

LAW OF THE REPUBLIC OF BELARUS

of 19 July 2000 No. 426-3

ON MEASURES TO PREVENT LEGALISATION OF ILLEGALLY ACQUIRED PROCEEDS AND FINANCING OF TERRORIST ACTIVITY

Passed by the House of Representatives on 9 June 2000
Approved by the Council of the Republic on 30 June 2000

(redrafted according to Laws of the Republic of Belarus
of 11 December 2005 No. 68-3, 26 December 2007 No.300-3,
16 July 2008 No. 413-3, and of 06 November 2008 No. 438-3)

This Law establishes legal and organisational bases to take measures to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity for the purpose to protect the rights and legitimate interests of the citizens of the Republic of Belarus, society and the State.

SECTION 1. GENERAL PROVISIONS

Article 1. Basic Terms and Their Definitions Used in This Law

Internal control – a set of measures taken by persons carrying out financial transactions, to prevent and detect financial transactions relating to legalisation of illegally acquired proceeds and the financing of terrorist activity.

Illegally acquired proceeds – assets acquired as a result of violation of civil, criminal, administrative and other legislation of the Republic of Belarus.

Legalisation of illegally acquired proceeds – making ownership, use and/or disposition of illegally acquired proceeds look lawful to conceal or disguise their source, location, placement, movement or their actual ownership, including the rights to dispose of these proceeds.

Persons carrying out financial transactions:

banks and non-bank finance and credit institutions;
professional participants of the securities market;
persons involved in stock exchange activity;
dealers in precious metals and dealers in precious stones;

pawn-shops, buying-up offices;
insurance companies and insurance brokers;
organisers of lotteries and electronic interactive games,
notaries;

organisations providing real estate services and involved in transactions concerning the buying and selling of real estate for their client;

organisations, individual entrepreneurs providing legal and / or accounting services, lawyers carrying out financial transactions on behalf or by order of their client concerning the buying and selling of real estate; managing of client money, securities or other assets; management of bank and / or securities accounts; as well as creation or participation in management of legal persons or their separate subdivisions; buying and selling of a business entity as a property system;

post offices;

casinos, bookmakers, totalisators, and other gambling establishments equipped with slot-machines, other devices for conducting games based on chance;

institutions providing state registration of real estate, titles to it and transactions with it;

institutions carrying out leasing activity;

other organisations, their separate subdivisions and individual entrepreneurs providing services to receive, alienate, acquire, pay out, deliver, transport, transfer, exchange and / or keep funds, as well as persons obliged to certify or register civil law deals of persons performing financial transactions.

Persons performing financial transactions – organisations, individual entrepreneurs and natural persons performing deals with assets in their own name and in their own interest.

Non-residents:

natural persons – foreign citizens and stateless persons permanently residing outside the Republic of Belarus;

organisations located outside the Republic of Belarus established in accordance with the legislation of foreign states.

Special control – a set of measures taken by the Financial Monitoring Authority to supervise financial transactions for the purpose to prevent, detect and suppress legalisation of illegally acquired proceeds and the financing of terrorist activity.

Residents:

natural persons – citizens of the Republic of Belarus as well as foreign citizens and stateless persons possessing a residence permit (its substituting document) issued by competent State Bodies of the Republic of Belarus;

organisations located in the Republic of Belarus and established in accordance with the legislation of the Republic of Belarus, their affiliates and representations, as well as individual entrepreneurs who are citizens of the Republic of Belarus and registered in accordance with the legislation of the Republic of Belarus;

Belarus-located affiliates and representations of organisations located outside the Republic of Belarus and established in accordance with the legislation of foreign states.

Assets – money, securities, other property, including property rights and sole rights on intellectual activity results.

Financial transaction amount – the amount of the monetary funds or of the money equivalent of non-monetary assets used in a financial transaction, including the amount agreed by persons performing a financial transaction aimed at transfer of titles to assets.

Financial transaction – a deal with assets regardless of the form and method of its implementation.

Article 2. Scope of This Law

This Law regulates relations between persons performing and persons carrying out financial transactions within the Republic of Belarus, the activity of the Financial Monitoring Authority and State Bodies supervising the activity of persons carrying out financial transactions with regard to their compliance with the legislation to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity.

