

**Law by Decree No. (7) 2010**  
**Pertaining to the Amendment of the Law of Illegal Gain No. (1) 2005**

The President of the State of Palestine  
The Chairman of the Executive Committee of the Palestine Liberation Organization  
The President of the Palestinian National Authority  
Having reviewed the Basic Law of 2003 as amended, and particularly Article (43) of same,

The Law of Illegal Gain No. (1) 2005,  
The Penal Code No. (16) 1960 as amended as applicable in the Northern Districts,  
The Penal Code No.(74) 1936 as amended as applicable in the Southern Districts,  
The Judicial Authority Law No. (1) 2002,  
The Penal Procedure Code No. (3) 2001,

The Law by Decree No. (9) 2007 on Anti-Money Laundering,

And by virtue of the authorities vested in me,  
And taking the public interest into consideration,  
And in the name of the Arab Palestinian People,  
Hereby promulgate the following Law by Decree:

**Article (1)**

**The Original Law**

The term “Law of Illegal Gain No. (1) 205 shall be substituted with the term “Anti-Corruption Law No. (1) 2005”.

**Article (2)**

**Name of the Law**

The term “the original law” wherever mentioned in this law shall denote the “Law of Illegal Gain No. (1) 2005”.

**Article (3)**

**Anti-Corruption**

The crime of “illegal gain” wherever mentioned in the original law shall be substituted with the “crime of corruption” for the purposes of implementing this Law.

**Article (4)**

**Definitions**

Article (1) of the original law shall be amended as follows:

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

**The National Authority:** The Palestinian National Authority.

**The President of the National Authority:** The President of the Palestinian National Authority.

**The Legislative Council:** The Palestinian Legislative Council.

**The Council of Ministers:** The Council of Ministers of the Palestinian National Authority.

**The Commission:** The Commission for Anti-Corruption.

**The Head of the Commission:** The Head of the Commission for Anti-Corruption.

**Corruption:** The following shall be considered corruption for the purposes of implementing this Law:

1. Crimes prejudicial to the duties of the public office and to public trust as provided for in the applicable Penal Code.
2. Crimes emanating from money laundering as provided for in the Money Laundering Law.
3. Any act prejudicial to public funds.
4. Abuse of authority contrary to the provisions of the law.
5. Acceptance of nepotism and favoritism which eliminates right and achieves falsehood.
6. Illegal gains.
7. All acts provided for in the Arab and International Conventions on Anti-Corruption ratified by the National Authority or to which it is a member.

**The official:** Whoever is appointed by a competent authority to occupy a position as listed in the by-laws on civilian and military posts as budgeted by a government department, whatever the nature of the position or its title.

**The property:** Assets of all kinds whether tangible or intangible, documents and legal instruments which prove ownership of those assets or a right emanating from them.

**Nepotism and favoritism:** A decision taken by an official or his interference for the benefit of a person or body or according it preference over others for unprofessional considerations like: party, family, religious and regional affiliations to secure financial or moral benefit.

**The court:** The court panel with jurisdiction to deal with crimes of corruption.

## **Article (5)**

### **Parties Subject to the Provisions of the Law**

Article (2) of the original law shall be amended to read as follows:

The following persons shall be subject to the provisions of this Law:

1. The President of the National Authority, his advisors and heads of Presidency institutions.
2. The Prime Minister, cabinet members and similar persons.
3. The Speaker and members of the Palestinian Legislative Council.
4. Members of the Judicial Authority and the Public Prosecution.
5. Heads of agencies and directors of departments belonging to the National Authority.
6. Governors and heads, members and staff of local councils.
7. Employees.
8. Chairmen, directors and staff of public shareholding companies in which the National Authority or any of its institutions is a shareholder.
9. Collection officers and their representatives who are trustees on deposits and expenses.
10. Arbitrators, experts, receivers and agents of creditors and liquidators.
11. The chairmen and directors of entities, public institutions, charitable societies and national entities having an independent legal personality and financial and administrative independence, parties and unions and bodies alike, and their staff even if they receive no financial support from the public budget.

12. Parties and unions or similar entities and their staff even if they receive no support from the general budget.
13. Persons entrusted with public service pertaining to the tasks they are entrusted with.
14. Any other non-Palestinian person assuming a position in any institution belonging to the National Authority (legislative, executive, or judicial), and any person assuming a public position for the benefit of a public institution or national organization subordinate to a foreign country, or an international public organization.
15. Any other person or entity which the Council of Ministers decides to subject to the provisions of this Law.

