

# LAW OF UKRAINE

## About prevention and counteraction to legalization (to washing) of the profits got a criminal way

With the amendments and supplements borne

By The Laws Of Ukraine

from December, 24, 2002 N 345-IV,

from February, 6, 2003 N 485-IV

This Law regulates the relations in the field of prevention and counteraction to introduction in the legal appeal of the profits got a criminal way, and is directed on the fight against financing of terrorism.

### Section And. GENERALS

#### Article 1. Determination of terms

In this Law the terms are used in such value:

profits are any economic value got as a result of accomplishing publicly of dangerous протиправного act, that precedes to legalization (to washing of profits) which can consist of material own or own, that is shown in rights, and similarly includes the immovable chattels and documents which confirm a right on such own or particle in her personal or;

publicly dangerous протиправне act, that precedes to legalization (to washing) of profits, - act, for which by the Criminal code of Ukraine punishment is foreseen as imprisonment on a term the three and more years (after the exception of the acts foreseen by the articles 207, of a 212 Criminal code of Ukraine) or which is acknowledged by the crime after the penal law of other state, and for the the same act the foreseen responsibility by the Criminal code of Ukraine, and as a result of accomplishing of which there are illegally the got profits;

legalization (washing) of profits is accomplishing of actions certain by the article 2 of this Law, with the purpose of grant of legitimate kind to the domain, use or order by profits or the actions directed on the concealment of sources of origin of such profits;

financial operation is any operation related to realization or providing of realization of payment by the subject of the первинного financial monitoring, in particular:

bringing or removal of deposit (payment, I will inlay);

transfer of funds from the account on the account;

exchange of currency;

grant of services in the issue, purchase or sale of securities and other types of financial assets;

grant or receipt of loan or credit;

insurance (перестраховання);

grant of financial guarantees and obligations;

confiding management by the brief-case of securities;

financial leasing;

realization of issue, appeal, redemption (distribution) of state and other money lottery;

grant of services in the issue, purchase, sale and maintenance of cheques, bills of exchange, pay cards, money postal переводів and other pay instruments;

opening of account;

the obligatory financial monitoring is the aggregate of measures specially of the authorized organ of executive power on the questions of the financial monitoring from the analysis of information on financial operations, that is given by the subjects of the первинного financial monitoring, and also measures on verification of such information in accordance with the legislation of Ukraine;

the internal financial monitoring is activity of subjects of the первинного financial monitoring on the exposure, in accordance with this Law, financial operations, which are subject to the obligatory financial monitoring, and other financial operations, which can be related to legalization (by washing) of profits.

## Article 2. Actions which behave to legalization (washing) of profits

Before legalization (washing) of profits the actions directed on the concealment or disguise of illegal origin of facilities or other property or domain by them belong by this Law, rights on such facilities or property, sources of their origin, location, moving, and similarly acquisition, domain or use of facilities or other property, on condition of awareness by a person, that they were profits.

## Article 3. Purview Law

Action of this Law spreads on the citizens of Ukraine, foreigners and persons without citizenship, and also legal entities, their branches, representative offices and other separated subsections, which provide realization of financial operations on territory of Ukraine, and also out of its scopes in accordance with the international agreements of Ukraine.

## Section II. SYSTEM OF FINANCIAL MONITORING

### Article 4. System and subjects of the financial monitoring

The system of the financial monitoring consists of two levels - первинного and state.

The subjects of the первинного financial monitoring are:

banks, financial institutions insurance et al;

pay organizations, members of the pay systems, еквйрингові and clearing establishments;

commodity, fund et al exchanges;

professional participants of equity market;

institutes of the common investing;

гральні establishments, lombards, legal entities which conduct any lotteries;

enterprises, organizations which carry out the management by investment funds or unstate pension funds;

enterprises and associations of communication, other no credit organizations which carry out the transfer of money costs;

other legal entities which in accordance with the legislation carry out financial operations.

The subjects of the state financial monitoring are:

central organs of executive power and National bank of Ukraine, which in accordance with a law execute the functions of adjusting and supervision after activity of legal entities, which provide realization of financial operations;

specially the authorized organ of executive power on the questions of the financial monitoring is the government body of state administration, which operates in composition Ministry of finance of Ukraine (farther - the Authorized organ).

