



**ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟΝ**

**ΤΗΣ ΕΠΙΣΗΜΟΥ ΕΦΗΜΕΡΙΔΟΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ**

ὕπ' Ἀρ. 1089 τῆς 11ης ΑΠΡΙΛΙΟΥ 1974

**ΝΟΜΟΘΕΣΙΑ**

Ὁ περί τῆς Εὐρωπαϊκῆς Συμβάσεως περί τοῦ Διεθνῶς Ἐγκύρου τῶν Ποινικῶν Ἀποφάσεων (Κυρωτικός) Νόμος τοῦ 1974 ἐκδίδεται διὰ δημοσιεύσεως εἰς τὴν ἐπίσημον ἑφημερίδα τῆς Κυπριακῆς Δημοκρατίας συμφώνως τῷ Ἄρθρῳ 52 τοῦ Συντάγματος.

Ἀριθμός 9 τοῦ 1974

**ΝΟΜΟΣ ΚΥΡΩΝ ΤΗΝ ΕΥΡΩΠΑΪΚΗΝ ΣΥΜΒΑΣΙΝ ΠΕΡΙ ΤΟΥ ΔΙΕΘΝΩΣ ΕΓΚΥΡΟΥ ΤΩΝ ΠΟΙΝΙΚΩΝ ΑΠΟΦΑΣΕΩΝ**

Ἡ Βουλὴ τῶν Ἀντιπροσώπων ψηφίζει ὡς ἀκολουθῶς :

1. Ὁ παρῶν Νόμος θὰ ἀναφέρηται ὡς ὁ περί τῆς Εὐρωπαϊκῆς Συμβάσεως περί τοῦ Διεθνῶς Ἐγκύρου τῶν Ποινικῶν Ἀποφάσεων (Κυρωτικός) Νόμος τοῦ 1974. Συνοπτικός τίτλος.

2. Ἐν τῷ παρόντι Νόμῳ, ἐκτὸς ἐὰν ἐκ τοῦ κειμένου προκύπη διάφορος ἔννοια— Ἑρμηνεία.

«Σύμβασις» σημαίνει τὴν Εὐρωπαϊκὴν Σύμβασιν περί τοῦ Διεθνῶς Ἐγκύρου τῶν Ποινικῶν Ἀποφάσεων, τῆς ὁποίας τὸ κείμενον ἐν τῷ Ἀγγλικῷ πρωτοτύπῳ ἐκτίθεται εἰς τὸ Μέρος I καὶ ἐν μεταφράσει εἰς τὴν Ἑλληνικὴν εἰς τὸ Μέρος II τοῦ Πίνακος :

Πίναξ.

Νοεῖται ὅτι ἐν περιπτώσει ἀντιθέσεως μεταξύ τῶν δύο κειμένων, ὑπερισχέυει τὸ εἰς τὸ Μέρος I τοῦ Πίνακος ἐκτιθέμενον κείμενον.

3. Ἡ Σύμβασις, τῆς ὁποίας ἡ ὑπὸ τῆς Κυπριακῆς Δημοκρατίας ἀποδοχὴ ἀπεφασίσθη διὰ τῆς ὑπ' ἀρ. 10.945 καὶ ἀπὸ ἡμερομηνίας 25.11.1971 Ἀποφάσεως τοῦ Ὑπουργικοῦ Συμβουλίου, διὰ τοῦ παρόντος Νόμου κυροῦται. Κύρωσις Συμβάσεως.

ΠΙΝΑΞ  
 ("Άρθρον 2)  
 ΜΕΡΟΣ Ι

CONVENTION ON THE INTERNATIONAL VALIDITY  
 OF CRIMINAL JUDGMENTS  
 PREAMBLE

The Member States of the Council of Europe, signatory hereto,

Considering that the fight against crime, which is becoming increasingly an international problem, calls for the use of modern and effective methods on an international scale;

Convinced of the need to pursue a common criminal policy aimed at the protection of society;

Conscious of the need to respect human dignity and to promote the rehabilitation of offenders;

Considering that the aim of the Council of Europe is to achieve greater unity between its Members,

Have agreed as follows :

PART I

Definitions

ARTICLE 1

For the purposes of this Convention :