## **Article (6)**

### **The Formation of the Commission**

Article (3) of the original law shall be amended as follows:

1. In accordance with the provisions of this Law, there shall be established a commission to be called the Commission for the Elimination of Corruption. It shall enjoy a legal personality and administrative and financial independence, and shall be allotted a special budget within the general budget of the Palestinian Authority. In this capacity, it shall perform all legal tasks to achieve its goals, shall have the right to conclude contracts and to have locus standi, and shall be represented before the courts by the public prosecution delegated to the Commission.
2. The Head Office of the Commission shall be in Jerusalem. It may, by virtue of the decision of its President establish branches or offices throughout the districts.
3. The Head of the Commission shall be appointed by a decision of the President of the National Authority on the recommendation of the Council of Ministers.
4. Before assuming his position, the Head of the Commission shall take the oath before the President of the National Authority in the presence of the speaker of the Legislative Council and the chief Justice.
5. The Head of the Commission shall appoint a sufficient number of staff and advisors to enable the Commission to perform its tasks. Their grades, salaries, bonuses, increments and all their employment and financial tasks shall be specified in a special by-law.
6. As an exception to the above, the Head of the Commission and its entire staff shall be subject to the applicable pension by-laws, and shall benefit from the government health insurance scheme.
7. The Head of the Commission shall form an advisory council composed of experienced personalities to render advice on issues presented to him.
8. There shall be appointed by the President of the National Authority a Deputy Head of the Commission by a decision of the President of the National Authority on the recommendation of the Head of the Commission. The Deputy Head shall assume the tasks of the Head of the Commission in his absence.
9. The Head of the Commission and its entire staff shall declare their properties, those of their spouses and their under age children before taking their positions. The data pertaining to the staff shall be kept with the Commission, while those pertaining to the Head of the Commission shall be kept with the Supreme Court.

## **Article (7)**

### **The Presidency of the Commission**

Article (6) of the original law shall be amended as follows:

1. The duration of the presidency of the Commission shall be seven years non-renewable.
2. The Head of the Commission may not be dismissed unless convicted by a final judgment for a crime relating to abuse of duties entrusted to him or for committing any act affecting honor or dignity, or for any act considered corruption according to the provisions of the law.
3. The Head of the Commission shall be relieved of his duties by a decision from the President of the National Authority in the following circumstances:
  - A. If the resignation is accepted.
  - B. if any of the conditions for his appointment is lost.
  - C. Loss of legal capacity by a judgment from a court of competent jurisdiction.

## **Article (8)**

### **The Mandate of the Commission**

Article (8) of the original law by adding the following clauses after article (3) as follows:

4. Investigate suspected corruption committed by persons subject to the provisions of this Law.
5. Community awareness at all official and un-official levels on the dangers of corruption and its consequences on economic, social and political development; the methods of combating and controlling it through:
  - A. Collecting information on all shapes of corruption and work towards the creation of a database and information systems and exchange same with internal and external agencies and bodies concerned with corruption according to the applicable legislations.
  - B. Coordination with the National Authority institutions to strengthen and develop the measures needed to prevent crimes of corruption and to update the mechanisms and the means of eliminating them.
  - C. Coordination with the media to assume an active role to promote the culture of integrity and eliminate corruption within the community.
  - D. Work to strengthen the participation of civil society organizations and the educational institutions in anti-corruption activities, create public awareness on its dangers and consequences, strengthen the culture of non-tolerance with corruption and with the corrupt.
6. Preparation of the general policy of anti-corruption with stakeholders and preparation of the necessary plans and programs for their implementation.
7. Preparation of periodicals on the dangers of corruption, nepotism and favoritism to the National Authority institutions and its agencies.
8. Review, evaluate and study anti-corruption legislation and propose amendments according to the applicable procedures.
9. Coordinate and cooperate with Arab, regional and international bodies on anti-corruption; and participate in the programs aimed at preventing such crimes.
10. Prepare the Commission's annual report.

