



ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟ
ΤΗΣ ΕΠΙΣΗΜΗΣ ΕΦΗΜΕΡΙΔΑΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ
Αρ. 2990 της 21ης ΙΟΥΛΙΟΥ 1995
ΝΟΜΟΘΕΣΙΑ

ΜΕΡΟΣ ΙΙΙ

Ο περί της Ευρωπαϊκής Σύμβασης για τη Συγκάλυψη, Έρευνα, Κατάσχεση και Δήμευση των Προϊόντων του Εγκλήματος (Κυρωτικός) Νόμος του 1995, εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 18(III) του 1995

**ΝΟΜΟΣ ΠΟΥ ΚΥΡΩΝΕΙ ΤΗΝ ΕΥΡΩΠΑΪΚΗ ΣΥΜΒΑΣΗ ΓΙΑ ΤΗ
ΣΥΓΚΑΛΥΨΗ, ΕΡΕΥΝΑ, ΚΑΤΑΣΧΕΣΗ ΚΑΙ ΔΗΜΕΥΣΗ
ΤΩΝ ΠΡΟ-Ι-ΟΝΤΩΝ ΤΟΥ ΕΓΚΛΗΜΑΤΟΣ**

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Ευρωπαϊκής Σύμβασης Συνοπτικός
τίτλος. για τη Συγκάλυψη, Έρευνα, Κατάσχεση και Δήμευση των Προϊόντων του Εγκλήματος (Κυρωτικός) Νόμος του 1995.

2. Στον παρόντα Νόμο, εκτός αν από το κείμενο προκύπτει διαφορετική Ερμηνεία. έννοια—

«Σύμβαση» σημαίνει την Ευρωπαϊκή Σύμβαση για τη Συγκάλυψη, Έρευνα, Κατάσχεση και Δήμευση των Προϊόντων του Εγκλήματος, η οποία ανοίχθηκε για υπογραφή στο Στρασβούργο στις 8 Νοεμβρίου 1990.

3. Με τον παρόντα Νόμο κυρώνεται η Σύμβαση, της οποίας το κείμενο και Κύρωση της
Σύμβασης. οι σχετικές επιφυλάξεις της Δημοκρατίας στο αγγλικό πρωτότυπο εκτίθενται στο Μέρος I του Πίνακα και σε ελληνική μετάφραση στο Μέρος II αυτού: Πίνακας I
Πίνακας II.

Νοείται ότι σε περίπτωση αντίφασης μεταξύ του κειμένου του Μέρους I και εκείνου του Μέρους II του Πίνακα θα υπερισχύει το κείμενο που εκτίθεται στο Μέρος I αυτού.

ΠΙΝΑΚΑΣ

(άρθρο 3)

ΜΕΡΟΣ Ι

CONVENTION ON LAUNDERING, SEARCH, SEIZURE AND
CONFISCATION OF THE PROCEEDS FROM CRIME

PREAMBLE

The member States of the Council of Europe and the other States signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

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

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

Believing that one of these methods consists in depriving criminals of the proceeds from crime;

Considering that for the attainment of this aim a well-functioning system of international co-operation also must be established,

Have agreed as follows:

CHAPTER I

USE OF TERMS

Article 1

Use of terms

For the purposes of this Convention:

- a. "proceeds" means any economic advantage from criminal offences. It may consist of any property as defined in sub-paragraph b of this article;
- b. "property" includes property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title to, or interest in such property;
- c. "instrumentalities" means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences;
- d. "confiscation" means a penalty or a measure, ordered by a court following proceedings in relation to a criminal offence or criminal offences resulting in the final deprivation of property;
- e. "predicate offence" means any criminal offence as a result of which proceeds were generated that may become the subject of an offence as defined in Article 6 of this Convention.

CHAPTER II

MEASURES TO BE TAKEN AT NATIONAL LEVEL

Article 2

Confiscation measures

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds.

2. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article applies only to offences or categories of offences specified in such declaration.

Article 3

Investigative and provisional measures

Each Party shall adopt such legislative and other measures as may be necessary to enable it to identify and trace property which is liable to confiscation pursuant to Article 2, paragraph 1, and to prevent any dealing in, transfer or disposal of such property.

Article 4

Special investigative powers and techniques

1. Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized in order to carry out the actions referred to in Articles 2 and 3. A Party shall not decline to act under the provisions of this article on grounds of bank secrecy.

