court based upon the request of the Commission.

The competent court may order the inclusion of each person who has benefited a significant benefit other than those mentioned under Article (13) above so that the judgment regarding the restitution is to be enforced upon him or her and be as much effective as he or she has benefited regarding his funds.

Article (27)

1. In the event the person perpetrating the crime of the illegal gains or the partner therein initiates to notify the public authorities of the crime before it is being revealed and of the fund collected, he or she shall be exempted from the two punishments of imprisonment and fine stated for such crime.

2. In the event the person perpetrating the crime of the illegal gain or the partner therein during the interrogation conducted with him or her provides help as to reveal the crime and its perpetrators, the punishment shall be reduced to imprisonment and shall be exempted from the punishment of the fine.

Article (28)

Each person required to submit the declarations of the financial asset who fails to abide by the dates stated shall be punished with a fine that is not less than one hundred Jordanian Dinars and not exceeding one thousand Jordanian Dinars or its equivalent in the local currency regarding each month delay from the date he or she is being subject to the provisions of this Law or the date he or she is thus assigned by the Commission.

Article (29)

1. Each person who intentionally mentions incorrect information in the declarations provided for under this Law shall be punished with a fine that is not less than one hundred

Jordanian Dinars and not exceeding one thousand Jordanian Dinars or its equivalent in the local currency.

2. Any person who spontaneously initiates to correct the information stated in the declarations prior to the discovery of the error shall be exempted from the punishment.

Article (30)

Each person who, with the intention to commit offence, falsely informs of an illegal gain shall be punished with, either or both, imprisonment that is not less than six months and a fine that is not less than one hundred Jordanian Dinars and not exceeding one thousand Jordanian Dinars or its equivalent in the local currency.

Article (31)

Each person against whom a definitive judgment is issued regarding the perpetration of the crime of the illegal gain shall be deprived from the assumption of any public position.

Article (32)

The punishments provided for under this Law shall not prevent from effecting any other more severe punishment that is being provided for under any other Law.

Article (33)

The lawsuits of the illegal gain and all relevant procedures shall not be subject to limitation by time.

Article (34)

The Commission shall develop the regulations necessary for the implementation of the provisions of this Law which shall be issued by the Council of Ministers.

Article (35)

Each provision which contradicts the provisions of this Law shall be repealed.

Article (36)

All the parties concerned, each one within its jurisdiction, must implement the provisions of this Law. This Law shall enter into force thirty days following its publication in the Official Gazette.

Issued in the city of Ramallah on January 8th, 2005 A. D., corresponding to Thu al Qi'dah 27th, 1425 of the Hijri.

Rawhi Fattouh

President of the Palestinian National Authority