

Act No. 25,246  
CRIMINAL CODE

Based on the following provisions:

Act 25,246, passed on 04.13.00, enacted 05.05.00.

Decree 370/2000, passed on 04.13.00, enacted 05.05.00.

Decree 170/2001, passed on 02.13.01, published on the Official Gazette on 02.14.01

Decree 638/2001, passed 05.15.01, published on the Official Gazette on 05.17.01

Amendment. Complicity and Money Laundering arising from Criminal Offences. Financial Information Unit. Duty to Report. Parties Compelled. Administrative Criminal Regime. Office of the Attorney General. Article 25 of Act 23,737 (amended text) is hereby repealed.

The Senate and Chamber of Representatives of the Argentine Nation gathering in Congress, etc, pass:

CHAPTER I  
Amendment to the Criminal Code

Article 1 - The heading of Chapter XIII, Title XI of the Criminal Code is substituted and denominated as follows: “Chapter XIII: Complicity and Money Laundering arising from Criminal Offences”.

Article 2 - Article 277 of Criminal Code is substituted for the following:

Article 277:

- 1) Any one who after the commission of a crime by a third party, in which he/she has not participated, may
  - a) help any one to avoid investigation by the authority or escape from the action thereof;
  - b) hide, alter or make disappear the traces, evidences or instruments of the crime or help the author or participator to hide, alter or make them disappear;
  - c) purchase, receive or hide money, things or effects from a crime;
  - d) not report the commission of a crime or identify the author or participator of, or in a crime already know, whenever the Criminal prosecution of a crime of such nature be mandatory for him;
  - e) safeguard or help the author or accomplice to ensure the proceeds of or benefit from the crime; shall be punishment from 6 months to 3 years.
- 2) The criminal qualification will be increased to the double of the minimum and maximum thereof whenever:
  - a) the precedent fact is a specially serious offence, for which the minimum punishment involves more than three-year-term imprisonment.
  - b) The author acts with an intention to profit.
  - c) The author is usually devoted to committing acts of complicity.

Punishment as provided under this subparagraph will only be applied once, although more than one of the qualifying circumstance may concur. In such an instance, the court may take into account the multiplicity of causes in determining the punishment.

- 3) Those who may have acted in favour of a spouse, a relative whose kinship does not exceed the fourth degree of consanguinity or second of affinity or of a close friend or person to whom special gratitude is

owed are exempted from criminal liability. No exemption is granted to the cases under subparagraph 1, e) and subparagraph 2, b).

Article 3 - Article 278 of the Criminal Code is substituted as follows:

Article 278:

- 1)
  - a) Those who convert, transfer, administer, sell, impose or in other way apply money or other kind of assets arising from a criminal act in which he/she has not taken part, with the possible consequence for the original assets or those substituting them to appear as licit in origin will be punished with two to ten years imprisonment and a fine two to ten times the transaction amount, provided that value thereof exceed the sum of fifty thousand pesos (\$ 50,000), either in a single act or through the reiteration of several related acts.
  - b) The minimum Criminal rating will be five (5) years in prison, whenever the author carries out an act in a usual way or as a member of an association or gang formed for the continual commission of such misdeeds.
  - c) If the value of the assets does not exceed the amount under this subparagraph, letter a, the author will be punished, if applicable, pursuant to the provisions of article 277;
- 2) A person who due to serious criminal recklessness or negligence commit any of the acts described in the above subparagraph, first sentence, will be punished with a fine amounting to twenty per cent (20%) to one hundred and fifty per cent (150%) of the value of the assets coming from a crime.
- 3) A person who receives money or other assets of criminal origin for a transaction purporting to be of licit origin will be punished pursuant to the provisions of article 277;
- 4) Assets involved in the crime under subparagraphs 1, 2 or 3 of this Article may be seized.