2. Each Party shall consider adopting such legislative and other measures as may be necessary to enable it to use special investigative techniques facilitating the identification and tracing of proceeds and the gathering of evidence related thereto. Such techniques may include monitoring orders, observation, interception of telecommunications, access to computer systems and orders to produce specific documents.

Article 5

Legal remedies

Each Party shall adopt such legislative and other measures as may be necessary to ensure that interested parties affected by measures under Articles 2 and 3 shall have effective legal remedies in order to preserve their rights.

Article 6

Laundrying offences

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as offences under its domestic law, when committed intentionally:

a. the conversion or transfer of property, knowing that such property is proceeds, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;

b. the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is proceeds;

and, subject to its constitutional principles and the basic concepts of its legal system:

c. the acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds;

d. participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For the purposes of implementing or applying paragraph 1 of this article:
 - a. it shall not matter whether the predicate offence was subject to the criminal jurisdiction of the Party;
 - b. it may be provided that the offences set forth in that paragraph do not apply to the persons who committed the predicate offence;
 - c. knowledge, intent or purpose required as an element of an offence set forth in that paragraph may be inferred from objective, factual circumstances.
3. Each Party may adopt such measures as it considers necessary to establish also as offences under its domestic law all or some of the acts referred to in paragraph 1 of this article, in any or all of the following cases where the offender:
 - a. ought to have assumed that the property was proceeds;
 - b. acted for the purpose of making profit;
 - c. acted for the purpose of promoting the carrying on of further criminal activity.
4. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by declaration addressed to the Secretary General of the Council of Europe declare that paragraph 1 of this article applies only to predicate offences or categories of such offences specified in such declaration.

CHAPTER III

INTERNATIONAL CO-OPERATION

Section 1

Principles of international co-operation

Article 7

General principles and measures for international co-operation

1. The Parties shall co-operate with each other to the widest extent possible for the purposes of investigations and proceedings aiming at the confiscation of instrumentalities and proceeds.
2. Each Party shall adopt such legislative or other measures as may be necessary to enable it to comply, under the conditions provided for in this chapter, with requests:
 - a. for confiscation of specific items of property representing proceeds or instrumentalities, as well as for confiscation of proceeds consisting in a requirement to pay a sum of money corresponding to the value of proceeds;
 - b. for investigative assistance and provisional measures with a view to either form of confiscation referred to under a above.

Section 2

Investigative assistance

Article 8

Obligation to assist

The Parties shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation. Such assistance shall include any measure providing and securing evidence as to the existence, location or movement, nature, legal status or value of the aforementioned property.

Article 9

Execution of assistance

The assistance pursuant to Article 8 shall be carried out as permitted by and in accordance with the domestic law of the requested Party and, to the extent not incompatible with such law, in accordance with the procedures specified in the request.

Article 10

Spontaneous information

Without prejudice to its own investigations or proceedings, a Party may without prior request forward to another Party information on instrumentalities and proceeds, when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings or might lead to a request by that Party under this chapter.

Section 3

Provisional measures

Article 11

Obligation to take provisional measures

1. At the request of another Party which has instituted criminal proceedings or proceedings for the purpose of confiscation, a Party shall take the necessary provisional measures, such as freezing or seizing, to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation or which might be such as to satisfy the request.
2. A Party which has received a request for confiscation pursuant to Article 13 shall, if so requested, take the measures mentioned in paragraph 1 of this article in respect of any property which is the subject of the request or which might be such as to satisfy the request.

Article 12

Execution of provisional measures

1. The provisional measures mentioned in Article 11 shall be carried out as permitted by and in accordance with the domestic law of the requested Party and, to the extent not incompatible with such law, in accordance with the procedures specified in the request.
2. Before lifting any provisional measure taken pursuant to this article, the requested Party shall, wherever possible, give the requesting Party an opportunity to present its reasons in favour of continuing the measure.

Section 4

Confiscation

Article 13

Obligation to confiscate

1. A Party, which has received a request made by another Party for confiscation concerning instrumentalities or proceeds, situated in its territory, shall:
 - a. enforce a confiscation order made by a court of a requesting Party in relation to such instrumentalities or proceeds; or
 - b. submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, enforce it.