Article 3. Legal Activity Background to Prevent Legalisation of Illegally Acquired Proceeds and Financing of Terrorist Activity

The Constitution of the Republic of Belarus, this Law, other acts of legislation, as well as international treaties, make up the legal activity background to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity.

Where rules set forth in this Law differ from those contained in an international treaty, the rules of the international treaty shall apply.

SECTION 2. PREVENTION OF LEGALISATION OF ILLEGALLY ACQUIRED PROCEEDS AND FINANCING OF TERRORIST ACTIVITY

Article 4. Measures to Prevent Legalisation of Illegally Acquired Proceeds and Financing of Terrorist Activity

Measures to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity are as follows:

- internal control;
- special control;
- prohibition to inform persons performing financial transactions, about measures taken to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity;
- other measures taken in compliance with acts of legislation.

Article 5. Obligations and Rights of Persons Carrying Out Financial Transactions

Persons carrying out financial transactions shall:

- identify persons performing financial transactions, where it is envisaged by the legislation;
- register special control financial transactions in a special form and deliver its first copy to the Financial Monitoring Authority not later than the workday following the day of the completion of the reported transaction; in case assets are received as a result of international settlements – not later than the workday following the day of the receipt of confirming statements; and in case of a suspension of a financial transaction – on the day of its suspension;
- suspend a financial transaction, where at least one of its parties is a person participating in terrorist activity, or where a person performing the financial transaction is controlled by persons participating in terrorist activity. The money received is to be entered to the recipient's account, whereupon clearing transactions performed via this account shall be suspended to the amount of the money received. A suspended financial transaction shall be resumed based on a relevant notification of the Financial Monitoring Authority presented either in writing or in a form of an electronic document;

provide the Financial Monitoring Authority, according to its demand, with the information necessary to fulfill its functions;

keep second copies of special forms and documents relating to carrying out and / or performing special control financial transactions, during not less than 5 years after their completion;

work out and comply with standards of internal control, appoint officials responsible for development of such standards and their implementation, as well as take other internal organisational measures to exercise internal control.

Standards of internal control are worked out by persons carrying out financial transactions subject to general requirements set forth by the Council of Ministers of the Republic of Belarus. Standards of internal control shall include the order to fix special control financial transactions in a documentary form, the order to store and maintain confidentiality of information, requirements for qualification and training of proper officials, as well as criteria to detect suspicious financial transactions and criteria of their suspiciousness that shall take account of the particular character of the activity of a person carrying out financial transactions.

Persons carrying out financial transactions are within their right not to conduct financial transactions (excluding receipt to the receiver's account of the money arrived) subject to non-submission by persons performing financial transactions of the necessary documents to register a special control financial transaction.

A suspension of a financial transaction, according to paragraph 4 of part 1 of this Article, does not constitute a basis for liability measures to be imposed on a person carrying out financial transactions for losses or moral harm resulted from such actions.

Persons carrying out financial transactions shall not disclose information on submission of data to the Financial Monitoring Authority, except as otherwise provided by the legislation.

Dissemination by persons carrying out financial transactions of information on special control financial transactions to the Financial Monitoring Authority, as envisaged by this Law, shall not constitute a breach of official, bank or other secrecy protected by the law and not entail responsibility for losses or moral harm caused as a result of such action.

Article 6. Special Control Financial Transactions

Financial transactions are subject to special control, irrespective of their completion, where at least one of the following aspects is present:

if a person carrying out a financial transaction got suspicious that the financial transaction is being carried out for the purpose of legalisation of illegally acquired proceeds or the financing of terrorist activity, including a financial transaction which does not correspond to the business purposes stated in the constituent documents of the person performing the financial transaction; a transaction is performed repeatedly to avoid registration in a special form;

in case a person performing a financial transaction is known as a terrorist activity participant, or a person performing a financial transaction is controlled by persons participating in terrorist activity. The order to determine the list of such persons and the order to bring it to the attention of persons carrying out financial transactions is established by the Council of Ministers of the Republic of Belarus;

in case a person performing a financial transaction is registered, domiciling or dwelling (staying) in a state (territory), which does not participate in international cooperation to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity, or is known to have performed transactions via an account opened with a bank, non-bank finance and credit institution registered in the mentioned state (territory). The order to determine the list of such states (territories) and the order to publish it are fixed by the Council of Ministers of the Republic of Belarus;

