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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

UKRAINE

**DRAFT LAW NO. 6674 ON INTRODUCING CHANGES TO SOME
LEGISLATIVE ACTS TO ENSURE PUBLIC TRANSPARENCY OF
INFORMATION ON FINANCE ACTIVITY OF PUBLIC ASSOCIATIONS
AND ON THE USE OF INTERNATIONAL TECHNICAL ASSISTANCE**

Law of Ukraine¹

On Introducing Changes to Some Legislative Acts to Ensure Public Transparency of Information on Finance Activity of Public Associations and on the Use of International Technical Assistance

The Verkhovna Rada of Ukraine hereby resolves:

I. To amend the following legislative acts of Ukraine:

1. In the Criminal Code of Ukraine (Bulletin of the Verkhovna Rada of Ukraine, No. 25-26 for 2001, p. 131):

(1) to add the numbers “366²” after the numbers “365²” in Clause 3 of the Note to Article 364;

(2) to supplement Article 366² as follows:

“Article 366². Disclosure of Restricted Information by the Head or Member of the National Agency for the Prevention of Corruption, an Officer or Employee of His Staff

Disclosure, in any form, by the head or member of the National Agency for the Prevention of Corruption or an officer or employee of his staff of restricted information received in connection with the performance of their duties (except as provided by law), if such acts caused substantial harm to the law-protected rights, freedoms or interests of individual citizens, state or public interests, or the interests of individual legal entities,

shall be punishable by a fine of three thousand to five thousand nontaxable minimum incomes of citizens, with the deprivation of the right to hold certain posts or engage in certain activities for up to three years.”

2. In the Law of Ukraine On Public Associations (Bulletin of the Verkhovna Rada of Ukraine, No. 1 for 2013, p. 1, with later modifications):

1) Part 7 of Article 3 shall read as follows:

“7. Transparency and openness include the right of all members (participants) of a public association to have free access to information about its activities, including the decision and measures taken by the public association, and the duty of the public association to provide such access.” Openness also entails the duty of the public association, in the cases provided for in this Law, to ensure that information on the financing of its activities is publicly available. Publicity means that public associations shall inform the public about their purpose (aims) and activities;

(2) Article 23 should be supplemented by Part 8 as follows:

“8. A public association whose total annual income exceeds 300 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year, shall make it

¹ This translation was made possible by the support of the American people through the United States Agency for International Development (USAID). The contents are the sole responsibility of ICNL and do not necessarily reflect the views of USAID or the United States Government.

public before April 1 of the year following the reporting one, on its own web site (if available), and submit for publication on the official web portal of the central executive authority responsible for the implementation of state tax and customs policy, in the form and manner approved by the Cabinet of Ministers of Ukraine, an annual financial report on its activities that contains information on:

- the personal composition of the governing bodies of the public association;
- the number of members of the public association, the amount of membership fees established for the reporting year, and their actual entry into the public association's account;
- the total amount of the public association's income from natural persons, enterprises, institutions and organizations, including through the implementation in Ukraine of programs (projects) of international technical or other assistance, and a list of entities from which, in the course of the year, income was obtained in excess of 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year;
- the number of the public association's employees employed on a full-time and part-time basis, total expenditures on their labor remuneration, and the list of ten employees who were paid the largest amounts of wages in the reporting year;
- the public association's total expenses for the benefit of other natural persons (including natural persons-entrepreneurs) and legal entities, a detailed list of such persons and entities and the total amounts of expenses made for their benefit if the annual expenses for the benefit of one such natural person or legal entity exceeds 50 subsistence minimums for able-bodied persons, such amount being determined as of January 1 of the reporting year; and
- the participation of the public association's executives in the governing bodies of other public associations, as well as in other legal entities under private law."

3. In the Law of Ukraine On the Prevention of Corruption (Bulletin of the Verkhovna Rada of Ukraine, No. 49 for 2014, Article 2056, with later modifications):

(1) In Paragraph 15 of Part 1, Article 1, the words and numbers "paragraphs 4 and 5" shall be replaced with the word and number "Paragraph 4";

(2) in Part 1 of Article 3:

Subclause (a) of Clause 2 shall read as follows:

"a) the directors and deputy directors of legal entities under public law who are not specified in Clause 1 of Part 1 of this Article; persons who are directors and deputy directors or members of the supervisory board of a State-owned bank, a State or municipal unitary enterprise, or business society in the statutory capital of which more than 50 per cent of the stock (shares) is owned by the State, a territorial community, or business societies in which the State or the territorial community has a 100 per cent share, and are not the persons referred to in Clause 1, Part 1 of this Article; persons who are directors, deputy directors or members of the supervisory board of a State or municipal for-profit organization and are not the persons referred to in Clause 1, Part 1 of this Article";

Clause 5 shall be deleted;