### Article 5. Task and duties of subject of the первинного financial monitoring

The subject of the первинного financial monitoring on foundation and on implementation of this Law is under an obligation:

to conduct authentication of person which carries out financial operation, that is subject to the financial monitoring in accordance with this Law, or scores first (in that number the deposit), on

the basis of the documents given in accordance with established procedure or at presence of grounds to consider that information on authentication of person needs clarification;

to provide the exposure and registration of financial operations, that in accordance with this Law are subject to the financial monitoring;

to give to the Authorized organ the information about financial operation, that is subject to the obligatory financial monitoring, not later than than during three working days from the moment of its registration;

to be instrumental in the workers of the Authorized organ in conducting of analysis of financial operations, which are subject to the obligatory financial monitoring;

to give in accordance with the legislation the additional information on the query of the Authorized organ, related to financial operations, which became the object of the financial monitoring, in that number such, that makes a bank and commercial secret, not later, than during three working days from the moment of receipt of query;

to be instrumental in the subjects of the state financial monitoring on the questions of conducting of analysis of financial operations, which are subject to the financial monitoring;

to take measures in relation to prevention to the disclosure (including to the persons in relation to financial operations of which verification is conducted) of information, which is got to the Authorized organ, and other information, on the questions of the financial monitoring (in that number about the fact of presentation of such information);

to keep documents, which touch authentication of persons, by which financial operation, that pursuant to this Law is subject to the financial monitoring, and all document, is carried out about realization of financial operation during five years after conducting of such financial operation.

The subject of the первинного financial monitoring taking into account the requirements of current legislation and normative-legal acts of the Authorized organ sets the rules of conducting of the internal financial monitoring and appoints a worker accountable for his conducting.

(part second of the article 5 with the changes borne pursuant to

By the law of Ukraine from 24.12.2002 N 345-IV)

A senior official is to be independent in the activity and accountable only to the leader of subject of the первинного financial monitoring and is under an obligation not rarer once on a month to inform a leader about the exposed financial operations, which are subject to the financial monitoring, and measures which were used, including in relation to:

development and permanent renewal of rules of the internal financial monitoring and programs of his realization taking into account the requirements of current legislation and normative acts of the Authorized organ;

preparations of personnel in relation to the exposure of financial operations, which are subject to the financial monitoring in accordance with this Law, by conducting of educational and practical measures;

providing of conducting of the internal financial monitoring.

#### Article 6. Authentication of persons, which carry out financial operations

The subject of the первинного financial monitoring on the basis of the given originals or properly notarized copies of documents identifies persons which carry out financial operations, that pursuant to this Law are subject to the financial monitoring.

With a purpose the authentications of residents are determined:

for physical persons - the last name, name and patronymic, date of birth, series and number of passport (or other document which certifies person), date of delivery and organ, that gave out him, place of residence, identification number pursuant to the State register of physical persons - payers of taxes and other obligatory payments;

for legal entities - name, legal address, documents about confirmation of state registration (including constituent documents, information on public servants and their plenary powers and others like that), identification code pursuant to the Unique state register of enterprises and organizations of Ukraine, реквізити of bank, the account, and number of bank account, is opened in which.

With a purpose the authentications of нерезидентів are determined:

for physical persons - the last name, name, patronymic (in the case of his presence), date of birth, series and number of passport (or other document which certifies person), date of delivery and organ, that gave out him, citizenship, place of residence or sojourn;

for legal entities - the complete name, location and реквізити of bank, the account, and number of bank account, is opened in which. The subject of the первинного financial monitoring gets also copy of легалізованого self-control of auction, bank or judicial register or witnessed notarial registration certification of the authorized organ of the foreign state about registration of the proper legal entity.

(indention third of part third of the article 6 with the changes borne

pursuant to Law of Ukraine from 24.12.2002 N 345-IV)

Authentication of person is not obligatory in time:

realization of financial operation by persons, which were earlier identified;

conclusion of agreements between the banks incorporated in Ukraine.

