

Ο περί Πρωτοκόλλου το οποίο Τροποποιεί την Ευρωπαϊκή Σύμβαση για Διασυνοριακή Τηλεόραση (Κυρωτικός) Νόμος του 1999 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 29(ΙΙΙ) του 1999

ΝΟΜΟΣ ΠΟΥ ΠΡΟΝΟΕΙ ΤΟ ΠΡΩΤΟΚΟΛΛΟ ΤΟ ΟΠΟΙΟ ΤΡΟΠΟΠΟΙΕΙ ΤΗΝ ΕΥΡΩΠΑΪΚΗ ΣΥΜΒΑΣΗ ΓΙΑ ΤΗ ΔΙΑΣΥΝΟΡΙΑΚΗ ΤΗΛΕΟΡΑΣΗ

Προοίμιο.

Επειδή η Ευρωπαϊκή Σύμβαση για τη Διασυνοριακή Τηλεόραση κυρώθηκε από την Κυπριακή Δημοκρατία με το Νόμο 178 του 1991.

Και επειδή υιοθετήθηκε από την Επιτροπή Υπουργών του Συμβουλίου της Ευρώπης στις 9 Σεπτεμβρίου 1998 Πρωτόκολλο το οποίο τροποποιεί την Ευρωπαϊκή Σύμβαση για τη Διασυνοριακή Τηλεόραση.

Και επειδή με Απόφασή του με Αριθμό 48.672 και ημερομηνία 18 Νοεμβρίου 1998, το Υπουργικό Συμβούλιο ενέκρινε την προσχώρηση της Κυπριακής Δημοκρατίας στο Πρωτόκολλο.

Δια ταύτα, η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

Συνοπτικός τίτλος.

1. Ο παρών Νόμος θα αναφέρεται ως ο περί Πρωτοκόλλου το οποίο Τροποποιεί την Ευρωπαϊκή Σύμβαση για Διασυνοριακή Τηλεόραση (Κυρωτικός) Νόμος του 1999 και θα διαβάζεται μαζί με το Νόμο που κυρώνει την Ευρωπαϊκή Σύμβαση για τη Διασυνοριακή Τηλεόραση του 1991.

178 του 1991.

Ερμηνεία.

2.—(1) Στον παρόντα Νόμο, εκτός αν από το κείμενο προκύπτει διαφορετική ή αντίθετη έννοια—

«Πρωτόκολλο» σημαίνει το Πρωτόκολλο το οποίο τροποποιεί την Ευρωπαϊκή Σύμβαση για τη Διασυνοριακή Τηλεόραση του 1991 το οποίο υιοθετήθηκε από την Επιτροπή Υπουργών του Συμβουλίου της Ευρώπης στη Γενεύη στις 9 Σεπτεμβρίου 1998.

(2) Όροι στον παρόντα Νόμο οι οποίοι δεν ορίζονται διαφορετικά θα έχουν την έννοια που αποδίδεται σε αυτούς στο Νόμο που κυρώνει την Ευρωπαϊκή Σύμβαση για τη Διασυνοριακή Τηλεόραση του 1991.

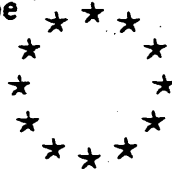
178 του 1991.

Πίνακας.
Μέρος Ι.
Μέρος ΙΙ.
Κύρωση του Πρωτοκόλλου.

3.—(1) Το Πρωτόκολλο το κείμενο του οποίου εκτίθεται στο Μέρος Ι του Πίνακα από το Αγγλικό πρωτότυπο και σε Ελληνική Μετάφραση στο Μέρος ΙΙ του Πίνακα και η σε αυτό προσχώρηση της Κυπριακής Δημοκρατίας με τον παρόντα Νόμο κυρούνται.

(2) Σε περίπτωση απόκλισης μεταξύ των δύο κειμένων στα Μέρη Ι και ΙΙ του Πίνακα, υπερισχύει το κείμενο από το αγγλικό πρωτότυπο.

Council of Europe
Conseil de l'Europe



ΜΕΡΟΣ Ι

Protocol amending
the European Convention
on Transfrontier Television

Protocole portant amendement
à la Convention européenne
sur la télévision transfrontière

The member States of the Council of Europe and the other Parties to the European Convention on Transfrontier Television, opened for signature in Strasbourg on 5 May 1989 (hereinafter referred to as "the Convention"),

Welcoming the fact that the enlargement of the membership of the Council of Europe since 1989 has led to the development and implementation at the pan-European level of the legal framework provided for under the Convention;

Considering the major technological and economic developments in the field of television broadcasting as well as the appearance of new communications services in Europe since the adoption of the Convention in 1989;

Noting that these developments call for a revision of the provisions of the Convention;