Article 4 - Article 279 of the Criminal code is substituted as follows:

Article 279:

1. If the Criminal rating for the above crime were inferior to the one established under this Chapter, the above crime Criminal rating will be applicable.
2. If the abovementioned crime is not punished with imprisonment, the complicity thereof will be punished with a fine of one thousand pesos (\$1,000) to twenty thousand pesos (\$20,000) or the Criminal rating for the abovementioned crime if such were lesser. The complicity of a crime of this nature will not be punishable whenever it is committed due to negligence under article 278, subparagraph 2.
3. Whenever the author of any of the acts described in article 277, subparagraphs 1 or 2 or in article 278, subparagraph 1, is a public officer who may have acted in the exercise of, or in the occasion of his/her power, will be punished additionally with a special three (3) to ten (10) years disqualification. The same punishment will be inflicted upon whoever may have acted in the exercise of, or on occasion of a profession or job which requires special qualification. Under article 278, subparagraph 2, the punishment will be one (1) to five (5) years disqualification.
4. Regulations under this Chapter will apply even though the abovementioned crime may have been committed beyond the special scope of this Code in so far as the abovementioned act may also have been punishable in the place of occurrence.

## CHAPTER II Financial Reporting Unit

Article 5- The Financial Reporting Unit (FRI) is created as a self-administered unit within the jurisdiction of the Ministry of Justice and Human Rights of the Nation which shall be governed by the provisions of this Act.

Article 6- The Financial Reporting Unit will be entrusted with the analysis, treatment and release information to prevent and restrain money laundering from:

- a) crimes related to drug trafficking and marketing (Act 23,737);
- b) Weapon smuggling acts (Act 22,415);
- c) crimes related to major criminal association activities under article 210 bis of the Criminal Code;
- d) wrongdoings committed by illicit associations (article 210 of the Criminal Code) organized to commit crimes for political or racial purposes;
- e) fraud against the Civil Service (article 174, subparagraph 5 of the Criminal Code);
- f) crimes against the Public Administration under Chapters VI, VII, IX and IX bis of Title XI , Second Book of the Criminal Code;
- g) child pornography and prostitution of minors under articles 125, 125 bis, 127 bis and 128 of the Criminal Code.

Article 7 - The Financial Reporting Unit will be domiciled in the Capital City of the Republic and may establish regional agencies throughout the country.

<sup>1</sup>Article 8 - The Financial Reporting Unit will be constituted by FIVE (5) members pursuant to the following pattern:

1. ONE (1) BCRA officer
2. ONE (1) National Securities Commission Officer
3. ONE (1) expert in matters related to asset laundering of the Secretary of Drug Addiction Prevention Programming and Fight against Drug Trafficking of the Presidency of the Nation;
4. TWO (2) experts in finance and criminal, criminologists or other professionals with experience in matters related to the provisions of this Act.

Members mentioned under the foregoing subparagraphs a), b) and c) shall be chosen through internal selection at the respective agency, the result whereof must be submitted to the National Executive Power, as a binding proposal for the purposes of the pertaining appointment.

The experts mentioned in subparagraph d) shall be chosen through public contest and background bidding by an Ad Hoc Committee which shall be made up as follows:

1. two members of the Council of Magistracy elected by their peers by a two thirds majority;
2. two officers of the Attorney General office chosen by the National General Attorney;
3. one member of the Board of Directors of the BCRA chosen by his/her peers with a two thirds majority;
4. one member appointed by the Ministry of Justice and Human Rights;
5. one member appointed by the National Securities Commission;
6. one member appointed by the Ministry of Economy.

Once the public contest has been performed, the outcome of which shall be submitted to the National Executive Power as a binding proposal for the purposes of the pertaining appointment.

<sup>2</sup> Article 9 - The selection of the abovementioned experts shall be made in keeping with the following procedure:

- a) The applicants will be chosen through public contest. The Ad Hoc Commission shall call for bids, publishing the dates for examinations and overall conditions, during five days in the official Gazette, two journals of national distribution and one journal for each province.
- b) Both the evaluation criteria and mechanisms, and backgrounds to be taken into consideration shall be previously determined.
- c) The names of such people as may pass the examinations, which shall assess both theoretical formation and practice as well, shall be published during FIVE (5) days in the Official Gazette and in TWO (2) journals of national coverage, the publication lasting for a term of FIFTEEN (15) days running, after the last publication, subject to a challenge any citizen, group of citizens, intermediate entities or legal person may submit.

The Ad Hoc Commission shall provide under bidding regulations the rules to be applied to challenges.