3) Paragraph 2 of Part 2 of Article 23 shall be supplemented by Clause 3 reading as follows:

"3) shall be obtained outside Ukraine by persons who are members of the supervisory board of a State-owned bank, a State or municipal unitary enterprise, or business society in the statutory capital of which more than 50 per cent of the stock (shares) is owned by the State, a territorial community, or business societies in which the State or the territorial community has a 100 per cent share, or members

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of the supervisory board of a State or municipal for-profit organization provided that such persons are non-residents and do not hold other offices referred to in Clause 1 and 2, Part 1 of Article 3 of this Law;

4) Article 36 shall be supplemented by Part 6 as follows:

“6. The requirements of parts one to five of this Article shall not extend to enterprises and corporate rights which are outside Ukraine and are owned by persons who are members of the supervisory board of a State-owned bank, a State or municipal unitary enterprise, or business society in the statutory capital of which more than 50 per cent of the stock (shares) is owned by the State, a territorial community, or business societies in which the State or the territorial community has a 100 per cent share, or members of the supervisory board of a State or municipal for-profit organization, provided that such persons are non-residents and do not hold other offices referred to in Clause 1 and 2, Part 1 of Article 3 of this Law”;

5) In Article 45:

In parts 1 and 2, the words and numbers “of Clause 2, in Clause 5, Part 1 of Article 3” shall be replaced with the words and numbers “of Clause 2 of Part 1 of Article 3”;

Paragraph 3 of Part 3 shall be deleted;

6) In Article 46:

In Paragraph 3 of Part 1, the words and numbers “and persons referred to in Clause 5, Part 1, Article 3 of this Law – also information about the name of the technical or other assistance program (project) aimed at preventing and countering corruption, the name of the public association or other – a non-entrepreneurial company and its governing body” shall be deleted;

In Part 4, the words and numbers “presented in accordance with paragraphs 2 and 3 of Part 3 of Article 45 of this Law” shall be replaced with the words and numbers “presented in accordance with Paragraph 2 of Part 3 of Article 45 of this Law”;

7) Paragraph 4 of Part 1 of Article 47 shall be supplemented, after the words “(except for the oblast, district and populated area where the facility is located)”, by the words “and in the declaration of a person who is a foreigner and a non-resident, also information on their property, assets, obligations and titles outside Ukraine”;

8) In Article 49:

Paragraph 2 of Part 2 shall be deleted;

In Paragraph 2, Part 3 the words “public law, the higher governing body of the relevant public association, other non-entrepreneurial company” shall be deleted;

9) Article 52 shall be supplemented by Part 4 as follows:

“4. The requirements set forth in parts 1, 2 of this Article shall not extend to the subjects of declaration and their dependents who are non-residents”;

10) Article 52¹ shall be supplemented with Part 2 as follows:

“2. The National Agency shall ensure that aliens or stateless persons are able to provide information in the English language to the Unified State Register of Declarations of Persons Authorized to Perform Functions of the State or Local Self-government”;

(11) In Article 60:

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In Paragraph 1 of Part 1, the words and numbers "clauses 1, 2, 4 and 5" shall be replaced with the words and numbers "clauses 1, 2 and 4";

In Part two, the words and numbers "clauses 4 and 5 shall be replaced by the word and number "Clause 4".

II. Final Provisions

1. This Law shall enter into force on the day following its publication.

2. Public associations which in 2017, beginning from the entry of this Law into force, have received financial and other resources and services provided on a grant or non-reimbursable basis with tax exemptions or tax exemptions, within the framework of international technical assistance under Ukraine's international treaties, and/or have earned a total income exceeding 300 subsistence minimums for able-bodied persons, as determined on January 1, 2017, shall make public its annual financial report for the period from the entry of this Law into force to December 31, 2017 not later than April 1, 2018.

3. Persons who are excluded hereunder from the list of persons covered by the Law of Ukraine On the Prevention of Corruption, may not submit the declaration of a person authorized to perform the functions of the State or local government provided for in the said Law, for the year 2017 or any other period preceding the entry of this Law into force.

Persons who are subject hereunder to the provisions of the Law of Ukraine On the Prevention of Corruption and are subjects of declaration shall, in accordance with the procedure prescribed by the said law, submit their first declaration as a person authorized to perform the functions of the State or local self-government in 2018, for the period from the entry of this Law into force to December 31, 2017.

4. Within three months from the entry of this Law into force, the Cabinet of Ministers of Ukraine shall:

approve the form of the annual financial report on the activities of a public association whose total annual income exceeds 300 subsistence minimums for able-bodied persons, as determined on January 1 of the reporting year; and

ensure that the ministries and other central executive bodies harmonize their acts with this Law.

5. The National Agency for the Prevention of Corruption should, within two weeks, harmonize its decisions with this Law and implement other appropriate measures ensuing from its entry into force.

Chairman of the Verkhovna Rada of Ukraine