In case if a person operates as a representative of other person, or the subject of the первинного financial monitoring has doubting in relation to that a person comes forward from the proper name or вигодоодержувачем there is other face, the subject of the первинного financial monitoring is under an obligation by rule of this article and positions of other laws which regulate this procedure, to identify also a person, on behalf of which financial operation is carried out or which is вигодоодержувачем.

(part fifth of the article 6 in the release

Law of Ukraine from 24.12.2002 N 345-IV)

Article 7. Right of subject of the первинного financial monitoring to give up providing of realization of financial operation

Before or after realization of financial operation the subject of the первинного financial monitoring finds out possibility of taking of her to financial operation, that in accordance with this Law is subject to the financial monitoring. In the case of exposure of such financial operation, she is subject to registration by the proper subject of the первинного financial monitoring. For this purpose a person, that carries out financial operation, type of financial operation and grounds for its realization, date and sum, is fixed in a register. Order of registration of financial operation, that in accordance with this Law is subject to the financial monitoring, is established for banks - the National bank of Ukraine, and for other subjects of the financial monitoring - Cabinet of Ministers of Ukraine.

The subject of the первинного financial monitoring has a right to give up providing of realization of financial operation in the case of establishment, that this financial operation contains the signs of such, that pursuant to this Law is subject to the financial monitoring, and is under an obligation to identify and report the Authorized organ about persons, which carry out the noted financial operation, and its character.

Part third of the article 7 is eliminated

(pursuant to Law

Ukraine from 24.12.2002 N 345-IV)

Part fourth of the article 7 is eliminated

(pursuant to Law

Ukraine from 24.12.2002 N 345-IV)

Article 8. Grant of information about financial operation

Order of grant to the Authorized organ of information about financial operation, that is subject to the obligatory financial monitoring, is established accordingly by the National bank of Ukraine -

for banks, and Cabinet of Ministers of Ukraine - for other subjects of the первинного financial monitoring.

Grant of information by the subjects of the первинного financial monitoring to the Authorized organ in accordance with established procedure is not violation of bank or commercial secret.

The subjects of the первинного financial monitoring, their public servants and other workers do not carry disciplinary, administrative, civil legal and criminal responsibility for the grant to the Authorized organ of information about financial operation, if they operated within the limits of this Law, even if by such actions the harm is caused to the physical entities legal or, and for other actions related to implementation of this Law.

(part third of the article 8 in the release

Law of Ukraine from 06.02.2003 N 485-IV)

To the workers of subjects of the первинного financial monitoring, which sent to the Authorized organ of report about financial operation, that is subject pursuant to this Law to the financial monitoring, is forbidden to reveal about it to the persons, which carry out financial operation, and any third persons.

As a result of violation of part fourth of this article responsibility statutory Ukraine comes the workers of subjects of the первинного financial monitoring.

In the case when at the workers of subject of the первинного financial monitoring which carries out financial operation, there are the explained suspicions, that financial operation is carried out with the purpose of legalization (washing) of profits, the subject of the первинного financial monitoring is under an obligation to give to the Authorized organ the information about such financial operation.

(part sixth of the article 8 with the changes borne pursuant to

By the law of Ukraine from 24.12.2002 N 345-IV)

In the case when the subjects of the первинного financial monitoring, which carry out financial operations, suspect or must suspect that such financial operations are linked, relate or are intended for financing of terrorist activity, assassinations or terrorist organizations, they are under an obligation immediately to report about such financial operations the Authorized organ and law enforcement authorities certain by the legislation.

Information, that is passed pursuant to the requirements of this Law, is such, that has a limited access. Exchange by the noted information, its opening and defence by the Authorized organ, by the subjects of the первинного financial monitoring, by the organs of executive power and National bank of Ukraine, which in accordance with the legislation provide adjusting and supervision after activity of subjects of the первинного financial monitoring, is carried out in accordance with the legislation.

To the authorized organ it is forbidden to pass to somebody the information obtained from the subjects of the первинного financial monitoring, and which contains a commercial or bank secret, except for the cases foreseen by the article 13 of this Law.

(part ninth of the article 8 with the changes borne pursuant to

By the law of Ukraine from 24.12.2002 N 345-IV)

Article 9. Taking on the account of financial operation, that is subject to the obligatory financial monitoring

Financial operation, that is subject to the obligatory financial monitoring, in relation to which obtained information, is taken into account by the Authorized organ. Order of taking on the account of financial operation, that is subject to the obligatory financial monitoring, is set by Cabinet of Ministers of Ukraine.

Article 10. Authority of central organs of executive power and National bank of Ukraine on the questions of the financial monitoring

To the subjects of the state financial monitoring (except for the Authorized organ), which in accordance with the legislation execute the functions of adjusting and supervision after the subjects of the первинного financial monitoring, belong the National bank of Ukraine, State commission from securities and fund market, specially the authorized organ of executive power in the field of adjusting of markets of financial services.

The subjects of the state financial monitoring are marked in part first of this article obliged:

to require from subjects the первинного financial monitoring of implementation of tasks and duties foreseen by this Law;

to conduct verification of being of organization of professional preparation of workers and leaders of subsections accountable for conducting of the internal financial monitoring, to take measures foreseen by this Law;

during realization of supervision to check up implementation of requirements of acts of legislation on the questions of prevention and counteraction to legalization (to washing) of profits and financing of terrorism, to use in the order of the measures foreseen by this Law set by the legislation;

to inform the Authorized organ about the exposed cases of violation of legislation by the subjects of the первинного financial monitoring;

to provide storage of the information got from the subjects of the первинного and state financial monitoring and law enforcement authorities;

to co-ordinate with the Authorized organ any normative documents, which touch the questions related to implementation of requirements of this Law;

to give to the Authorized organ the information and documents necessary for implementation of the tasks (except for information on the personal life of citizens) fixed on him, in an order certain by the legislation.

### Section III. FINANCIAL OPERATIONS, WHICH ARE SUBJECT TO OBLIGATORY AND INTERNAL FINANCIAL MONITORING

Article 11. Financial operations, which are subject to the obligatory financial monitoring

Financial operation is subject to the obligatory financial monitoring, if a sum, which she is conducted on, is evened or exceeded 80000 hryvnyas or evened or exceeded a sum in foreign currency, equivalent 80000 hryvnyas, and has one or more of signs certain by this article:

(indentation first of the article 11 with the changes borne pursuant to

By the law of Ukraine from 06.02.2003 N 485-IV)

transfer of money costs on the anonymous (containing a number) account for a border and receipt of money facilities from the anonymous (containing a number) account from abroad, and also transfer of costs on the account opened in financial institution in a country, that is taken by Cabinet of Ministers of Ukraine to the list of offshore areas;

purchase (sale) of cheques, traveller's cheques or other similar circulating mediums for cash;

including or transfer of money costs, grant or receipt of credit (loans), conducting of the financial security-related operations in the case when even one of sides is a legal person physical or, that has the proper registration, place of residence or place of finding in a country (on territory), which does not take part in international cooperation in the field of prevention and counteraction of legalization (to washing) of the profits got a criminal way, and financing of terrorism, or one of sides is a person, that has the bank account, incorporated in an afore-mentioned country (on afore-mentioned territory). The list of such countries (territories) is determined in accordance with the order, set by Cabinet of Ministers of Ukraine on the basis of the lists, ratified by international organizations, activity of which is directed on counteraction of legalization (to washing) of the profits got a criminal way, and financing of terrorism, and is subject to publishing;

in an available form for a border with the requirement to give out the transfer of costs to the recipient the facilities by a cash on a hand;

including on the account of facilities in an available form with their subsequent translation of the same or a next operating day to other person;

including of money facilities on the account or writing of money facilities from the account of legal entity, the period of activity of which does not exceed three months from the day of its registration, or including of money facilities on the account or writing of money facilities from the account of legal entity in case if operations on the noted account were not conducted from the moment of his opening;

opening of account with bringing on him of facilities in behalf of the third person;

translation by a person, in default of external economic contract, facilities for a border;

an exchange is a greenback, especially foreign currency, on paper currencies of other to the face value;

conducting of the financial security-related operations;

acquisition by the person of securities for cash;

payment to the physical person of insurance compensation or receipt of insurance bonus;

payment to the person of winning in a lottery, casino or in other гральному establishment;

placing of precious metals, jewels and other values in a lombard.

Article 12. Financial operations, which are subject to the internal financial monitoring

Financial operation is subject to the internal financial monitoring, if she has one or more of signs certain by this article:

(indentation first of the article 12 with the changes borne pursuant to

By the law of Ukraine from 24.12.2002 N 345-IV)

1) tangled or unusual character of financial operation which is not in obvious economic right or obvious legal purpose, in particular:

(indentation first of point 1 of the article 12 with the changes borne

pursuant to Law of Ukraine from 24.12.2002 N 345-IV)

a) acceptance by the subject of the первинного financial monitoring of facilities from a person, which offers or agrees to the receipt of percents on a deposit, below than interest rate, that is set in a bank on a present moment, or payment of commissions (pays for realization of separate operations with his facilities) in sizes anymore than are certain by the subject of the первинного monitoring after the identical holdings or operations on a present moment;

б) to conduct insistency of person operation by rule different from set by the legislation and internal documents of subject of the первинного monitoring in relation to such operations on maintenance or after the terms of its conducting;

в) bringing by a person in the before concerted chart of conducting of operation (operations) directly before the beginning of its realization of considerable changes, which especially touch direction of cash flow or other property, in that number the repeated change of bank реквізитів of бенефіціара after the grant of the first commission on the transfer of costs or індокацію pay documents, grant of commission on the transfer funds to бенефіціару through of two and more accounts of other persons;

г) presentation by the person of information which it is impossible to check;

г) impossibility of establishment of contractors of person, acceptance by the subject of the первинного financial monitoring of facilities (pay documents to their payment) from a person which sends facilities in the address of other side of civil legal agreement, as a result such facilities come back without implementation of financial operation in connection with unfinding of such other side or in connection with its refusal in relation to their acceptance;

д) refusal in the grant by the person (by a client) of the information foreseen by the legislation and proper internal documents of subject of the первинного financial monitoring;

е) regular conclusion by the person of urgent agreements or use of other derivative financial instruments, especially such, that delivery of base asset is not foreseen, after financial operations with one or a few contractors, by a result what a permanent income or permanent losses of person is;

є) acceptance by the subject of the первинного financial monitoring of facilities (pay documents to their payment) from a person, which carries out the repeated exchange of securities on other securities during a current year without the receipt or grant of the dollar adjustments related to such exchange;

ж) offensive of accident insured during short space which is determined specially by the authorized organ of executive power in the field of adjusting of markets of financial services, after the conclusion of insurance agreement;

2) disparity of financial operation of activity of legal entity, that is set by the regulation documents of this person, in particular:

(indentation first of point 2 of the article 12 with the changes borne

pursuant to Law of Ukraine from 24.12.2002 N 345-IV)

а) the substantial increase of amount of balance, which is afterwards transferred to other subject of the первинного financial monitoring or used for the aims of purchase of foreign currency

(with translation in behalf of нерезидента), bearer securities, is unconnected with activity of person;

б) absence of communication between a character and sort of activity of person with services, after which a person addresses the subject of the первинного financial monitoring;

в) regular presentation of the cheques issued by a bank and endorsed by нерезидентом, on encashment, if such activity does not answer the activity of person, known to the subject of the первинного financial monitoring;

г) including on the account of face of far of payments from physical persons on a sum, whatever exceeds a sum certain by the article 11 of this Law, including through the cashdesk of subject of the первинного financial monitoring, if activity of person is unconnected with the grant of services to the population, by collection of obligatory or voluntarily payments;

р) substantial increase of particle of cash on a hand, that acts on the account of person, if for basic activity of person calculations in a cashless form are ordinary;

д) placing on the account of handsome sum of available facilities by a person which after the level of profit or sphere of activity can not carry out financial operation on such sum;

е) valid for one occasion sale (purchase) by the person of large package of securities, which are not freely revolved at the organized market, on condition that a person is not the professional participant of equity market and securities are not passed to the person in outstanding debt liquidation of contractor before a person;

3) exposures of the repeated realization of financial operations, the character of which grounds to consider that avoidance of the procedures of the obligatory financial monitoring, foreseen by this Law, is the purpose of their realization, in particular:

(indentation first of point 3 of the article 12 with the changes borne

pursuant to Law of Ukraine from 24.12.2002 N 345-IV)

а) regular including on the account of face (in the case of legal entity, if it is unconnected with its basic activity) of facilities in an available form with subsequent translation of all or bulk of an amount during one operating day or day next after him on the account of client, opened at other subject of the первинного financial monitoring, or in behalf of the third person, including нерезидента;

б) transmission by the person of commission about realization of financial operation through a representative (mediator), if a representative (mediator) executes the commission of person without establishment of direct (personal) contact with the subject of the первинного financial monitoring.

