

**Law No. (10) of 1423 FBP
on cleansing**

The General People's Congress,

- In implementation of the resolutions of the Basic People's Congresses in their second ordinary session held in 1403 FDP, corresponding to 1993 AD, drafted by the General Forum of Basic People's Congresses, People's Committees, professional syndicates, unions, and associations (the General People's Congress) in its second ordinary session from 10-17 Shaaban 1403, corresponding to 22-29 January 1423 FBP;

Upon review of:

- The Declaration on the Establishment of the Authority of the People;
- The Great Green Charter of Human Rights in the Jamahiriyan Era;
- The Penal Code, the Code of Criminal Procedure and amendments thereto;
- Law No. (3) of 70 on ill-gotten gains and amendments thereto;
- Law No. (152) of 1970 AD on administrative detention;
- Law No. (148) of 1972 AD on establishing the *hudud* punishments for theft and *hiraba*;
- The Justice System Law issued under Law No. 51/76 AD;
- Law No. (2) of 1970 AD on economic crime;
- Law No. (6) of 1985 AD on prohibiting cronyism and nepotism;
- Law No. (22) of 1985 combating the abuse of office or profession and the corruption of people's escalation activities;
- Law No. (3) of 1988 AD on Where Did You Get That;
- Law No. (5) of 1988 AD on establishing the People's Court and amendments thereto;

the following Law was formulated:

Article (1)

Secretaries and members of People's Committees, secretaries and members of Secretariats of Congresses, judges, members of the prosecution and the People's Prosecution Bureau and other members of judicial bodies at the Supreme Court, the People's Court and other courts, as well as lawyers, notaries, doctors, arbitrators, experts, translators, officers, members of the Armed People, police, customs guard, municipal guard, the Agricultural Inspection Authority and others holding the capacity of a judicial officer and working at public or private public-interest bodies and institutions and companies owned in full or in part by the State, companies and establishments to which the saying "partners not labourers" applies as well as any public employee or employee tasked with a public service in the Jamahiriya or abroad, in a permanent or temporary capacity, with or without consideration, shall be subject to this Law.

Anyone who alleged or attempts to influence the aforementioned bodies, interfere in their work or intervene therein or who engaged in a practice harmful to the society's economy, such as duty and tax evasion, currency speculation, commodity trading and other legally prohibited economic activities shall be subject to this Law.

Anyone holding a licence to practice a profession, craft, trade or work, whether individually or within a partnership as well as anyone engaging in any economic activity without a license shall be subject to this Law.

Article (2)

Public funds are inviolable and sacrosanct. They may not be compromised, owned, used, exploited or utilised except in accordance with the Law.

Article (3)

In the application of this Law, public funds shall mean the funds owned by or subject to the management or supervision of General People's Committees, public institutions, free-standing agencies and authorities, projects, congresses, federations, syndicates, professional associations, associations, public and private public-interest bodies, clubs, companies or establishments owned in full by one of the aforementioned bodies or in which such bodies hold shares therein, as well as owned economic units whose value has not been paid or any other body whose funds are deemed public funds under the law.

Article (4)

Anyone subject to the provisions of this Law shall, within sixty days of the date of their appointment to or assumption of a position and public service, submit a financial disclosure for themselves and their spouse and minor children on the form prepared for such, stating therein the movable and immovable property they have on such date as well as any financial obligations.

The preceding paragraph shall apply to those in service at the time this Law enters into force. For such persons, the period shall commence from the effective date of this Law.

All other categories subject to this Law must submit the same disclosure to the cleansing committees established under this Law within the period set out in the first paragraph.

The period may be extended for such categories as set out in the implementing regulations.

Article (5)

Within thirty days from the date their position or service ends or they leave a profession, craft, trade or work, anyone subject to this Law shall submit a financial disclosure for themselves and their spouse and minor children on the form prepared for such, stating therein their financial obligations.

They must also submit a disclosure on the form referred to in the preceding paragraph whenever requested, based on a serious complaint.

In addition to the information set out in the first paragraph, the disclosures set out in this Article must include the source of any increase in income and assets.

The disclosures submitted by the concerned parties and any inspection and verification thereof shall be deemed confidential and anyone related to the implementation of this Law must not disclose such.

Article (6)

All money or commissions obtained by anyone subject to this Law, for themselves or a third party, through the exploitation of their position or abuse of authority or due to favouritism, threat or influence, whether directly or indirectly, or gains from currency speculation, commodity trading or engaging in legally prohibited activity shall be deemed to be theft and illegal gains.

Any increase in income or assets after the assumption of a position or capacity when such increase is not commensurate with such person's resources, their spouse's resources or those of their minor children shall be deemed to be theft and illegal gains if they are unable to establish a legitimate source thereof.

All money or material benefit obtained by any person through their participation or collusion with any of those subject to this Law shall be deemed to be theft and illegal gains.