in case a financial transaction amount equals to or exceeds 2,000 basic units for physical persons or 20,000 basic units for organisations and individual entrepreneurs and falls into one of the following categories of financial transactions, viz., a financial transaction carried out with cash; a financial transaction carried out via customers' bank accounts and with clients' deposits; a financial transaction concerning international settlements and remittances (postal, telegraphic, electronic money orders); a financial transaction with movable and immovable property; a financial transaction with securities; a financial transaction relating to loans and credits combined with international transfers; a financial transaction with the transfer of debt and the cession of a requirement.

The list of other special control financial transactions is determined by President of the Republic of Belarus.

Article 7. Identification of Persons Performing Financial Transactions

Persons carrying out special control financial transactions shall identify persons performing financial transactions.

To identify physical persons performing financial transactions, persons carrying out financial transactions shall establish and fix the following data based on an identifying document:

- the surname, proper name, patronymic;
- the nationality;
- the date and place of birth;
- the place of residence (registration);
- details of the identifying document.

The payer account number (if any) is fixed based on the document certifying the registration at a tax body.

To identify individual entrepreneurs performing financial transactions, persons carrying out financial transactions shall establish and fix the following data, in addition to those envisaged in part 2 of this Article, based on an identification document, registration and other documents:

- the registration number and the individual entrepreneur's registration date, the registering body's name;
- the payer account number.

To identify organisations performing financial transactions, persons carrying out financial transactions shall establish and fix the following data, based on constituent, registration and other documents:

- the name;
- the registration number and the organisation's registration date, the registering body's name (if any);
- the location (legal address);
- the payer account number (if any);
- the surname, proper name and patronymic of a head, a chief accountant of the organisation and / or other authorised officials empowered by law or by the head to act on behalf of the organisation.

To identify persons performing financial transactions, persons carrying out financial transactions shall establish and fix the name and location of the bank or non-bank finance and credit institution, via the accounts of which the financial transaction is carried out.

In case a person carrying out financial transactions suspects that persons performing financial transactions act not on their own behalf, or should it become apparent that persons performing financial transactions act not on their own behalf, the former shall take measures to identify persons performing financial transactions or persons on behalf of which act those performing financial transactions.

Article 8. Registration of Special Control Financial Transactions

Financial transactions that are subject to special control are registered in a special form by a person carrying out financial transactions.

A physical person should neither complete a special form nor submit it to the Financial Monitoring Authority.

In case a special control financial transaction is performed in the absence of a person carrying out financial transactions, a special form shall be completed and submitted to the Financial Monitoring Authority by the person performing the financial transaction.

In case a special control financial transaction is performed between a resident and a non-resident in the absence of a person carrying out financial transactions, a special form shall be completed and submitted to the Financial Monitoring Authority by a resident.

In case bank money is transferred from accounts opened with remitting banks or non-bank finance and credit institutions of the Republic of Belarus to accounts opened with receiving banks or non-bank finance and credit institutions of the Republic of Belarus, a special data form is completed and submitted to the Financial Monitoring Authority by remitting banks or non-bank finance and credit institutions.

With regard to transactions carried out with money paid as an insurance payment (insurance premium) or insurance compensation, insurance coverage, a special form is completed and submitted to the Financial Monitoring Authority by insurance companies and insurance brokers.

For civil law transactions carried out with property, where such transactions and / or property rights are subject to registration, a special form is completed

and submitted to the Financial Monitoring Authority by persons providing state registration of such property, titles to it and transactions with the property.

For transactions carried out with securities in a non-documentary form and with securities in a documentary form, with the titles to them to be fixed, according to the requirements of law, by specialised organisations (depositories) or legal persons that issued them (issuers), a special form is completed and submitted to the Financial Monitoring Authority by depositories or issuers, respectively; for transactions carried out with securities in a documentary form, where the rights in such securities are transferred between residents without fixing them by the third parties, – by the person transferring titles to these securities.

For transactions relating to the transfer of debt and the cession of requirement performed between residents, a special form is completed and submitted to the Financial Monitoring Authority by the person transferring the debt or performing the cession of requirement.