The internal financial monitoring can be carried out in relation to other financial operations, when the subject of the первинного financial monitoring have the grounds to consider that financial operation is conducted with the purpose of legalization (washing) of profits.

(the article 12 is complemented by part second pursuant to

By the law of Ukraine from 24.12.2002 N 345-IV)

#### Section IV. TASK, FUNCTIONS THAT RIGHT THE AUTHORIZED ORGAN

##### Article 13. Task and functions of the Authorized organ

The tasks of the Authorized organ are:

collection, treatment and analysis of information about financial operations, which are subject to the obligatory financial monitoring;

realization of state policy has participation in the field of prevention and counteraction to legalization (to washing) of profits and financing of terrorism;

creation and providing of functioning of the unique state informative system in the field of prevention and counteraction to legalization (to washing) of profits and financing of terrorism;

adjusting of collaboration, co-operation and informative exchange with public authorities, competent organs of the foreign states and international organizations in the noted sphere;

providing of representative office of Ukraine in accordance with established procedure in international organizations on the questions of prevention and counteraction to legalization (to washing) of profits and financing of terrorism.

Authorized organ in accordance with the tasks fixed on him:

makes suggestions in relation to development of legislative acts, in accordance with established procedure takes part in preparation of other normative-legal acts on the questions of prevention and counteraction to legalization (to washing) of profits and financing of terrorism;

gets from the organs of executive power, organs of local self-government, subjects of menage upon request information necessary for realization of the tasks fixed on him;

co-operates with the organs of executive power, by other state organs the tasks of which prevention and counteraction to legalization (to washing) of profits and financing of terrorism are;

at presence of sufficient grounds, that financial operation can be related to legalization (by washing) of profits or financing of terrorism, gives in law enforcement authorities, pursuant to jurisdiction, proper generalized materials;

takes part in international cooperation on the questions of prevention and counteraction to legalization (to washing) of profits and financing of terrorism;

explores methods and financial charts of legalization (washing) of profits and financing of terrorism;

carries out co-ordination and methodical providing of activity of subjects of the первинного financial monitoring on the questions of prevention and counteraction to legalization (to washing) of profits and financing of terrorism;

conducts the analysis of efficiency of measures, which are used by the subjects of the первинного financial monitoring for prevention and counteraction to legalization (to washing) of profits and financing of terrorism;

it is instrumental in the exposure in financial operations of signs of the use of profits;

provides the conduct of account of financial operations, which have the signs of such, that are subject to the financial monitoring, in the order set by the legislation;

takes part on the instructions of Cabinet of Ministers of Ukraine in preparation of the proper international agreements of Ukraine;

executes other functions, which swim out from the tasks fixed on him.

The article 13<sup>is a 1</sup>. Political independence of the Authorized organ

The leader of the Authorized organ is appointed and rid of position in the order set by the legislation.

The use of the Authorized organ in party, group or personal interests is shut out.

Activity of parties, motions and other public associations, which have political goals, in the Authorized organ is forbidden.

On the period of service or work on a labour contract membership of public and duty servants of the Authorized organ in such associations is stopped.

Membership of workers which concluded a labour treaty with the Authorized organ is allowed as an exception, in trade unions.