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<sup>1</sup> D. 1500/01, article 1

<sup>2</sup> D. 1500/01, article 2

<sup>3</sup> Article 10 -The members of the Financial Reporting Unit shall be solely devoted to their jobs and shall be subject to disqualifications and/or obligations under the law for public officers, being banned to exercise that activities which the regulations may determined in each case and to have any interest participation in them during TWO (2) years subsequent to the date they leave the Financial Reporting Unit.

Members of the Financial Reporting Unit shall remain FOUR (4) years in their positions, with the possibility of extending this term indefinitely.

The abovementioned members may be removed from their positions due to misconduct in the exercise of their powers, gross negligence, commission of fraud of any kind or incapacity or owing to physical or moral inability subsequent to their appointment. Removal procedure shall be entrusted to a Court created hereunder. Such Court shall be made up of THREE (3) members, former magistrates, chosen by lot by the Ministry of Justice and Human Rights. Acting as a member of such a Court shall be mandatory.

The procedure before the Court will be carried out pursuant to regulations which must abide a due legal procedural process and defence in court principles.

Article 11 - The following shall be required for anyone to become a member of the Financial Reporting Unit:

1. To have a University degree, preferably in Law or in any disciplines related to Economic Sciences or Information Technology.
2. To have a technical and professional background on the subject matter.
3. Neither exercise simultaneously nor have exercised during the year precedent to his/ her appointment, such activities as regulations shall determine for each case, or have any interest participation therein.

Article 12 - The Financial Reporting Unit shall be supported by coordinating officers appointed by the heads of the Ministries of Justice and Human Rights and of Foreign Affairs, International Trade and Worship of the Republic of Argentina, the Secretary for Programs against Drug Addiction and Trafficking, the Central Bank of the Argentine Republic, the Federal Administration of Public Revenue, the General Justice Inspection, the Public Registries of Commerce or similar entities of the Provinces, the National Securities Commission and the National Superintendence of Insurance.

The Financial Reporting Unit may request other heads of the National or provincial public administrations to appoint coordinating officers whenever it may deem it fit.

The powers of such coordinating officers shall be to consult and coordinate the activities of the Financial Reporting Unit with such of the agencies to which they belong.

Article 13- The Financial Reporting Unit is competent for:

1. receiving, requesting and filing information under article 21 of this Act;
2. deciding and directing the analysis of the actions, activities and operations which under this Act may constitute the accountability of assets stemming from illicit acts under article 6 of this Act, and, as the case may be, submitting such evidence to the Attorney General Office.
3. helping the judicial agencies and the Attorney General Office (for exercising such actions as are fit) in the criminal prosecution of offences punished by this Act.
4. issuing internal regulations, for which the vote of two thirds majority of the total members is required.

Article 14 - The Financial Reporting Unit shall be empowered to

1. request reports, documents, background and any other such element as it is deemed useful to comply with its functions to any public national, provincial or municipal agency and to any natural or legal person, public or private, all of those shall be forced to supply such above items within a term to be determined under warning of legal actions;

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<sup>3</sup> D. 1500/01, article 3

2. in such case as the Financial Reporting Unit may encounter the opposition of rules establishing secrecy on the information which is being requested, the Unit may, in each such case, request an authorization to the competent judge of the place where the information is to be supplied or of the Financial Reporting Unit domicile, at the option of the Unit;
3. receive voluntary statements;
4. request the cooperation of all the State information services, which are bound to give it as under the provisions of articles 398 and 399 of the National Civil and Commercial Procedural Code;
5. act in any location within the Republic in compliance with the powers under this Act;
6. request the Attorney General Office to request the competent judge to decide on the suspension for the term such a judge establishes of the execution of any operation or act previously reported pursuant to subparagraph b) of Article 21 or of any other act related to them, prior to its performance, whenever suspicious activities are being investigated and there is serious and gross evidence that money laundering arising from any of the offences under article 6 of this Act is involved. This measure may only be appealed with no stay of decision.
7. ask the Attorney General Office to request the competent judge to search public or private places, seize any personal property, documents or elements which are useful for the investigation. Request the Attorney general Office to take all the legal measures necessary to obtain information from any source or origin;
8. decide the implementation of internal control systems for the persons referred to under article 20, in the cases and with the features the regulations may determine;
9. apply the penalties under Chapter IV of this Act under due process;
10. organize and administer files and background material of the activity of the Financial Reporting Unit itself or data obtained in the exercise of its powers to recover work-related information, being able to enter into agreements and contracts with national, international and foreign agencies, integrating itself in information networks of such a nature on the condition that there is a necessary and effective reciprocity;
11. issue directions and instruction to be complied with and implemented by the subjects bound under this Act previously consulting the specific control agencies.