The template of a special form, the order of its completion, submission, registration and filing are approved by the Council of Ministers of the Republic of Belarus.

Article 9. Financial Transactions not Subject to Special Control

The following financial transactions are not subject to special control:

- financial transactions carried out with Union State's budgetary funds;
- financial transactions carried out with the money of the Republican and local budgets, of the state special purpose budget and off-budget funds;
- financial transactions carried out by diplomatic and other official representations in the Republic of Belarus;
- obtaining credits granted under the guarantee of the Government of the Republic of Belarus, combined with an international money transfer;
- withdrawal of cash money to pay wages and make other payments, included into the wage fund under the law, as well as transfer for the mentioned payments of monetary funds to physical persons' bank accounts / placing them on deposits;
- financial transactions carried out via correspondent and other accounts opened by the National Bank of the Republic of Belarus with other banks or

by other banks and by the Open Joint-Stock Company 'Belarusian Stock Exchange' with the National Bank of the Republic of Belarus;

financial transactions carried out between banks of the Republic of Belarus to attract and place monetary funds in the form of Interbank credits and deposits;

cash financial transactions carried out between banks of the Republic of Belarus;

export by banks of cash foreign currency outside the Republic of Belarus to be further entered to their correspondent accounts opened with foreign banks;

financial transactions carried out with government securities and with securities issued by the National Bank of the Republic of Belarus, as well as with local bonds and mortgage bonds;

financial transactions carried out with assets of compulsory insurance;

depositing by retail trade enterprises, public service and catering establishments of cash money to the bank and post cash offices, to be further entered to their bank accounts;

other financial transactions, according to the list approved by President of the Republic of Belarus.

SECTION 3. FINANCIAL MONITORING AUTHORITY

Article 10. Authority to Prevent Legalisation of Illegally Acquired Proceeds and Financing of Terrorist Activity

The body to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity is the Financial Monitoring Authority, which is established according to Decision of President of the Republic of Belarus.

Article 11. Terms of Reference of Financial Monitoring Authority

Exercising special control, the Financial Monitoring Authority shall:

take measures to create and put into operation a computer-based integrated system of account, processing and analysis of information on financial transactions subject to special control;

collect and process information on suspicious financial transactions;

issue an order to suspend a financial transaction where there are sufficient grounds proving the financial transaction to be related to legalisation of illegally acquired proceeds or the financing of terrorist activity, provided this financial transaction has not been suspended by the

person carrying out financial transactions. The person carrying out this financial transaction shall be advised on the order to suspend it not later than the next working day following the issue of such an order. A relevant notification of the Financial Monitoring Authority made in writing or in the form of an electronic document, constitutes a reason to resume a suspended financial transaction;

within 5 days on receiving a special form completed by a person carrying out financial transactions, take decisions concerning a suspended financial transaction with regard to either submitting the relevant information and evidence to a prosecuting agency or resuming the suspended financial transaction. The person suspended the financial transaction shall be advised on the decision in writing or in the form of an electronic document;

send the relevant information and materials to a prosecuting agency provided there are sufficient grounds proving the financial transaction to be related to legalisation of illegally acquired proceeds or the financing of terrorist activity;

make use of the information contained in special forms and in other sources, to take measures to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity;

take other measures in accordance with legislative acts.

To prevent legalisation of illegally acquired proceeds and the financing of terrorist activity, the Financial Monitoring Authority shall:

exercise control over the activity of persons carrying out financial transactions with regard to their fulfillment of the requirements of the legislation to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity;

work out and carry out measures to prevent violations of the legislation to counteract legalisation of illegally acquired proceeds and the financing of terrorist activity, summarize practice of application of such legislation based on the information received from the State Bodies exercising control over the activity of persons carrying out financial transactions in respect of their compliance with such legislation, and from other organisations, as well as put forward proposals to improve it;

participate, in accordance with the established procedure, in the activity of international organisations;

participate, in accordance with the established procedure, in drafting enactments, in conclusion and execution of international treaties to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity;

penalize, as provided by the legislation, persons for violating the legislation to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity;

exercise other powers in accordance with the law.

Privacy of information contained in special forms is secured by the Financial Monitoring Authority, except as otherwise envisaged by the legislative acts.