Article (7)

Pursuant to this Law, committees called cleansing committees shall be established. The formation and work procedures thereof shall be issued under a decree from the Secretary of the General People's Committee for Justice and Public Security.

Article (8)

The committees referred to in the preceding Article shall examine the disclosures submitted before this law becomes effective, the disclosures set out in this Law and complaints submitted on illegal gains. They shall perform the required research and investigation procedures. They may request clarifications and the necessary documentation with regard to the inspection or complaint and request information and data from any other body. They may seek the assistance of any experts they deem necessary and summon any person for questioning about their information.

Committees shall prepare a report on the results of their examination, detailing the procedures undertaken and the opinion formed along with the grounds thereof.

The committees shall inspect commercial businesses, partnerships, public production and service companies, hotels, airports, ports, telephone and electricity services, bodies holding competence to distribute land, farms, loans and people's offices. They shall inspect the surplus spaces of farms, homes and shops as well as imported materials and the manner of importation with the documentation, value, financial transfers, payment of fees and taxes thereon and the like in order to confirm the extent of compliance with regard to the acquisition of licenses, the payment of taxes and fees, respect for the law, application of the principle of equality among citizens, non-exploitation of position, profession or craft and the non-practice of cronyism and nepotism and other behaviours that violate the laws in force. The Committees shall refer incidents and accused persons to the People's Prosecution Bureau for investigation and disposition, in accordance with Law No. (5) of 1988 AD establishing the People's Court, amended by Law No. (8) of [19]91 AD, and refer other incidents to the competent judicial bodies.

Article (9)

If the inspection reveals suspected illegal gains, unrecorded information or other violations to which this Law applies, the committee must refer the documents to the People's Prosecution Bureau for investigation and disposal. The committees are entitled to retain documents if they do not find anything suspicious. The retention order must include the reasons for such retention.

Cleansing committees must also notify the People's Prosecution Bureau of all retention orders it issues, within thirty days from the issue date.

The People's Prosecution Bureau may challenge retention orders before the competent circuit of the People's Court, whose decision thereon shall be final.

Article (10)

Within one month from the start of the fiscal year, the bodies set out in Article (1) of this Law must submit to the cleansing committees, each within their area of competence, a list of the names of persons affiliated thereto or subject to the supervision thereof who must resubmit financial disclosures and the date set for such. Such bodies must send these declarations to the committee immediately upon the submission thereof by the concerned parties.

Article (11)

1. Dismissal or termination of service shall not preclude the filing of illegal gains cases.
2. Cases may not be filed against anyone who was dismissed, whose service was terminated or who lost capacity, if ten years have passed since the date of the last disclosure.
3. Death shall not preclude the recovery of money obtained through illegal gains, even after it has devolved to the heirs, if such is established in a judicial ruling issued by the People's Court.

Article (12)

The People's Prosecution Bureau may request joinder of the spouse, children or any other civilian that it deems benefited from illegal gains to a case for issuance of a ruling for the return thereof, which shall be effective on illegal gains money that devolved thereto. The Bureau may request the joinder of any person who participated with the accused in illegal gains or conspired to hide the proceeds thereof, and the ruling for the return of such funds shall be issued against them jointly.

Article (13)

At the request of the People's Prosecution Bureau, presidents of first instance circuits at the People's Court may issue an order instructing a third party not to dispose of funds in their possession that belong to the accused or to any of the other people mentioned in Article (1) of this Law. This order shall have the same effects as the attachment of a debtor's dues held by third parties. Grievances may be filed against such order before the appeals circuits at the People's Court in accordance with the rules set out in the Code of Procedure. Presidents of first instance circuits at the People's Court may also issue an order to serve a copy of the statement of claim to the Socialist Real Estate Registry department and place a copy thereof in all of the accused's files. In all cases, no real rights acquired after filing the statement of

claim shall be invoked. Grievances against such order shall be in accordance with the rules set out in the preceding paragraph.

Article (14)

Criminal illegal gains cases shall expire after the passage of ten years, commencing from the date the last disclosure was submitted, unless the investigation thereof commences before such. The period shall end with the service of the accused or other third parties referred to in Article (12) of this Law, or with the adoption of any investigation or trial procedures.

Article (15)

The court shall rule for the return of excess funds established to be illicit gains. The public treasury shall be entitled to such funds.

With the exception of the enforcement procedures set out in the Code of Civil and Commercial Procedure, the Code of Criminal Procedure and the Judicial Fees Law, the People's Prosecution Bureau shall enforce rulings issued for the return of funds in accordance with this Article.

If a convicted person does not return the funds to the public treasury, the People's Prosecution Bureau shall submit the funds established to be illicit gains to the competent body at the Social Funds Department according to the type of funds, without need for any other procedure.

In all cases, the bodies receiving such funds shall pay the amount thereof to the Public Treasury.

Article (16)

Each of the persons referred to in Article (1) of this Law shall be prohibited from the following:

1. Acquiring money, benefit or material advantage in an illegal manner and deemed illicit gains and theft if the source thereof is favouritism, threat, violation of the law, abuse of position, profession or status or influence or of an unknown source or cause or is not commensurate with the person's legitimate resources.
2. Violating or neglecting the principle of equality among citizens due to a person's capacity, status, influence, relation, ambition, friendship, personal conflict therewith or any other reason.
3. Exploiting their position, profession, craft, trade, status or influence to frighten others or influence them in order to obtain a benefit for themselves or a third party or to harm others.
4. Engaging in any act of cronyism or nepotism. In this Law, cronyism and nepotism shall be deemed to be anything that influences the acquisition of a benefit or service with the intent of barring or delaying such or that violates a priority right in obtaining it.

Article (17)

Members of the Police, People's Security, Customs Guard, Municipal Guard, Agricultural Inspection Authority and other judicial officers as well as members of the prosecution and People's Monitoring shall apprehend crimes committed in violation of this Law and refer such incidents to the cleansing committees or the People's Prosecution Bureau.

Article (18)

Anyone who learns of illicit gains by any person or other violations of this Law may notify the cleansing committees or the People's Prosecution Bureau to undertake the necessary measures in this regard.

The filing of a criminal case for the crimes set out in this Law shall not be conditional upon an authorisation or request as relates to all categories referred to in Article (1) of this Law. The People's Prosecution Bureau shall investigate complaints it receives in implementation of this Law if submitted thereto directly, even if the report contains persons who are not public employees.

Article (19)

Anyone who obtains, for themselves or a third party, illicit gains under the Law on punishments for theft and robbery. If the evidence is not sufficient or the conditions set out in the aforementioned Law are not met for the punishment, such persons shall be punishable by imprisonment and the funds obtained from illegal gains shall be returned.

Article (20)

Anyone who hides in any manner funds obtained from illegal gains or for which a ruling has been issued for the return thereof under this Law, when they knew the truth of the matter, shall be punishable under the Law on punishments for theft and robbery. The court may exempt the accused from the penalty without return thereof if it finds that the accused assisted during the search and investigation to uncover the truth about such funds or other funds obtained through illicit gains.

Article (21)

Anyone who intentionally states incorrect information in a financial disclosure or who fails, without acceptable excuse, to submit such on the set dates after being notified of such shall be deemed to have committed an act of theft.

Article (22)

Anyone who discloses any information about the disclosures set out in this Law, complaints submitted on illegal gains and the inspections and investigations taking place with regard thereto shall be punishable with a fine of not less than five hundred LYD and not more than two thousand LYD.

Anyone who makes a false report of illegal gains to a competent body shall be subject to the same penalty, even if such did not result in a case being filed against the reported party.

Article (23)

Anyone who violates clause (2), (3) or (4) of Article (16) of this Law shall be punishable with imprisonment for a period not less than one year and a fine not less than one thousand LYD. Issuance of suspended sentences shall not be permissible.

Anyone who violates Article (16) clause (1) shall be subject to the same penalty set out in Article (19) of this Law.

Article (24)

Issuance of a final guilty ruling on the crimes set out in this Law shall result in the perpetrator being deprived of the following rights and privileges:

1. Loss of civil rights
2. Competence to hold or remain in any position
3. Escalation to the secretariats of congresses and people's committees, federations, syndicates, and professional associations
4. Medals, decorations and honorary ranks
5. Inadmissibility of their testimony before the courts
6. Non-issuance of a certificate of good conduct and behaviour
7. Lack of capacity to undertake guardianship and custody affairs

Article (25)

Issuance of a final guilty ruling shall result in beneficiaries of cronyism and nepotism being placed at the bottom of the list of eligible persons, and a ruling shall be issued to return the benefits or services they received as a result thereof. Issuance of suspended sentences shall not be permissible.

Article (26)

Issuance of a final guilty ruling on the crimes set out in this Law shall result in the ruling being published in the various media at the expense of the convicted person.

Article (27)

The penalties set out in this Law shall not prejudice the imposition of another more severe penalty set out in the Penal Code or any other law.

Article (28)

The People's Court shall hold sole jurisdiction to rule on cases arising from the crimes set out in Articles (16), (19), (20), (21), (22) and (23) of this Law.

The People's Prosecution Bureau shall alone conduct investigations and disposals in all crimes falling within the jurisdiction of the People's Court.

Article (29)

The People's Court shall hold sole jurisdiction to rule on cases arising from the crimes committed by and against workers on cleansing committees while performing their positions or due thereto, as well as the crimes committed in the locations where the aforementioned committees are engaging in their activities.

Article (30)

Any provision that conflicts with those of this Law shall be repealed.

Article (31)

The General People's Committee shall issue the regulations, forms and decrees necessary to implement this Law.

Article (32)

This Law shall be published in the Official Gazette and in the various media, and it shall enter into force from the date of its publication in the Official Gazette.

The General People's Congress – Libya

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