**Article (9)**  
**The Powers of the Commission**

Article (9) of the original law shall be amended as follows:

Despite the provisions in the Penal Procedure Code and in other pertinent laws, the Commission shall have the following in implementing its tasks and powers:

1. Receive reports, notifications and complaints on crimes of corruption submitted to it, review and follow-them up, investigate and collect evidence on same, reveal the violations and excesses, collect evidence and information on same, and start the necessary investigation and the administrative and legal procedures according to the provisions of this Law and the relevant legislation.
2. Prosecute anyone who violates the provisions of this Law, seize his movable and immovable property, prevent him from travelling, ask for his dismissal from office, stop his salary and allowances and all his financial entitlements whenever necessary and the amendment and cancellation of any of those decisions according to the applicable legislations.
3. Call witnesses, the relevant public or private sector employees, or any relevant person to inquire on any act relating to corruption.
4. Request any files, or data, or documents, or information; or review them; or request copies of them from the relevant body keeping them; including those which consider all that confidential according to the applicable legal procedures.
5. Coordinate with the relevant parties to track, seize, and reclaim funds and proceeds generated from crimes of corruption. The confiscation decision shall be taken by the court competent to deal with the case.
6. The Commission shall, on its own initiative, or on the basis of information or complaint received by it, initiate the necessary investigations to track any corruption case. If the outcome of the case, or investigation, or complaint received by it reveals that it is false or malicious, the person who submitted it shall be referred to the competent judicial bodies to penalize him according to the applicable legal procedures.
7. Any company, or association, or national body, or union, or any corporation from among those under the provisions of this Law; except the public institutions whose directors or board members or representatives or staff commit in its name or by its means a crime specified in this Law, the Commission is entitled to ask the court to cease their activities, or to dissolve them, or to liquidate their funds, and to prevent anybody related to the crime committed from establishing any similar body, or to sit on its board, or to be a director of same for a period not falling below one year and not exceeding five years.
8. The right to prosecute the special cases pertaining to the crimes specified in this law shall rest with the Public Prosecution according to the provisions of this Law or to other pertinent legislations. The cases shall not be prosecuted through others except in the circumstances provided for in this Law. After the initiation of legal action, the case may not be stopped, or assigned, or reconciled except in the circumstances provided for in the law.
9. Despite the provisions in any other legislation, the Commission undertakes to announce its decisions on the files dealt by it immediately on the completion of the procedures provided for in the law.

### **Article (10)**

Article (17) of the original law shall be amended as follows:

1. In the event it appears to the Commission in respect of the categories outlined in paragraphs (1, 2, 3 and 4) of Article (5) of this Law with the exception of the President of the National Authority that there exists strong suspicions of the commission of any crime contained in this Law, the Head of the Commission shall refer the matter to the President of the National Authority in respect of the Prime Minister and his advisors, and to the Prime Minister in respect of ministers and those at their level, and to the High Judicial Council in respect of members of the Judicial Authority and the Public Prosecution for initiating the necessary legal action according to the Basic Law and the pertinent legislations.

2. In the event it appears that the Head of the Commission has committed any of the crimes outlined in this Law, the President of the National Authority shall refer the matter to the Legislative Council to initiate the investigation. If the Council decides by absolute majority that those suspicions necessitate referring the matter to court, it shall decide to lift the immunity from the Head of the Commission, suspend him from service and refer the matter to the competent court to review the matter.

### **Article (11)**

#### **Provision of Information**

Article (18) of the original law shall be amended as follows:

1. Whoever acquires reliable information or documents pertaining to a crime of corruption provided for in this Law committed by an employee shall submit it to the Commission, or shall file a complaint thereof against the perpetrators.

2. The Commission guarantees to the witnesses, experts and informers of crimes of corruption acting in good faith legal, job and personal security. The protection procedures and measures in this respect shall by virtue of a by-law prepared by the Commission and issued by the Council of Ministers.

### **Article (12)**

#### **Accountability / Sources of Wealth**

Article (20) of the original law shall be amended as follows:

If it appears to the Commission the seriousness of the complaint submitted to it, it shall ask the person against whose wealth the complaint is lodged to show the source of that wealth. If the Commission is not convinced of the legitimacy of same, it shall prove by investigating the matter the illegitimacy of same.

### **Article (13)**

#### **Referral of the File to the Public Prosecution**

Article (21) of the original law shall be amended as follows:

If through investigations of notifications and complaints submitted to it, there appears the existence of strong suspicions that a crime of corruption has been committed, the Head of the Commission shall, after performing the necessary investigation, decide to refer the papers to the Public Prosecution delegated to the Commission to initiate proper action according to the provisions of this Law and other pertinent laws.

