

Ε.Ε. Παρ. Ι(ΙΙΙ)
Αρ. 4100, 31.12.2007

Ν. 51(ΙΙΙ)/2007

Ο περί της Σύμβασης του Συμβουλίου της Ευρώπης για τη Συγκάλυψη, Έρευνα, Κατάσχεση και Δήμευση των Προϊόντων του Εγκλήματος και τη Χρηματοδότηση της Τρομοκρατίας (Κυρωτικός) Νόμος του 2007 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 51(ΙΙΙ) του 2007

**ΝΟΜΟΣ ΠΟΥ ΚΥΡΩΝΕΙ ΤΗ ΣΥΜΒΑΣΗ ΤΟΥ
ΣΥΜΒΟΥΛΙΟΥ ΤΗΣ ΕΥΡΩΠΗΣ ΓΙΑ ΤΗ ΣΥΓΚΑΛΥΨΗ,
ΕΡΕΥΝΑ, ΚΑΤΑΣΧΕΣΗ ΚΑΙ ΔΗΜΕΥΣΗ ΤΩΝ
ΠΡΟΪΟΝΤΩΝ ΤΟΥ ΕΓΚΛΗΜΑΤΟΣ ΚΑΙ ΤΗ
ΧΡΗΜΑΤΟΔΟΤΗΣΗ ΤΗΣ ΤΡΟΜΟΚΡΑΤΙΑΣ**

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

Συνοπτικός
τίτλος.

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Σύμβασης του Συμβουλίου της Ευρώπης για τη Συγκάλυψη, Έρευνα, Κατάσχεση και Δήμευση των Προϊόντων του Εγκλήματος και τη Χρηματοδότηση της Τρομοκρατίας (Κυρωτικός) Νόμος του 2007.

Ερμηνεία.

2. Στον παρόντα Νόμο, εκτός εάν από το κείμενο προκύπτει διαφορετική έννοια -

«Σύμβαση» σημαίνει τη Σύμβαση του Συμβουλίου της Ευρώπης για τη Συγκάλυψη, Έρευνα, Κατάσχεση και Δήμευση του Προϊόντος του Εγκλήματος και τη Χρηματοδότηση της Τρομοκρατίας, η υπογραφή της οποίας εγκρίθηκε με Απόφαση του Υπουργικού Συμβουλίου με Αρ. 61.971 ημερομηνίας 12 Μαΐου 2005 και η οποία υπογράφηκε εκ μέρους της Δημοκρατίας στις 16 Μαΐου 2005 στη Βαρσοβία.

Κύρωση της
Σύμβασης.
Πίνακας,
Μέρος Ι,
Μέρος ΙΙ.

3.-(1) Με τον παρόντα Νόμο η Σύμβαση, της οποίας το κείμενο στο αγγλικό πρωτότυπο εκτίθεται στο Μέρος Ι του Πίνακα και σε ελληνική μετάφραση στο Μέρος ΙΙ του Πίνακα, κυρώνεται.

(2) Σε περίπτωση διαφοράς μεταξύ των κειμένων που εκτίθενται στα Μέρη Ι και ΙΙ του Πίνακα, υπερισχύει το κείμενο στο αγγλικό πρωτότυπο που εκτίθεται στο Μέρος Ι του Πίνακα.

ΠΙΝΑΚΑΣ

(Άρθρο 3)

ΜΕΡΟΣ Ι

COUNCIL OF EUROPE CONVENTION
ON LAUNDERING, SEARCH,
SEIZURE AND CONFISCATION
OF THE PROCEEDS FROM CRIME
AND ON THE FINANCING OF TERRORISM

CONVENTION DU CONSEIL DE L'EUROPE
RELATIVE AU BLANCHIMENT,
AU DÉPISTAGE, À LA SAISIE ET À
LA CONFISCATION DES PRODUITS
DU CRIME ET AU FINANCEMENT
DU TERRORISME

Preamble:

The member States of the Council of Europe and the other Signatories 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 and instrumentalities;

Considering that for the attainment of this aim a well-functioning system of international cooperation also must be established;

Bearing in mind the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141 – hereinafter referred to as "the 1990 Convention");

Recalling also Resolution 1373(2001) on threats to international peace and security caused by terrorist acts adopted by the Security Council of the United Nations on 28 September 2001, and particularly its paragraph 3.d;

Recalling the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999 and particularly its Articles 2 and 4, which oblige States Parties to establish the financing of terrorism as a criminal offence;

Convinced of the necessity to take immediate steps to ratify and to implement fully the International Convention for the Suppression of the Financing of Terrorism, cited above,

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, derived from or obtained, directly or indirectly, 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 9 of this Convention.
- f. "financial intelligence unit" (hereinafter referred to as "FIU") means a central, national agency responsible for receiving (and, as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information
 - i concerning suspected proceeds and potential financing of terrorism, or
 - ii required by national legislation or regulation,
 in order to combat money laundering and financing of terrorism;
- g. "freezing" or "seizure" means temporarily prohibiting the transfer, destruction, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;
- h. "financing of terrorism" means the acts set out in Article 2 of the International Convention for the Suppression of the Financing of Terrorism, cited above.

Chapter II – Financing of terrorism

Article 2 – Application of the Convention to the financing of terrorism

- 1 Each Party shall adopt such legislative and other measures as may be necessary to enable it to apply the provisions contained in Chapters III, IV and V of this Convention to the financing of terrorism.
- 2 In particular, each Party shall ensure that it is able to search, trace, identify, freeze, seize and confiscate property, of a licit or illicit origin, used or allocated to be used by any means, in whole or in part, for the financing of terrorism, or the proceeds of this offence, and to provide co-operation to this end to the widest possible extent.

Chapter III – Measures to be taken at national level

Section 1 – General provisions

Article 3 – 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 and laundered property.

2. Provided that paragraph 1 of this article applies to money laundering and to the categories of offences in the appendix to the Convention, 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
 - a only in so far as the offence is punishable by deprivation of liberty or a detention order for a maximum of more than one year. However, each Party may make a declaration on this provision in respect of the confiscation of the proceeds from tax offences for the sole purpose of being able to confiscate such proceeds, both nationally and through international cooperation, under national and international tax-debt recovery legislation; and/or
 - b only to a list of specified offences.
3. Parties may provide for mandatory confiscation in respect of offences which are subject to the confiscation régime. Parties may in particular include in this provision the offences of money laundering, drug trafficking, trafficking in human beings and any other serious offence.
4. Each Party shall adopt such legislative or other measures as may be necessary to require that, in respect of a serious offence or offences as defined by national law, an offender demonstrates the origin of alleged proceeds or other property liable to confiscation to the extent that such a requirement is consistent with the principles of its domestic law.

Article 4 – Investigative and provisional measures

Each Party shall adopt such legislative and other measures as may be necessary to enable it to identify, trace, freeze or seize rapidly property which is liable to confiscation pursuant to Article 3, in order in particular to facilitate the enforcement of a later confiscation.

Article 5 – Freezing, seizure and confiscation

Each Party shall adopt such legislative and other measures as may be necessary to ensure that the measures to freeze, seize and confiscate also encompass:

- a the property into which the proceeds have been transformed or converted;
- b property acquired from legitimate sources, if proceeds have been intermingled, in whole or in part, with such property, up to the assessed value of the intermingled proceeds;
- c income or other benefits derived from proceeds, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled, up to the assessed value of the intermingled proceeds, in the same manner and to the same extent as proceeds.

Article 6 – Management of frozen or seized property

Each Party shall adopt such legislative or other measures as may be necessary to ensure proper management of frozen or seized property in accordance with Articles 4 and 5 of this Convention.