(A law is complemented by the article 13<sup>1</sup> pursuant to

By the law of Ukraine from 06.02.2003 N 485-IV)

Article 14. Rights of the Authorized organ

The authorized organ has a right:

to engage in consideration of questions, which belong to his jurisdiction, specialists of central and local organs of executive power, enterprises, establishments and organizations (on the concordance with their leaders);

to get in the order set by the legislation from the organs of executive power, organs of local self-government, enterprises, establishments and organizations information (including that makes a bank or commercial secret) necessary for implementation of the tasks fixed on him;

to get in the order set by the legislation from the central organs of executive power and National bank of Ukraine, which, pursuant to this Law, get the generalized materials about financial operations from the Authorized organ, information about motion of working and use of the proper measures on the basis of the got materials;

to carry out access in the order set by the legislation, in that number is automated, to the databases of other subjects of the state financial monitoring and executive public authorities;

to enter into in the order set by the legislation international contract of interdepartmental character with the proper organs of other states on the questions of collaboration;

to give out normative-legal acts, necessary for implementation by him the tasks and functions foreseen by the article 13 of this Law.

(the article 14 is complemented by an indention seventh pursuant to

By the law of Ukraine from 24.12.2002 N 345-IV)

## Section V. INTERNATIONAL COOPERATION IN PREVENTION AND COUNTERACTION TO LEGALIZATION (TO WASHING) OF PROFITS AND FINANCING OF TERRORISM

Article 15. Bases of international cooperation in prevention and counteraction to legalization (to washing) of profits and financing of terrorism

International cooperation in prevention and counteraction to legalization (to washing) of profits and financing of terrorism is carried out in accordance with Convention about washing, search, arrest and confiscation of the profits, got the criminal way (1990), of other international agreements of Ukraine, this Law, other normative-legal acts.

The refusal or postponement in pleasure to the query in relation to international cooperation in prevention and counteraction to legalization (to washing) of profits and financing of terrorism are carried out only on foundation and on condition of implementation of positions of Convention about washing, search, arrest and confiscation of the profits got a criminal way (1990).

Article 16. Organs authorized to carry out international cooperation in prevention and counteraction to legalization (to washing) of profits and financing of terrorism

By a central organ, on which plenary powers are laid in relation to realization of international cooperation there is Ministry of justice of Ukraine in prevention and counteraction to legalization (to washing) of profits and financing of terrorism, - in relation to the court decisions which touch confiscation of profits, and the General prosecution of Ukraine - in relation to accomplishing of judicial actions during investigation of criminal cases (realization of separate judicial actions in relation to businesses about the exposure of profits).

Information or proofs got a central organ within the framework of international cooperation in prevention and counteraction to legalization (to washing) of profits and financing of terrorism without his previous consent can not be used or passed to the organs of power of the foreign state for the aims of prosecution an inquiry or judicial trial not marked in the solicitor.

The authorized organ co-operates with the proper organs of the foreign states in relation to an exchange by information about the signs of legalization (washing) of profits, within the limits of the jurisdiction provides collaboration with Group of development of financial measures of fight against washing of facilities (FATF) and other international organizations, activity of which is directed on collaboration in prevention and counteraction of legalization (to washing) of profits.

## Section VI. RESPONSIBILITY FOR VIOLATION OF REQUIREMENTS OF LAW AND RENEWAL OF RIGHTS AND LEGAL INTERESTS

Article 17. Responsibility for violation of requirements of this Law

Persons guilty in violation of requirements of this Law carry criminal, administrative and civil legal responsibility pursuant to a law. Such persons also can be deprived of right to carry out the certain types of activity pursuant to the legislation.

Legal entities which carried out financial operations from legalization (washing) of profits or financed terrorism can be liquidated in decision of court.

In the case of non-fulfillment (improper implementation) by the subject of the первинного financial monitoring of requirements of this Law to him can be used in the order set by the legislation, fine in the size of to one thousand untaxed minimums of profits of citizens. In the case of absence of consent in relation to payment of fine of decision about imposition of fine or in his refusal is accepted by a court after the giving of organ, that regulates activity of subject of the первинного financial monitoring and gives licences or other special permission.

The repeated violation by the subjects of the первинного financial monitoring of requirements of this Law results in in decision of court of limitation, temporal stopping of action and deprivation of licence or other special permission on the right of realization of certain types of activity in the order set by the legislation.

Article 18. Renewal of rights and legal interests

In decision of court the profits are subject to confiscation in a profit to the state or come back to their proprietor, rights or legal interests of which were broken, or their cost is compensated.

The agreements directed on legalization (washing) of profits and financing of terrorism are acknowledged invalid in the order set by a law.