Article 15 - The Financial Reporting Unit shall be subject to the following duties:

1. To submit an annual statement accounting for its activities to the Honourable Congress of the Nation.
2. To appear before the committees of the Honourable Congress of the Nation any time such committees may so request and issue the reports, opinions and advice such committees may ask for.
3. To keep a Single Information Registry on the basis of the data supplied by the agencies bound to provide it and the information which may so receive on the course of its activities.

<sup>4</sup>Article 16 - The Plenary Meeting of the Financial Reporting Unit shall have a quorum with THREE (3) of its members and shall make a decision with the absolute majority of members present.

Article 17- The Financial Reporting Unit shall receive information, keeping secret the identity of those bound to inform. The secrecy on their identity shall cease when the charge is filed to the Attorney General office.

Those persons who are not included in the public sector and not covered by the obligation to report under Article 20 of this Act may file charges to the Financial Reporting Unit.

Article 18 - The compliance in good faith of the obligation to inform shall not bring about any civil, commercial, labour, criminal, administrative or any other kind of liability.

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<sup>4</sup> D. 1500/01, article 4

Article 19 - Whenever the information supplied or the analysis made by the Financial Reporting Unit provides enough evidence to suspect one of the crimes pursuant to this Act has been committed, such an event shall immediately be reported to the Attorney General Office for such an Office to bring a criminal action.

CHAPTER III  
Obligation to Inform. Subjects Bound

Article 20 - The following are bound to inform the Financial reporting Unit under article 21 of this Act:

- 1 Financial entities under act 21,526, and as amended, and pension funds;
- 2 Entities under Act 18,924, and as amended, and natural or legal persons licensed by BCRA to purchase and sale foreign exchange in cash or with foreign exchange cheques or through debit or credit cards or to transfer funds domestically or abroad;
- 3 Natural or legal persons that may exploit gambling as a their usual activity;
- 4 Stock exchange agents and partnerships, mutual investment funds managing companies, electronic open market agents and brokers entrusted with purchasing, leasing or lending securities in the stock exchange with or without related markets.
- 5 Intermediary agents registered in future and option markets irrespective of their object;
- 6 Public Trade Registries, Agencies of Inspection and Supervision of Legal Persons, Real Estate Vehicle and Pledge Registries.
- 7 Natural or legal persons devoted to purchase and sale works of art, antiques or other sumptuary assets, stamp collection or numismatic investment or to export, import, produce or manufacture jewels or goods made of precious metals or stones;
- 8 Insurance companies;
- 9 Companies issuing traveller cheques or operating with credit or debit card;
- 10 Valuable carriers;
- 11 Mail services or contracting companies which may carry out foreign exchange remittances or the transfer of different types of coins and banknotes.
- 12 Public Notaries;
- 13 Entities under article 9 of Act 22,315;
- 14 Natural or legal persons registered as under article 23, subparagraph t) of the Customs Code (Act 22,415 and as amended);
- 15 Public Administration agencies and decentralized and/or self-administered entities exercising regulatory, monitoring, supervisory and/or superintendence duties on economic activities and/or legal activity and/or natural or legal persons, the Central Bank of the Argentine Republic, The Federal Administration of Public Revenue, the Superintendence of Insurance of the Nation, the National Securities Commission and the General Justice Inspection;
- 16 Insurance brokers and advisors, agents, brokers, insurance experts and liquidators, the activities whereof are ruled by Acts 20,091 and 22,400, as amended, in agreement with and supplemented;
- 17 Registered professionals which activities are ruled by Economic Sciences Professional Councils except when they act as defence in trial.

- 18 All legal persons receiving gifts and third party contributions are likewise bound by the duty to inform;
- 19 Neither legal provisions on banking, tax or professional secrecy nor commitments of confidentiality according to law or contract shall neither be applicable nor cited by the parties bound to inform under this Act, whenever an information requirement is made by a competent judge of the place where information should be supplied or by a judge of the domicile of the Financial Reporting Unit, at the option of the latter, or by any competent court in accordance with this act.