- (a) "European criminal judgment" means any final decision delivered by a criminal court of a Contracting State as a result of criminal proceedings;
- (b) "Offence" comprises, apart from acts dealt with under the criminal law, those dealt with under the legal provisions listed in Appendix II to the present Convention on condition that where these provisions give competence to an administrative authority there must be opportunity for the person concerned to have the case tried by a court;
- (c) "Sentence" means the imposition of a sanction;
- (d) "Sanction" means any punishment or other measure expressly imposed on a person, in respect of an offence, in a European criminal judgment, or in an "ordonnance pénale";
- (e) "Disqualification" means any loss or suspension of a right or any prohibition or loss of legal capacity;
- (f) "Judgment rendered in absentia" means any decision considered as such under Article 21, paragraph 2;
- (g) "Ordonnance pénale" means any of the decisions delivered in another Contracting State and listed in Appendix III to this Convention.

PART II

Enforcement of European criminal judgments

SECTION 1

General provisions

- (a) General conditions of enforcement

ARTICLE 2

This Part is applicable to :

- (a) sanctions involving deprivation of liberty;
- (b) fines or confiscation;
- (c) disqualifications.

## ARTICLE 3

1. A Contracting State shall be competent in the cases and under the conditions provided for in this Convention to enforce a sanction imposed in another Contracting State which is enforceable in the latter State.

2. This competence can only be exercised following a request by the other Contracting State.

## ARTICLE 4

1. The sanction shall not be enforced by another Contracting State unless under its law the act for which the sanction was imposed would be an offence if committed on its territory and the person on whom the sanction was imposed liable to punishment if he had committed the act there.

2. If the sentence relates to two or more offences, not all of which fulfil the requirements of paragraph 1, the sentencing State shall specify which part of the sanction applies to the offences that satisfy those requirements.

## ARTICLE 5

The sentencing State may request another Contracting State to enforce the sanction only if one or more of the following conditions are fulfilled :

- (a) if the person sentenced is ordinarily resident in the other State ;
- (b) if the enforcement of the sanction in the other State is likely to improve the prospects for the social rehabilitation of the person sentenced ;
- (c) if, in the case of a sanction involving deprivation of liberty, the sanction could be enforced following the enforcement of another sanction involving deprivation of liberty which the person sentenced is undergoing or is to undergo in the other State ;
- (d) if the other State is the State of origin of the person sentenced and has declared itself willing to accept responsibility for the enforcement of that sanction ;
- (e) if it considers that it cannot itself enforce the sanction, even by having recourse to extradition, and that the other State can.

## ARTICLE 6

Enforcement requested in accordance with the foregoing provisions may not be refused, in whole or in part, save :

- (a) where enforcement would run counter to the fundamental principles of the legal system of the requested State ;
- (b) where the requested State considers the offence for which the sentence was passed to be of a political nature or a purely military one ;
- (c) where the requested State considers that there are substantial grounds for believing that the sentence was brought about or aggravated by considerations of race, religion, nationality or political opinion ;
- (d) where enforcement would be contrary to the international undertakings of the requested State ;
- (e) where the act is already the subject of proceedings in the requested State or where the requested State decides to institute proceedings in respect of the act ;
- (f) where the competent authorities in the requested State have decided not to take proceedings or to drop proceedings already begun, in respect of the same act ;
- (g) where the act was committed outside the territory of the requesting State ;
- (h) where the requested State is unable to enforce the sanction ;
- (i) where the request is grounded on Article 5(e) and none of the other conditions mentioned in that Article is fulfilled ;

- (j) where the requested State considers that the requesting State is itself able to enforce the sanction ;
- (k) where the age of the person sentenced at the time of the offence was such that he could not have been prosecuted in the requested State ;
- (l) where under the law of the requested State the sanction imposed can no longer be enforced because of the lapse of time ;
- (m) where and to the extent that the sentence imposes a disqualification.

#### ARTICLE 7

A request for enforcement shall not be complied with if enforcement would run counter to the principles recognised in the provisions of Section 1 of Part III of this Convention.

