

Ο περί της Σύμβασης κατά των Βασανιστηρίων και Άλλων Μορφών Σκληρής, Απάνθρωπης ή Εξευτελιστικής Μεταχείρισης ή Τιμωρίας (Κυρωτικός) Νόμος του 1990 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 235 του 1990

ΝΟΜΟΣ ΠΟΥ ΚΥΡΩΝΕΙ ΤΗ ΣΥΜΒΑΣΗ ΚΑΤΑ ΤΩΝ ΒΑΣΑΝΙΣΤΗΡΙΩΝ ΚΑΙ ΑΛΛΩΝ ΜΟΡΦΩΝ ΣΚΛΗΡΗΣ, ΑΠΑΝΘΡΩΠΗΣ Ή ΕΞΕΥΤΕΛΙΣΤΙΚΗΣ ΜΕΤΑΧΕΙΡΙΣΗΣ Ή ΤΙΜΩΡΙΑΣ

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Σύμβασης κατά των Βασανιστηρίων και Άλλων Μορφών Σκληρής, Απάνθρωπης ή Εξευτελιστικής Μεταχείρισης ή Τιμωρίας (Κυρωτικός) Νόμος του 1990.

Συνοπτικός
τίτλος.

2. Στον παρόντα Νόμο—

Ερμηνεία.

«Σύμβαση» σημαίνει τη Σύμβαση κατά των Βασανιστηρίων και Άλλων Μορφών Σκληρής, Απάνθρωπης ή Εξευτελιστικής Μεταχείρισης ή Τιμωρίας, που υιοθετήθηκε από τη Γενική Συνέλευση των Ηνωμένων Εθνών στις 10 Δεκεμβρίου 1984 και της οποίας το κείμενο στο αγγλικό πρωτότυπο εκτίθεται στο Μέρος Ι του Πίνακα και σε ελληνική μετάφραση στο Μέρος ΙΙ του Πίνακα:

Πίνακας
Μέρος Ι
Μέρος ΙΙ.

Νοείται ότι σε περίπτωση διαφοράς μεταξύ των δύο κειμένων, υπερισχύει το αγγλικό κείμενο που εκτίθεται στο Μέρος Ι του Πίνακα.

3.—(1) Κάθε πρόσωπο το οποίο υποβάλλει σε βασανιστήρια άλλο πρόσωπο είναι ένοχο ποινικού αδικήματος και υπόκειται:

Αδικήματα.

(α) Σε φυλάκιση τριών ετών

(β) σε φυλάκιση δέκα ετών, αν προκαλέσει βαρεία σωματική βλάβη στο βασανιζόμενο ή χρησιμοποιεί μέσα ή μεθόδους συστηματικού βασανισμού.

(2) Αν ο υπαίτιος των βασανιστηρίων είναι δημόσιος λειτουργός ή πρόσωπο ενεργούν υπό επίσημη ιδιότητα υπόκειται:

(α) Σε φυλάκιση πέντε ετών

(β) σε φυλάκιση δεκατεσσάρων ετών, αν συντρέχουν οι επιβαρυντικές περιστάσεις που αναφέρονται στην παράγραφο (β) του εδαφίου (1).

(3) Αν συνεπεία των βασανιστηρίων επέλθει ο θάνατος του βασανιζομένου, ο υπαίτιος των βασανιστηρίων υπόκειται στην ποινή της φυλάκισης διά βίου.

(4) Για τους σκοπούς του παρόντος άρθρου ο όρος «βασανιστήρια» έχει την έννοια που δίνει στον όρο αυτό το Άρθρο 1 της Σύμβασης.

4. Η Σύμβαση κυρούται διά του παρόντος Νόμου.

Κύρωση της
Σύμβασης.

MEΠOΣ I

CONVENTION AGAINST TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing

between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.