**Article (14)**  
**Penalties**

Article (25) of the original law shall be amended as follows:

1. Unless otherwise provided for in the Penal Code or in any other applicable law, whoever is convicted of a crime stipulated in this Law shall be punished with imprisonment for a term ranging from three to fifteen years and with a fine to the value of the funds which are the subject matter of the crime or with either of these penalties and the return of the funds emanating from the crime.
2. Whoever takes the initiative from among the perpetrators to notify the Commission of a crime of corruption before it or any of the authorities become aware of it shall be exempted from punishment. If the notification takes place after becoming aware of the crime, it shall be conditional that the outcome of the notification is the apprehension of the other perpetrators and the seizure of the funds which are the subject matter of the crime.

**Article (15)**  
**Tasks of the Head of the Commission**

1. There shall be added a new article to the original law carrying number (6 repeated) after article 6 as follows:  
In addition to the tasks and authorities provided for in this Law, the Head of the Commission shall perform the following tasks and responsibilities:
  - A. Represents the Commission before third parties.
  - B. Exercises administrative and financial supervision over the Commission and its staff.
  - C. Takes the necessary decisions to achieve the objectives of the Commission.
  - D. Approves the annual budget of the Commission and presents it to the Council of Ministers for ratification.
  - E. Forms the committees needed for the functioning of the Commission and specifies their tasks.
  - F. Prepares the organizational structure of the Commission and presents it to the Council of Ministers for ratification.
  - G. Requests the assignment or secondment of staff to work for the Commission according to the provisions of the pertinent laws.
  - H. Approves the Commission's annual report and presents it to the President of the National Authority, the Council of Ministers and the Legislative Council.
  - I. Signs the agreements and contracts entered into by the Commission.
  - J. Any other tasks pertaining to the mandate of the Commission and to the achievement of its goals.
2. The Head of the Commission may delegate any of his powers as provided for in this Law and in the by-laws emanating from it to his deputy or to any of the Commission's senior staff provided that the delegation is in writing and is for a limited time.

**Article (16)**  
**The Competent Court**

There shall be added a new article to the original law carrying number (9 repeated) as follows:

1. By virtue of the decision of the High Judicial Council at the request of the Head of the Commission, there shall be established a special court panel to deal with crimes of corruption wherever committed. The panel shall be chaired by a judge holding the rank of President of a Court of First Instance. The other two members shall be judges holding the rank of judges of Court of First Instance.
2. The court panel shall sit in Jerusalem or in any other place specified by the President of the Court. The procedures and provisions outlined in the applicable laws shall apply to its hearings and to the decisions taken by it.
3. The court panel shall hear any case received by it within a period not exceeding 10 days from the date of its submittal. It shall hold its sessions on successive days. The trial shall not be adjourned for more than three days unless it is necessary and for reasons outlined in the adjournment decision. This shall apply to all stages of the trial.
4. The court panel shall deliver its judgment on any case after the conclusion of the proceedings as soon as possible and within a timeline not exceeding ten days from the date of the conclusion of the trial. The court may postpone this once only and for not more than seven days.
5. Judgments delivered by the court shall be subject to appeal according to the Penal Procedure Code.

**Article (17)**  
**Public Prosecution**

There shall be added a new article to the original law under number (9 repeated) after article (9) as follows:

1. At the request of the Head of the Commission, a sufficient number of public prosecutors including an Assistant Attorney-General may be delegated to work for the Commission for two years renewable.
2. Taking into consideration the provisions of paragraph (1) above, the delegation procedures shall comply with the procedures outlined in the Judicial Authority Law.
3. The public prosecutors delegated to work for the Commission shall be considered specialists in investigating any of the crimes outlined in this Law, shall initiate the trial and shall take the necessary legal action in the country's entire districts.
4. The delegated Public Prosecution shall, with the assistance of the Commission staff in their capacity as judicial officers, promptly initiate the investigation procedures without unjustified delay.

**Article (18)**  
**Cancellations**

1. Articles (13, 14, and 15) of the original law shall be cancelled.
2. Any provision which contradicts the provisions of this Law shall be cancelled.

**Article (19)**  
**By-Laws**

On the recommendation of the Head of the Commission, the Council of Ministers shall issue the necessary by-laws to implement the provisions of this law.



**Article (20)**

**Submittal to the Legislative Council**

The Law by Decree shall be submitted to the Legislative Council for ratification in its first session.

**Article (21)**

**Implementation**

All relevant parties, each within its scope of responsibility, shall enforce this Law by Decree from the date of its publication in the official gazette.

Issued in Ramallah on 20/06/2010

**Mahmoud Abbas**

**Chairman of the Executive Committee of the Palestine Liberation Organization**

**President of the Palestinian National Authority**

Translated by:

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