Article 21 - The persons mentioned in the foregoing article shall be subject to the following obligations:

- a. request their customers, applicant or contributors to submit any document in order to prove their identity, legal capacity, domicile and any other data which in each case is determined for the performance of any kind of their own activities. Nevertheless, this obligation may be avoided whenever the amounts are lower than the minimum amount to be established by the respective circular letter.
- b. Whenever the customers, applicants or contributors act as third parties representatives they shall take the necessary safeguards in order to identify the persons for whom they act. All the information shall be filed for the term and under the formalities the Financial Reporting Unit may establish;
- c. report any suspicious act or transaction, irrespective of the amount thereof. For the purposes of this Act, suspicious transactions are those which, according to the uses and customs of the activity being dealt with and pursuant to experience and expertise of the persons bound to inform, may turn out to be unusual, economically or legally unjustified or of unusual or unjustified complexity, whether they are performed in isolation or in a repeated way;
- d. the Financial reporting Unit shall establish, through objective guidelines, the modalities, opportunities and limits of the compliance with this obligation for each category of bound party and type of activity;
- e. refrain from disclosing to the customer or third parties any ongoing proceedings in compliance with this Act.

Article 22 - The officers and employees of the Financial Reporting Unit are bound to secrecy as regards the information received in the exercise of their office and do likewise about intelligence work performed therefor. The same duty to maintain secrecy is in force for the persons and entities bound by this Act to provide data to the Financial Reporting Unit.

An officer or employee of the Financial Reporting Unit and also the persons who by themselves or by another person disclose secret information outside the Financial Reporting Unit shall be punished with six month to three year imprisonment.

#### CHAPTER IV Administrative Criminal Regime

Article 23 -

1. Legal persons, the agency or performer of which may have applied assets of criminal origin purporting to be licit according to article 278, subparagraph 1) of the Criminal Code shall be punished with a fine of two (2) to (10) times the value of the assets involved in the crime. The crime shall exist whenever the limit of value under such a provision has been exceeded, notwithstanding the fact that the different particular interrelated actions which, as a whole have exceeded such a limit, may have been committed by different natural persons, without prior agreement among themselves and which, hence, may not be submitted to criminal prosecution.

2. Whenever the same act has been committed because of recklessness or gross negligence by the agency or performer of a legal person or by several agencies or performers thereof in accordance with article 278, subparagraph 2) of the Criminal code, the fine for the legal person shall be of twenty per cent (20%) to sixty per cent (60%) of the value of the assets involved in the crime;
3. Whenever the agency or performer of a legal person may have committed in such capacity the crime referred to under article 22 of this Act, the legal person shall undergo a fine of ten thousand pesos (410,000) to one hundred thousand pesos (\$100,000).

## Article 24 -

- 1 The person who, acting as an agent or performer of either a legal or natural person, does not fulfil any of the obligations to report to the Financial Reporting Unit created under this Act shall be punished with a one to ten folds fine of the full amount of the assets or transactions involved in the offence, provided that such act may not be a more serious crime.
- 2 The same penalty shall be inflicted upon the legal person, where the offender works.
- 3 Whenever the actual asset value cannot be assessed, the fine shall be ten thousands pesos (\$10,000) to one hundred thousand pesos (\$100,000).

Article 25 - Resolutions by the Financial Reporting Unit provided for in this chapter may be appealed before contentious administrative courts, thus applying the relevant rules of Administrative Procedures Act No.19,549.

Article 26 -The relationships between the resolution of a criminal case and the proceedings of an administrative procedure due to the offences under this Act shall be ruled by articles 1,101 and following and 3,982 bis of the Civil Code, being a "civil action" construed as an "administrative criminal action".

Article 27 - For the operation of the Financial Report Unit the corresponding budgetary entry must be forthcoming.

In all instances, the proceeds from the sale or management of criminal assets or instruments from crimes as under this act and from the seizures ordered consequently, in addition to the profits of illicit nature and the proceeds from fines which, as a consequence may be imposed, shall be allocated to a special National Treasury account. Such funds shall be allocated to financing the operation of the Financial Reporting Unit, those programs under article 39 of Act No. 23,737 as amended by Act 24,424, for health and labour training pursuant to the pertaining regulations.