Employees of the Financial Monitoring Authority provide safety of data they became aware of, relating to the activity of the Financial Monitoring Authority and constituting official, bank or other secrecy protected by the law; and bear responsibility for disclosure of these data as envisaged by the legislative acts.

Article 12. Provision of Information to Financial Monitoring Authority

The State Bodies and other organisations shall provide, in accordance with the procedure established by law, the Financial Monitoring Authority with the information and documents (excluding the information on citizens' private life) required for the implementation of its functions, which shall not constitute a disclosure of official, bank or other secrecy protected by law.

Article 13. International Cooperation to Prevent Legalisation of Illegally Acquired Proceeds and Financing of Terrorist Activity

The Financial Monitoring Authority, according to the legislation, including international treaties, cooperates with the foreign states' competent authorities to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity at the stages of gathering information, preliminary investigation, court examination, and execution of court decisions.

In accordance with the legislation, including international treaties, the Financial Monitoring Authority provides the authorised bodies of foreign states, on their demands or through its own initiative, with the relevant information only in case its provision does not prejudice national security interests of the Republic of Belarus and this information will not be used without a prior Financial Monitoring Authority's consent.

**SECTION 4. LIABILITY FOR BREACH OF LEGISLATION TO PREVENT
LEGALISATION OF ILLEGALLY ACQUIRED PROCEEDS AND FINANCING OF
TERRORIST ACTIVITY.
SUPERVISION AND CONTROL**

**Article 14. Liability for Breach of Legislation to Prevent Legalisation of
Illegally Acquired Proceeds and Financing of Terrorist Activity**

Liability as envisaged by the legislative acts shall apply to persons responsible for the violation of the legislation to prevent legalisation of illegally acquired proceeds and the financing of terrorist activity.

**Article 15. Supervision over Implementation of Legislation on
Prevention of Legalisation of Illegally Acquired Proceeds and Financing
of Terrorist Activity**

The exact and uniform implementation of the legislation on prevention of legalisation of illegally acquired proceeds and the financing of terrorist activity shall be supervised by the Prosecutor General of the Republic of Belarus and the subordinate prosecutors.

**Article 16. Control over Activity of Persons Carrying out Financial
Transactions in Respect of their Compliance with Legislation on
Prevention of Legalisation of Illegally Acquired Proceeds and Financing
of Terrorist Activity**

Control over the activity of persons carrying out financial transactions in respect of their compliance with the legislation on prevention of legalisation of illegally acquired proceeds and the financing of terrorist activity is exercised, *intra vires*, by:

the National Bank of the Republic of Belarus – over banks and non-bank finance and credit institutions;

the Ministry of Finance of the Republic of Belarus – over professional equity market participants, over stockbrokers, dealers in precious metals and precious stones; pawn-shops, buying-up offices; insurance companies and insurance brokers; organisers of lotteries and electronic interactive games;

the Ministry of Justice of the Republic of Belarus – over notaries, organisations providing real estate services including transactions concerning the buying or selling of real estate for their clients, organisations, individual entrepreneurs providing legal services, lawyers carrying out financial

transactions on behalf or by order of their client concerning the buying or selling of real estate; managing of client money, securities or other assets; management of bank and / or securities accounts; as well as creation or participation in management of legal persons or arrangements; buying and selling of a business entity as a property system;

the Ministry of Communications and Informatisation of the Republic of Belarus – over mail service operators;

the Ministry of Sports and Tourism of the Republic of Belarus – over casinos, bookmakers, totalisators, and other gambling establishments equipped with slot-machines and other devices for conducting games based on chance;

the State Committee on Property of the Republic of Belarus – over organisations providing state registration of real property, titles to it and transactions with real property.

In case of absence of a State Body to exercise control over the activity of persons carrying out financial transactions in respect of their compliance with the legislation on prevention of legalisation of illegally acquired proceeds and the financing of terrorist activity, such control is exercised by the Financial Monitoring Authority.

On eliciting facts of non-submission of information on conduct of a special control financial transaction or on other violations of legislation on prevention of legalisation of illegally acquired proceeds and the financing of terrorist activity, State Bodies shall, within 5 days from the day of completion of a proper inspection certificate, inform the Financial Monitoring Authority on that fact.

President of the Republic of Belarus

A.Lukashenko