#### (b) Effects of the transfer of enforcement

#### ARTICLE 8

For the purposes of Article 6, paragraph 1 and the reservation mentioned under (c) of Appendix I of the present Convention any act which interrupts or suspends a time limitation validly performed by the authorities of the sentencing State shall be considered as having the same effect for the purpose of reckoning time limitation in the requested State in accordance with the law of that State.

#### ARTICLE 9

1. A sentenced person detained in the requesting State who has been surrendered to the requested State for the purpose of enforcement shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order for any offence committed prior to his surrender other than that for which the sentence to be enforced was imposed, nor shall he for any other reason be restricted in his personal freedom, except in the following cases :

- (a) when the State which surrendered him consents. A request for consent shall be submitted, accompanied by all relevant documents and a legal record of any statement made by the convicted person in respect of the offence concerned. Consent shall be given when the offence for which it is requested would itself be subject to extradition under the law of the State requesting enforcement or when extradition would be excluded only by reason of the amount of the punishment ;
- (b) when the sentenced person, having had an opportunity to leave the territory of the State to which he has been surrendered, has not done so within 45 days of his final discharge, or if he has returned to that territory after leaving it.

2. The State requested to enforce the sentence may, however, take any measure necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time.

#### ARTICLE 10

1. The enforcement shall be governed by the law of the requested State and the State alone shall be competent to take all appropriate decisions, such as those concerning conditional release.

2. The requesting State alone shall have the right to decide on any application for review of sentence.

3. Either State may exercise the right of amnesty or pardon.

#### ARTICLE 11

1. When the sentencing State has requested enforcement it may no longer itself begin the enforcement of a sanction which is the subject of that request. The sentencing State may, however, begin enforcement of a sanction involving deprivation of liberty when the sentenced person is already detained on the territory of that State at the moment of the presentation of the request.

2. The right of enforcement shall revert to the requesting State :

- (a) if it withdraws its request before the requested State has informed it of an intention to take action on the request ;
- (b) if the requested State notifies a refusal to take action on the request ;
- (c) if the requested State expressly relinquishes its right of enforcement. Such relinquishment shall only be possible if both the States concerned agree or if enforcement is no longer possible in the requested State. In the latter case, a relinquishment demanded by the requesting State shall be compulsory.

#### ARTICLE 12

1. The competent authorities of the requested State shall discontinue enforcement as soon as they have knowledge of any pardon, amnesty or application for review of sentence or any other decision by reason of which the sanction ceases to be enforceable. The same shall apply to the enforcement of a fine when the person sentenced has paid it to the competent authority in the requesting State.

2. The requesting State shall without delay inform the requested State of any decision or procedural measure taken on its territory that causes the right of enforcement to lapse in accordance with the preceding paragraph.

(c) Miscellaneous provisions

#### ARTICLE 13

1. The transit through the territory of a Contracting State of a detained person, who is to be transferred to a third Contracting State in application of this Convention, shall be granted at the request of the State in which the person is detained. The State of transit may require to be supplied with any appropriate document before taking a decision on the request. The person being transferred shall remain in custody in the territory of the State of transit, unless the State from which he is being transferred requests his release.

2. Except in cases where the transfer is requested under Article 34 any Contracting State may refuse transit :

- (a) On one of the grounds mentioned in Article 6(b) and (c) ;
- (b) on the ground that the person concerned is one of its own nationals.

3. If air transport is used, the following provisions shall apply :

- (a) when it is not intended to land, the State from which the person is to be transferred may notify the State over whose territory the flight is to be made that the person concerned is being transferred in application of this Convention. In the case of an unscheduled landing such notification shall have the effect of a request for provisional arrest as provided for in Article 32, paragraph 2, and a formal request for transit shall be made ;
- (b) where it is intended to land, a formal request for transit shall be made.

#### ARTICLE 14

Contracting States shall not claim from each other the refund of any expenses resulting from the application of this Convention.

#### SECTION 2

Requests for enforcement

#### ARTICLE 15

1. All requests specified in this Convention shall be made in writing. They, and all communications necessary for the application of this Convention, shall be sent either by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State, or, if the Contracting States so agree, direct by the authorities of the requesting State to those of the requested State ; they shall be returned by the same channel.