Money and other assets or resources judicially seized due to the commission of crimes under this Act shall be delivered by the relevant court to a special fund to be created by the National Executive Power.

Said fund may administer assets and decide about the money as under the foregoing paragraph, being accountable for the devolution thereof to whoever it may correspond once a final court resolution may so order.

## CHAPTER V

### The Attorney General Office

Article 28 - Whenever a federal or national jurisdiction is involved, the Attorney General appointed by the National Attorney General office shall receive such charges as to the possible commission of public prosecution crimes under this Act to be dealt with pursuant to procedural acts and regulations issued by the Attorney General Office, for the remaining cases, the officers of the corresponding Attorney Office shall act in the same way.

The members of the Attorney General Office shall investigate the activities reported or shall request he pertaining jurisdictional activity pursuant to the National Criminal Procedural Code and the Act for the Organization of the Public Prosecution or, as the case may be, as under the respective provincial procedural codes.

Article 29 - Let Article 25 of Act 23,737 (as amended) be repealed.

Article 30 - Be it communicated to the National Executive Power. PASSED IN THE MEETING ROOM OF THE ARGENTINE CONGRESS, IN BUENOS AIRES. ON THE THIRTEENTH DAY OF THE MONTH OF APRIL OF THE YEAR TWO THOUSAND.

Decree No. 370/2000

Article 1 – Let Subparagraph 2 of Article 278 of the Criminal Code be substituted by Article 3 of the Bill No. 25.246.

Article 2 – Let the sentence “the cover-up of a crime of this nature shall not be subject to punishment when committed by recklessness as under Article 278, subparagraph 2.” be deleted from Subparagraph 2 of Article 279 of the Criminal Code, which is hereby substituted by Article 4 of the Bill No. 25.246.

Article 3 – Let the sentence “in the case under Article 278, subparagraph 2, the penalty shall be a disqualification of one to five years.” be deleted from subparagraph 3 of Article 279 of the Criminal Code, which is hereby substituted by Article 4 of the Bill No. 25.246.

Article 4 – Let the phrase “and shall receive a wage equivalent to that of a lower court judge” be deleted from the paragraph 2 of Article 10 of the Bill No. 25.246.

Article 5 – Let the phrase “of the National Criminal and Correctional Court of Appeals” be deleted from the paragraph 4 of Article 10 of the Bill No. 25.246.

Article 6 – Let the phrase “The General Bureau of Justice” be deleted from Article 12 of Bill No. 25.246.

Article 7 – Let the phrase “as established under article 278, Subparagraph 2 of the Criminal Code” be deleted from subparagraph 2 of Article 23 of the Bill 25.246.

Article 8 – Let the phrases “Whenever the federal or national jurisdiction is involved”, “; in the remaining cases officials of the attorney general office shall act likewise” and “and, or as the case may be of the respective province” be deleted from Article 28 of Bill No. 25.246.

Article 9 – Let Bill No. 25.246 be enacted and the wording under the foregoing articles vetoed.

Article 10 – Let the Congress of the Nation be duly informed.

Decree No. 170/2001

Article 1 – Let the Vice President of Central Bank of the Argentine Republic Mr. Martin Lagos (ID. No. 4.516.711), the Federal Administrator for Revenues Dr. Hector CONSTANTINO RODRIGUEZ (ID No. 4.528.629) and Vice President of the National Securities Commission Mr. Hugo Luis SECONDINI (ID No. 10.508.789) be appointed as members of the Financial Reporting Unit as established under Article 5 of Act No. 25.246.

Article 2 – Let it be communicated, published, given to the National Bureau for the Official Registry and filed. DE LA RUA. CHRYSTIAN G. COLOMBO. JORGE E. DE LA RUA. JOSÉ L. MACHINEA.

Decree No. 638/2001

Article 1 – Let the President of the Central Bank of the Argentine Republic Mr. Roque MACCARONE (ID No. 4.097.258) be appointed as a member of the Financial Reporting Unit as established under Article 5 of Act No. 25.246.

Article 2- Let it be communicated, published, given to the National Bureau for the Official Registry and filed. DE LA RUA. JORGE E. DE LA RUA.