The subjects of the financial monitoring, their public servants and other workers do not carry responsibility for the harm caused to the physical entities legal and, in connection with implementation by them duty duties during conducting of the financial monitoring, if they operated within the limits of tasks, duties and in a method, that are foreseen by this Law.

The harm caused to the physical entity legal or by illegal actions of state organs as a result of conducting by them the measures on counteraction to legalization (to washing) of profits and financing of terrorism is compensated from the State budget of Ukraine.

## Section VII. EVENTUAL STATUTES

1. This Law goes into effect in six months from the day of his publishing.

2. Before adduction in accordance with this Law the laws of Ukraine, other normative-legal acts are operated in part, whatever conflicts with this Law.

3. Cabinet of Ministers of Ukraine to the entry in force by this Law:

to give for consideration of Supreme Soviet of Ukraine suggestions about bringing of changes in legislative acts, which swim out from this Law;

to bring the normative-legal acts to conformity with this Law;

to make decision on questions, which swim out from this Law;

to provide the revision by the ministries, by other central organs of executive power of the normative-legal acts, which conflict with this Law.

4. To the national bank of Ukraine to bring the normative-legal acts to conformity with this Law and give for consideration of Supreme Soviet of Ukraine of suggestion about bringing of changes in legislative acts, which swim out from this Law.

5. Action of the articles 5, 6, 7, 8 this Law is used in relation to a casino, гральних establishments and lombards after approval by Cabinet of Ministers of Ukraine of the proper order, but not later than January, 1, 2004, and for the other subjects of the первинного financial monitoring - from the moment of acquisition action by this Law.

6. To make such alterations in Code of Ukraine about administrative offences (Information of Supreme Soviet of UKRAINE, in 1984, addition to N 51, item 1122):

1) to complement Code by the article 166<sup>9</sup> such maintenance:

"Article 166<sup>of a 9</sup>. Violation of legislation in relation to prevention and counteraction to legalization (to washing) of the profits got a criminal way

Violation of requirements in relation to authentication of person which carries out financial operation, violation of order of registration of financial operations, which are subject to the первинному financial monitoring, no serve, ill-timed presentation or presentation of unreliable information about such financial operations specially the authorized organ of executive power on the questions of the financial monitoring, and also non-fulfillment of requirements in relation to storage of documents, which touch authentication of persons, which carry out financial operations, and document in relation to the financial operations conducted by them, -

results in imposition of fine on the public servants of subjects of the первинного financial monitoring from fifty to one hundred untaxed minimums of profits of citizens.

Disclosure of information, which is got specially to the authorized organ of executive power on the questions of the financial monitoring, or fact of grant of such information, -

results in imposition of fine from one hundred to three hundred untaxed minimums of profits of citizens";

2) in the article 221 and part first of the article 294 of number "166<sup>7</sup>, 166<sup>8</sup>" to replace by numbers "166<sup>7</sup>- 166<sup>9</sup>";

3) in a point 1 of part first of the article 255:

to complement a point by new indentions of such maintenance:

"specially the authorized organ of executive power on the questions of the financial monitoring (article 166<sup>9</sup>);

State commission from securities and fund market (article 166<sup>9</sup>");

in the indention of the "National bank of Ukraine (articles 164<sup>11</sup>, 166<sup>7</sup>, 166<sup>8</sup>)" to replace numbers "166<sup>7</sup>, 166<sup>8</sup>" by numbers "166<sup>7</sup>- 166<sup>9</sup>".

7. To make such alterations to Law of Ukraine "About banks and bank activity" :

1) in the article 62:

to complement part first by a new point of such maintenance:

"5) specially to the authorized organ of executive power on the questions of the financial monitoring on his writing requirement in relation to realization of financial operations, which are

subject to the financial monitoring pursuant to the legislation about prevention and counteraction of legalization (to washing) of the profits got a criminal way";

in a partial word eighth to the "special subsections on the fight against the organized crime" to replace by words "specially to the authorized organ of executive power on the questions of the financial monitoring";

2) The subitem of a 2 point 7 of section VII is eliminated

(pursuant to Law

Ukraine from 06.02.2003 N 485-IV)

President Of Ukraine   Л. КУЧМА  
Kiev

On November, 28, 2002

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