Bearing in mind, in this regard, the adoption by the European Community of Directive 97/36/EC of the European Parliament and of the Council of 19 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in member states concerning the pursuit of television broadcasting activities;

Considering the urgent need to amend certain provisions of the Convention in order to develop a coherent approach to transfrontier television between this instrument and the directive, as underlined in the Declaration on Media in a Democratic Society adopted by the Ministers of the States participating in the 4th European Ministerial Conference on Mass Media Policy (Prague, 7-8 December 1994) and in the political Declaration of the 5th European Ministerial Conference (Thessaloniki, 11-12 December 1997);

Wishing to further develop the principles embodied in the Council of Europe Recommendations on the drawing up of strategies to combat smoking, alcohol and drug dependence in co-operation with opinion-makers and the media, on the right to short reporting on major events where exclusive rights for their television broadcast have been acquired in a transfrontier context and on the portrayal of violence in the electronic media which have been adopted within the framework of the Council of Europe since the Convention was adopted.

Have agreed as follows:

Article 1

The word "jurisdiction" in Article 8, paragraph 1, and in Article 16, paragraph 2a, in the French text, shall be replaced by the word "compétence".

Article 2

The word "advertisements" in Article 15, paragraphs 3 and 4, in the English text, shall be replaced by the word "advertising".

Article 3

The definition of "Broadcaster" in Article 2, paragraph c, shall be worded as follows:

- "c "Broadcaster" means the natural or legal person who has editorial responsibility for the composition of television programme services for reception by the general public and transmits them or has them transmitted, complete and unchanged, by a third party;"

Article 4

The definition of "Advertisement" in Article 2, paragraph f, shall be worded as follows:

- "f "Advertising" means any public announcement in return for payment or similar consideration or for self-promotional purposes, which is intended to promote the sale, purchase or rental of a product or service, to advance a cause or idea, or to bring about some other effect desired by the advertiser or the broadcaster itself;"

Article 5

A new paragraph g reading as follows shall be inserted in Article 2:

- "g "Tele-shopping" means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations in return for payment;"

Article 6

Article 2, paragraph g, shall be renumbered to Article 2, paragraph h.

Article 7

The following text shall replace Article 5:

"Article 5: Duties of the transmitting Parties

- 1 Each transmitting Party shall ensure that all programme services transmitted by a broadcaster within its jurisdiction comply with the terms of this Convention.
- 2 For the purposes of this Convention, a broadcaster within the jurisdiction of a Party is:
 - a broadcaster who is deemed to be established in that Party according to paragraph 3;
 - a broadcaster to whom paragraph 4 applies.
- 3 For the purposes of this Convention, a broadcaster shall be deemed to be established in a Party, hereinafter referred to as the "transmitting Party," in the following cases:
 - 1 the broadcaster has its head office in that Party and the decisions on programme schedules are taken in that Party;

- b if a broadcaster has its head office in one Party but decisions on programme schedules are taken in another Party, it shall be deemed to be established in the Party where a significant part of the workforce involved in the pursuit of the television broadcasting activity operates; if a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in each of those Parties, the broadcaster shall be deemed to be established in the Party where it has its head office; if a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in neither of those Parties, the broadcaster shall be deemed to be established in the Party where it first began broadcasting in accordance with the system of law of that Party, provided that it maintains a stable and effective link with the economy of that Party;
 - c if a broadcaster has its head office in a Party but decisions on programme schedules are taken in a State which is not Party to this Convention, or vice-versa, it shall be deemed to be established in the Party concerned, provided that a significant part of the workforce involved in the pursuit of the television broadcasting activity operates in that Party;
 - d if, when applying the criteria of paragraph 3 of Article 2 of Directive 97/36/EC of the European Parliament and of the Council of 19 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in member States concerning the pursuit of television broadcasting activities, a broadcaster is deemed to be established in a member State of the European Community, that broadcaster shall also be deemed to be established in that State for the purposes of this Convention.
- 4 A broadcaster to whom the provisions of paragraph 3 is not applicable is deemed to be within the jurisdiction of a Party, so-called transmitting Party, in the following cases:
- a it uses a frequency granted by that Party;
 - b although it does not use a frequency granted by a Party it does use a satellite capacity appertaining to that Party;
 - c although it uses neither a frequency granted by a Party nor a satellite capacity appertaining to a Party it does use a satellite up-link situated in that Party.
- 5 If the transmitting Party cannot be determined according to paragraph 4, the Standing Committee shall consider this issue according to Article 21, indent a, of this Convention, in order to determine this Party;
- 6 This Convention shall not apply to television broadcasts intended exclusively for reception in States which are not Party to this Convention, and which are not received directly or indirectly by the public in one or more Parties."

Article 3

Article 3 shall have the following wording: