

LAW
No.9646, dated 27.11.2006

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

Pursuant to Articles 78, 83 point 1, and 121 of the Constitution, upon the proposal of the Council of Ministers,

**PARLIAMENT
OF THE REPUBLIC OF ALBANIA**

DECIDED:

Article 1

The Council of Europe Convention “On laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism”, done at Warsaw on 16 May 2005, is hereby ratified.

Article 2

This law enters into force 15 days after its publication in the Official Gazette.

**Promulgated by Decree No. 5150, dated 12.12.2006 of the President of the Republic of Albania,
Alfred Moisiu**

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

Warsaw, 16.5.2005
European Treaty Series ETS No. 198

INTRODUCTION

The Member States of the Council of Europe and the other states signatories to this Convention,

having bearing in mind that the aim of the Council of Europe is to achieve greater unity between its members;

convinced for the need to pursue a common criminal policy, aimed at protecting society;

having bearing in mind that the fight against serious crimes, which has increasingly become an international problem, requires the use of modern and effective methods at the international level;

believing that one of these methods consists in depriving criminals of the proceeds and instrumentalities of crime;

having bearing in mind that, in order to achieve this objective, a functional system of international cooperation must be established;

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

recalling recalling also United Nations Security Council Resolution 1373 (2001) on threats to international peace and security caused by terrorist acts, adopted by the United Nations Security Council on 28 September 2001, and in particular paragraph 3.d thereof;

recalling recalling the International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly on 9 December 1999 and in particular its Articles 2 and 4, which require States Parties to classify the financing of terrorism as a criminal offence;

convinced on the necessity of taking immediate steps to ratify and fully implement 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 criminal offences. Such advantage may consist of any property as defined in subparagraph b of this article;

b) “property” means assets of any kind, tangible or intangible, movable or immovable, as well as legal acts or documents evidencing title to, or interest in, such assets;

c) “instrumentalities” means any objects used or intended to be used in any manner, wholly or in part, to commit one or more criminal offences;

d) “confiscation” means a penalty or measure ordered by a court following proceedings in relation to one or more criminal offences, which results in the permanent deprivation of property;

e) “predicate offence” means any criminal offence as a result of which proceeds have been generated and which may become the subject of an offence under Article 9 of this Convention.

f) “financial intelligence unit” (hereinafter referred to as FIU) means a central, national agency responsible for receiving (and, as appropriate, requesting), analyzing and disseminating to competent authorities reports of financial information:

i) in relation to suspicious proceeds and the possible financing of terrorism, or

ii) required by legislation or internal regulations,

for the purpose of combating money laundering and the financing of terrorism;

g) “freezing” or “blocking” means the temporary prohibition of the transfer, destruction, conversion, disposal or movement of property or the temporary exercise of isolation or control over property, on the basis of a decision issued by a court or other competent authority;

h) “financing of terrorism” means the acts provided for in Article 2 of the International Convention for the Suppression of the Financing of Terrorism, cited above.

CHAPTER II FINANCING OF TERRORISM

Article 2 Implementation of the Convention on the financing of terrorism

1. Each Party shall take such legislative and other measures as may be necessary to enable it to apply the provisions of Chapters III, IV and V of this Convention on the financing of terrorism.

2. Each Party shall ensure, in particular, that it is able to request, pursue, identify, freeze, block and confiscate property of lawful and unlawful origin, used or intended to be used by any means, in whole or in part, for the financing of terrorism, or the proceeds of such criminal offence, and to ensure cooperation for this purpose to the widest extent possible.

CHAPTER III
MEASURES TO BE TAKEN AT NATIONAL LEVEL

SECTION 1
GENERAL PROVISIONS

Article 3
Confiscation measures

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

2. Provided that paragraph 1 of this Article applies in relation to money laundering and the categories of criminal offences included in the appendix to this Convention, each Party, at the time of signing or depositing the instruments of ratification, acceptance, approval or accession, may declare by means of a statement addressed to the Secretary General of the Council of Europe that paragraph 1 of this Article applies:

a) to the extent that the criminal offence is punishable by deprivation of liberty or a detention order for a maximum period of more than one year. However, any Party may make a statement on this provision in relation to the confiscation of proceeds deriving from offences of a tax nature, solely for the purpose of being able to confiscate such proceeds, through cooperation within and outside the country, in accordance with domestic and international legislation for the recovery of debts caused by non-payment of taxes; and/or

b) only for a specified list of criminal offences.

3. The Parties may provide for mandatory confiscation in relation to criminal offences subject to the confiscation regime. The Parties may include in this provision, in particular, the criminal offences of money laundering, drug trafficking, trafficking in human beings, and other serious criminal offences.

4. Each Party shall take such legislative and other necessary measures to require that, in connection with a serious criminal offence or criminal offences as provided for in domestic legislation, the offender demonstrates the origin of the alleged proceeds or property subject to confiscation, insofar as such a requirement is in accordance with the principles of domestic legislation.

Article 4
Investigative and provisional measures

Each Party shall take such legislative and other necessary measures as may be required to enable it to identify, trace, freeze, or immediately block property subject to confiscation in accordance with Article 3, with a view to facilitating the execution of subsequent confiscation.

Article 5
Freezing, blocking and confiscation

Each Party shall take such legislative and other necessary measures to ensure that measures for freezing, blocking and confiscation also include:

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

Article 6
Management of frozen or blocked property

Each Party shall take such legislative and other necessary measures to ensure the proper management of frozen or blocked property, in accordance with Articles 4 and 5 of this Convention.

Article 7
Investigation powers and techniques

1. Each Party shall take such legislative and other necessary measures to empower courts or other competent authorities to order that bank, financial, or commercial records be provided or blocked, in order to carry out the actions referred to in Articles 3, 4, and 5. A Party may not choose not to act in accordance with the provisions of this Article on the grounds of bank secrecy.

2. Without prejudice to paragraph 1, each Party shall take such legislative and other necessary measures to enable it to:

a) determine whether a natural or legal person is a holder or beneficial owner of one or more accounts of any nature, in any bank located within its territory, and if so, to obtain all data of the identified accounts;

b) obtain data of specified bank accounts and the banking operations carried out during a specified period through one or more specified accounts, including data of any sender or recipient account;

c) monitor, during a specified period, the banking operations carried out through one or more identified accounts; and

d) ensure that banks do not disclose to the respective bank client or third parties that information has been requested or obtained in accordance with subparagraphs a, b or c, or that an investigation has been conducted.

The Parties shall consider extending this provision also to accounts held in non-bank financial institutions.

3. 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 collection of evidence for this purpose, such as surveillance, interception of telecommunications, access to computer systems, and the ordering to produce specified documents.

Article 8
Legal remedies

Each Party shall take such legislative and other measures as may be necessary to ensure that persons affected by the measures provided for in Articles 3, 4 and 5, as well as other provisions in this section, have the right to legal remedies to protect their rights.

Article 9
Criminal offences of money laundering

1. Each Party shall take such legislative and other measures as may be necessary to attribute to the act the character of a criminal offence, in accordance with its domestic law, when the act is committed with the intention to:

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

b) the concealment or disguise of the nature, origin, location, disposition, movement, or true ownership of property or rights relating thereto, for which the offender knows that such property constitutes proceeds;

and, subject to the constitutional principles and fundamental concepts of its own legal system;
c) the acquisition, possession or use of property, which the person acquiring, holding or using knows, at the time of receipt, that such property constitutes proceeds;

d) participation in an organised manner or in collaboration for the commission, attempt to commit, and assistance or counselling to commit any of the criminal offences indicated in accordance with this article.

2. For the purposes of implementing or applying paragraph 1 of this article:

a) the fact of whether or not the predicate offence falls under the criminal jurisdiction of the Party shall not be taken into account;

b) it may be provided that the criminal offences set forth in this paragraph shall not apply to the offenders of the criminal offence;

c) the knowledge, purpose or motivation required as elements of the criminal offence set forth in that paragraph may be inferred from objective factual circumstances.

3. Each Party may take such legislative and other measures as may be necessary to classify as a criminal offence under its domestic legislation all or some of the acts referred to in paragraph 1 of this article, in one or both of the following cases, where the offender:

a) suspected that the property was proceeds of crime;

b) should have assumed that the property was proceeds of crime.

4. Provided that paragraph 1 of this article applies to the categories of criminal offences in the appendix to this Convention, each Party of the European Community, at the time of signing or depositing the instrument of ratification, acceptance, approval or accession, shall declare by means of a statement addressed to the Secretary General of the Council of Europe, that paragraph 1 of this article applies:

a) to the extent that the predicate offence is punishable by imprisonment or a detention order for a maximum period of more than one year or, for those Parties which have a minimum threshold for offences in their legal system, to the extent that the predicate offence is punishable by imprisonment or a detention order for a minimum period of more than six months; and/or

b) only for a specified list of criminal offences and/or

c) for a category of serious criminal offences, specified in domestic legislation.

5. Each Party shall ensure that a prior or simultaneous conviction for the predicate offence is not a prerequisite for a conviction for money laundering.

6. Each Party shall ensure that a conviction for money laundering under this Article is possible, if it is proven that a property, subject to paragraph 1.a or b of this Article, originates from a predicate offence, without it being necessary to precisely determine which predicate offence.

7. Each Party shall ensure that the predicate offences to money laundering also extend to conduct committed in another State, when such conduct constitutes a criminal offence in that State and would have constituted a predicate offence if it had been committed domestically. Each Party may provide that the sole prerequisite is that the conduct would have constituted a predicate offence, if it had occurred domestically.

Article 10

Liability of legal persons

1. Each Party shall adopt legislative and other measures as necessary to ensure that a legal person can be held liable for the criminal offence of money laundering as defined under this Convention, committed for the benefit of such legal person by a natural person acting individually or as part of an organ of the legal person who has a leading position within that legal person, based on:

a) a mandate from the legal person;

b) an authority that makes decisions on behalf of the legal person; and

c) an authority that exercises control within the legal person.

2. Apart from the cases provided for in paragraph 1, each Party shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of the criminal offence defined under paragraph 1, for the benefit of that legal person by a natural person acting under its

authority.

3. This liability defined in this article shall not exclude criminal proceedings against natural persons who have committed, instigated or aided in the commission of the criminal offences referred to in paragraph 1.

4. Each Party shall ensure that legal persons that are held liable in accordance with this shall be subject to effective, proportionate, criminal or non-criminal legal sanctions, including financial sanctions, with the aim of putting an end to illegal activity.

Article 11 **Previous decisions**

Each Party shall take such legislative and other measures as may be necessary to provide for the possibility of taking into account, at the time of determining the sanction, final decisions against a natural or legal person, taken in another Party in connection with the criminal offences provided for in this Convention.

SECTION 2 FINANCIAL INTELLIGENCE UNIT (FIU) AND PREVENTION

Article 12 **Financial Intelligence Unit (FIU)**

1. Each Party shall take such legislative and other measures as may be necessary to establish an FIU as provided for in this Convention.

2. Each Party shall take such legislative and other measures as may be necessary to ensure that its FIU has the right, directly or indirectly on a timely basis, to obtain financial, administrative and law enforcement information that it requires to properly carry out its functions, including the analysis of reports of suspicious transactions.

Article 13 **Measures for the prevention of money laundering**

1. Each Party shall take such legislative and other measures as may be necessary to establish a comprehensive domestic regulatory and supervisory regime to prevent money laundering and shall duly take into account applicable international standards, including in particular the recommendations adopted by the Financial Action Task Force on Money Laundering (FATF).

2. In this regard, each Party shall in particular take such legislative and other measures as may prove necessary:

a) to require legal and natural persons engaged in activities which are particularly likely to be used for money laundering purposes, insofar as they relate to such activities:

i) to identify and verify the identity of their clients and, as appropriate, the ultimate beneficial owners, and to exercise ongoing due diligence for business relationships, taking into account a risk-based approach;

ii) to report suspicions of money laundering that are subject to warranty;

iii) to take supporting measures, such as recording client identification and transactions, staff training, and the appointment of internal policies and procedures and, as appropriate, those tailored to the size and nature of the business;

b) to prohibit, as appropriate, the persons mentioned in subparagraph “a” from disclosing the fact that a report has been transmitted regarding a suspicious transaction or related information, or that an investigation has been carried out or is being conducted in connection with money laundering;

c) to ensure that the persons mentioned in subparagraph “a” are subject to effective monitoring systems and, as appropriate, surveillance, in order to ensure their compliance with the requirements to combat money laundering, as applicable, based on risk.

3. In this regard, each Party shall take such legislative and other necessary measures to detect

the substantial physical transportation of cash across the border and appropriate bearer negotiable instruments.

Article 14

Postponement of suspicious domestic transactions

Each Party shall take such legislative and other necessary measures to allow for immediate action by the FIU or, as appropriate, by any other competent body or authority, when there is suspicion that a transaction is related to money laundering, to suspend or withhold consent for the transaction being carried out, in order to analyze the transaction and confirm the suspicion. Each Party may restrict such a measure to matters for which a report has been submitted for suspicious transactions. The maximum duration of any suspension or withholding of consent for a transaction is subject to the provisions of domestic law.

CHAPTER IV

INTERNATIONAL COOPERATION

SECTION 1

PRINCIPLES OF INTERNATIONAL COOPERATION

Article 15

General principles and measures for international cooperation

1. The Parties shall cooperate with each other as much as possible for the purposes of investigations and proceedings aimed at the confiscation of instrumentalities and proceeds of crime.

2. Each Party shall take such legislative and other measures as are necessary to enable it, under the conditions provided for in this chapter, to respond to requests:

a) for the confiscation of specific properties constituting proceeds or instrumentalities, as well as for the confiscation of proceeds constituting an obligation to pay a sum of money corresponding to the value of the proceeds;

b) for mutual assistance for the purposes of investigation and provisional measures, which aim at one of the forms of confiscation mentioned in point a above.

3. Assistance in investigation and the provisional measures provided for in paragraph 2.b shall be applied according to the provisions and in accordance with the domestic legislation of the requested Party. If the request regarding one of these measures concerns formalities or procedures that may be possible only under the legislation of the requesting Party, even if they are unknown to the requested Party, the latter shall comply with such requests to the extent that the requested action is not contrary to the fundamental principles of law.

4. Each Party shall take such legislative and other measures as are necessary to ensure that requests from other Parties for the identification, tracing, freezing or blocking of proceeds and instrumentalities are given the same priority as those made in the context of domestic proceedings.

SECTION 2

ASSISTANCE IN INVESTIGATION

Article 16

Obligation to assist

Upon request, the Parties shall provide each other, to the greatest extent possible, assistance in the identification and tracing of instrumentalities, proceeds and other property subject to

confiscation. Such assistance shall include any measures that provide and ensure evidence concerning the existence, location or movement, nature, legal status or value of the aforementioned property.

Article 17

Requests for information on bank accounts

1. Each Party, under the conditions provided for in this Article, shall take such measures as may be necessary to determine, in response to a request from another Party, whether a natural or legal person who is subject to criminal proceedings holds or controls one or more accounts of any kind, in any bank located within its territory and, in such a case, shall provide the details of the accounts identified.

2. The obligation provided for in this Article applies only to the extent that the information is in the possession of the bank holding the account.

3. In addition to the requirements of Article 37, the requesting Party, in its request:

a) explains why it believes that the information requested may be of essential value for the purposes of the criminal proceedings of the offence;

b) explains on what basis it presumes that banks in the requested Party hold accounts and specifies, to the greatest extent possible, which banks and/or accounts may be involved; and

c) includes any additional possible information that may facilitate the execution of the request.

4. The requested Party may subject the execution of this request to the same conditions as it imposes with respect to requests for search and freezing.

5. Any State or the European Community, at the time of signing or depositing its instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, may declare that this Article applies only to the categories of criminal offences specified in the list contained in the appendix to this Convention.

6. The Parties may extend this provision to accounts held at non-bank financial institutions. This extension may be subject to the principle of reciprocity.

Article 18

Requests for information on banking transactions

1. Upon request from another Party, the requested Party shall provide details of specified bank accounts and banking operations carried out during a specified period through one or more accounts specified in the request, including details of any sending or receiving account.

2. The obligation provided for in this Article applies only to the extent that the information is in the possession of the bank holding the account.

3. In addition to the requirements of Article 37, the requesting Party shall indicate in its request why it considers the requested information to be suitable for the purpose of conducting criminal proceedings for the criminal offence.

4. The requested Party may make the execution of such a request subject to the same conditions as it applies to requests for search and freezing.

5. The Parties may extend this provision to accounts held at non-bank institutions. This extension may be subject to the principle of reciprocity.

Article 19

Requests for monitoring of bank transactions

1. Each Party shall ensure that, at the request of another Party, it is able to monitor, for a specified period, the banking operations carried out through one or more accounts specified in the request and communicate its findings to the requesting Party.

2. In addition to the requirements of Article 37, the requesting Party shall indicate in its request that it considers the requested information to be suitable for the purpose of conducting criminal proceedings for the criminal offence.

3. The decision to monitor shall be taken on a case-by-case basis by the competent authorities of the requested Party, in accordance with the domestic legislation of that Party.

4. The practical details regarding the monitoring shall be determined by agreement between the competent authorities of the requesting Party and the requested Party.

5. The Parties may extend this provision to accounts held by non-bank financial institutions.

Article 20

Spontaneous information

Without prejudice to their own investigations and criminal proceedings, the competent authorities of a Party may, without any prior request, transmit information regarding the instrumentalities and proceeds of crime to another Party, which may have been obtained in the course of an investigation conducted by that Party, and when it is considered that making this information available may assist the receiving Party in initiating or conducting an investigation or criminal proceeding, or where such information may lead that Party to make a request on the basis of the provisions of this chapter.

SECTION 3

PROVISIONAL MEASURES

Article 21

Obligation to order the taking of provisional measures

1. At the request of another Party that has commenced a proceeding or action for confiscation, the Party concerned shall take the necessary provisional measures, such as freezing or seizure, to prevent any act, any transfer or any alienation in respect of any property that may subsequently become subject to a confiscation request or which may facilitate the satisfaction of the request.

2. The Party that has received a confiscation request in accordance with Article 23 shall take the measures referred to in paragraph 1 of this Article, when such a request has been made in respect of any property that is the subject of the request or which may facilitate the satisfaction of the request.

Article 22

Execution of provisional measures

1. After the execution of the provisional measures provided for in paragraph 1 of Article 21, the requesting Party shall spontaneously and as quickly as possible provide the requested Party with all information that may allow it to analyse or modify the level of such measures. The requesting Party shall also promptly provide any supplementary information requested by the requested Party and that is necessary for the implementation and monitoring of the provisional measures.

2. Before lifting any provisional measure taken in accordance with this Article, the requested Party, insofar as possible, shall give the requesting Party the opportunity to present reasons in favor of the continued maintenance of the measure.

SECTION 4

CONFISCATION

Article 23

Obligation to confiscate

1. A Party that has received from another Party a request for confiscation relating to instrumentalities or proceeds located on its territory:

a) must execute the confiscation decision issued by a court of the requesting Party relating to such instrumentalities or proceeds; or

b) must submit this request to its competent authorities in order for a confiscation decision to be issued and, when such a decision has been issued, to execute it.

2. For the purposes of implementing paragraph 1.b of this Article, each Party has the authority, whenever necessary, to initiate confiscation proceedings on the basis of its own domestic law.

3. The provisions of paragraph 1 of this Article shall also apply to confiscation relating to the obligation to pay an amount of money corresponding to the value of the proceeds, if the property upon which confiscation may be carried out is located on the territory of the requested Party. In such cases, by proceeding with confiscation in accordance with paragraph 1, the requested Party, when payment has not been made, shall lodge the claim against any property made available for this purpose.

4. When a confiscation request concerns a specific property item, the Parties may agree that the requested Party may proceed with the confiscation in the form of an obligation to pay an amount of money corresponding to the value of the property.

5. The Parties shall cooperate to the widest possible extent, on the basis of their domestic legislation, with those Parties requesting the execution of measures equivalent to confiscation, leading to expropriation, which are not criminal sanctions, if such measures have been imposed by a judicial authority of the requesting Party in relation to a criminal offence, provided it has been established that the property consists of profits or other property within the meaning of Article 5 of this Convention.

Article 24

Execution of confiscation

1. The procedures for obtaining and executing confiscation under Article 23 shall be governed by the law of the requested Party.

2. The requested Party shall accept the establishment of facts to the extent that these are stated in a conviction or judicial decision of the requesting Party or to the extent that they are indirectly based on them.

3. Any State Party or the European Community, at the time of signing or depositing its instruments of ratification, acceptance, approval or accession, may declare, by means of a declaration addressed to the Secretary General of the Council of Europe, that paragraph 2 of this Article shall apply only subject to the constitutional principles and fundamental concepts of its own legal system.

4. Where the confiscation consists in an obligation to pay a sum of money, the competent authority of the requested Party shall convert the amount into its own currency according to the exchange rate in force at the time the decision to execute the confiscation is taken.

5. In the cases provided for in Article 23 paragraph 1.a, only the requesting Party has the right to decide regarding any request for review of the confiscation decision.

Article 25

Confiscated property

1. Property confiscated by a Party pursuant to Articles 23 and 24 of this Convention shall be disposed of by that Party, in accordance with its domestic law and the relevant administrative procedures.

2. Where acting upon the request of another Party in accordance with Articles 23 and 24 of this Convention, to the extent permitted by domestic law and if so requested, the Parties shall give priority to the return of the confiscated property to the requesting Party, so that it may compensate the victims of the crime or return such property to its lawful owners.

3. Where acting upon the request of another Party in accordance with Articles 23 and 24 of this Convention, a Party may in particular consider entering into agreements or establishing arrangements for sharing such property with other Parties, on a regular or case-by-case basis, in accordance with its domestic law and the relevant administrative procedures.

Article 26

The right of execution and the maximum amount of confiscation

1. A request for confiscation made in accordance with Articles 23 and 24 of this Convention does not prejudice the right of the requesting Party to execute the request for confiscation itself.

2. Nothing in this Convention shall be interpreted as permitting the total value of property confiscated to exceed the amount specified in the confiscation order. Where a Party finds that this may occur, the Parties concerned shall hold consultations to avoid such a consequence.

Article 27

Imprisonment as a coercive measure

The requested Party may not impose imprisonment as a coercive measure nor take any other measure restricting liberty, in execution of a request submitted under Article 23, where the requesting Party has not specified this in the respective request.

SECTION 5

REFUSAL AND POSTPONEMENT OF COOPERATION

Article 28

Grounds for refusal

1. Cooperation under this chapter may be refused if:

a) the requested measure is contrary to the fundamental principles of the legal order of the requested Party; or

b) execution of the request risks compromising the sovereignty, security, public order or other essential interests of the requested Party; or

c) the requested Party considers that the significance of the matter to which the request relates does not justify taking the requested measure; or

d) the criminal offence to which the request relates is a fiscal offence, except for the financing of terrorism; or

e) the criminal offence to which the request relates is a political offence, except for the financing of terrorism; or

f) the requested Party considers that the requested measure would be contrary to the principle “*ne bis in idem*”; or

g) the criminal offence to which the request relates is not a criminal offence under the domestic law of the requested Party, if it had been committed in the territory under its jurisdiction. However, this ground for refusal applies to cooperation provided for in section 2 only insofar as the requested mutual assistance entails the taking of coercive measures.

2. The cooperation provided for in section 2, insofar as the requested mutual assistance entails the taking of coercive measures, and that provided for in section 3 of this chapter, may also be refused in cases where the requested measures cannot be taken under the domestic law of the requested Party, for purposes of investigation or proceedings, if that Party had a similar domestic case. Where dual criminality is required for cooperation under this chapter, the request shall be considered satisfactory regardless of whether both Parties classify or designate the offence in the same category, provided that both Parties criminalise the conduct at the core of the criminal offence.

3. Where required by the law of the requested Party, the cooperation provided for in section 2, insofar as the requested assistance entails the taking of coercive measures, and that provided for in section 3 of this chapter, may also be refused in cases where the requested measures or any other measures having analogous effects are not permitted by the legislation of the requesting Party or with regard to the competent authorities of the requesting Party, when the request is not authorised either by a judge or by another judicial authority, including the public prosecutor, authorities acting in the

field of criminal offences.

4. The cooperation provided for in section 4 of this chapter may also be refused when:

a) the law of the requested Party does not provide for confiscation for the type of criminal offence to which the request relates; or

b) without prejudice to the obligation under Article 23, paragraph 3, it would be contrary to the principles of the internal law of the requested Party, in respect of the possibilities of confiscation in relation to the connection with a criminal offence and:

i) the economic advantage that may be considered as its proceeds; or

ii) property that may be considered as its instrumentalities; or

c) under the law of the requested Party, the confiscation decision cannot be issued or enforced due to the expiration of time; or

d) without prejudice to the obligation under Article 23, paragraph 5, the request does not concern a previous conviction, nor a decision of a judicial nature, nor a statement appearing in such a decision, a statement pursuant to which one or more criminal offences have been committed and which formed the basis of the decision or the request for confiscation; or

e) confiscation is not enforceable in the requesting Party or is subject to appeal in accordance with the usual avenues of appeal; or

f) the request concerns a confiscation order issued in the absence of the person against whom the decision has been made and where, according to the requested Party, the proceedings initiated by the requesting Party that led to this decision did not meet the minimum defence rights afforded to any person accused of a criminal offence.

5. For the purposes of paragraph 4.f of this Article, the decision is not considered to have been issued in the absence of the defendant:

a) when it has been confirmed or issued following opposition by the interested person; or

b) when it has been issued on appeal, provided that the appeal has been requested by the interested person.

6. In reviews conducted for the purposes of paragraph 4.f of this Article, if the minimum defence rights have been respected, the requested Party shall take into account the fact that the interested person has deliberately sought to evade justice or that this person, after having had the opportunity to file an appeal against a decision issued in absentia, has preferred not to file such an appeal. The same shall apply when the interested person, after having been duly summoned to appear before the court, has chosen not to appear or not to request the postponement of the hearing of the case.

7. The Party cannot invoke banking secrecy to justify its refusal for any cooperation envisaged in this chapter. Where its own domestic law so requires, the Party may request that the request for cooperation, which would result in the lifting of banking secrecy, be issued by a judge or another judicial authority, including the public prosecutor or other authorities acting in the area of criminal offences.

8. Without prejudice to the ground for refusal provided for in paragraph 1.a of this article:

a) the fact that the person who is the subject of an investigation undertaken or of a confiscation order issued by the authorities of the requesting Party is a legal person cannot be invoked by the requested Party as an obstacle to providing any kind of cooperation under this chapter;

b) the fact that the natural person against whom an order for confiscation of proceeds has been issued has subsequently died, as well as the fact that the legal person against whom an order for confiscation of proceeds has been issued has subsequently been dissolved, cannot be invoked as an obstacle to the provision of mutual assistance as provided for in Article 23, paragraph 1.a

c) the fact that the person who is the subject of an investigation undertaken or of a confiscation order issued by the authorities of the requesting Party is mentioned in the request simultaneously as the perpetrator of a specific criminal offence and as the perpetrator of the criminal offence of money laundering cannot be invoked by the requested Party as an obstacle to providing any kind of cooperation under this chapter.

Postponement

The requested Party may postpone the execution of the measures provided for in a request when they risk compromising investigations or proceedings undertaken by its own authorities.

Article 30

Partial or conditional acceptance of the request

Before refusing or postponing cooperation under this chapter, the requested Party, where appropriate, shall consider, after consultations with the requesting Party, whether it can grant it in part or subject to such conditions as the requested Party deems necessary.

SECTION 6

NOTIFICATION AND PROTECTION OF THE RIGHTS OF THIRD PARTIES

Article 31

Service of documents

1. The Parties shall afford each other, as far as possible, mutual assistance in serving judicial documents on the relevant persons in connection with provisional measures and confiscation.

2. Nothing in this article shall be an obstacle:

- a) for the possibility of sending judicial documents directly by post to persons located abroad;
- b) for the possibility of officials from ministries, officials or competent persons of the requesting Party to take actions regarding the service or delivery of judicial documents directly, through the consular authorities of that Party, or through officials from ministries, officials or other competent persons of the requested Party,

except where the requested Party has made a declaration to the contrary to the Secretary General of the Council of Europe at the time of signing or depositing the instruments of ratification, acceptance, approval or accession.

3. When serving judicial documents abroad to the relevant persons concerning provisional measures or confiscation decisions ordered in the requesting Party, that Party shall inform such persons of their right, guaranteed by legislation, to have legal remedies made available to them.

Article 32

Recognition of foreign judgments

1. When a request for cooperation is processed under sections 3 and 4, the requested Party shall recognize any judicial decision issued in the requesting Party with regard to the rights claimed by third parties.

2. Recognition may be refused:

- a) where third parties have not had sufficient opportunity to assert their rights; or
- b) where the decision is incompatible with a previous decision given in the requesting Party on the same matter; or
- c) where it is incompatible with the public order of the requested Party; or
- d) where the decision has been issued in contravention of the provisions regarding exclusive jurisdiction as provided for by the law of the requested Party.

SECTION 7

PROCEDURE AND OTHER GENERAL RULES

Article 33

Central authority

1. The Parties shall designate a central authority or, if necessary, several authorities

responsible for sending requests formulated under this chapter, responding to them, executing them, or transmitting them to the authorities competent for execution.

2. Each Party shall communicate to the Secretary General of the Council of Europe, at the time of signature or deposit of the instruments of ratification, acceptance, approval or accession, the designation and address of the competent authorities appointed for the implementation of paragraph 1 of this Article.

Article 34 **Direct communication**

1. Central authorities communicate directly with each other.

2. In urgent cases, judicial authorities, including the public prosecutor of the requesting Party, may send the requests and communications provided for in this chapter directly to the counterpart authorities of the requested Party. In such cases, a copy must be sent simultaneously to the central authority of the requested Party, through the central authority of the requesting Party.

3. Any request or communication formulated pursuant to paragraphs 1 and 2 of this Article may be submitted through the International Criminal Police Organization (INTERPOL).

4. When a request is submitted pursuant to paragraph 2 of this Article and when the authority is not competent to process it, it shall forward it to the competent authority of its country and directly inform the requesting Party thereof.

5. Requests or communications submitted pursuant to section 2 of this chapter, which do not result in the taking of coercive measures, may be transmitted directly to the competent authority of the requested Party by the competent authority of the requesting Party.

6. The judicial authorities of the requesting Party may directly send draft requests and draft communications provided for in this chapter to the judicial authorities of the requested Party prior to the official submission of such a request or communication, with the aim of ensuring maximum effectiveness, provided that the request contains the necessary information and accompanying documents that fulfill the requirements of the legislation of the requested Party.

Article 35 **Form of requests and languages**

1. All requests provided for in this chapter shall be made in writing. They may also be transmitted by means of modern telecommunication methods, such as electronic communication, provided that the requesting Party is prepared, if it receives such a request, to submit at any time written documentation of this communication as well as the original. However, any Party, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, may declare the conditions under which it is willing to accept and execute requests received by other means of telecommunication, including electronic communication.

2. Subject to the provisions of paragraph 3 of this article, translation of the requests or accompanying documents shall not be required.

3. Any Party, at the time of deposit of the instruments of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, may reserve the right to require that requests and accompanying documents be accompanied by a translation into its own language, into one of the official languages of the Council of Europe, or into such language as it shall designate. Any Party may, at this time, declare that it is prepared to accept translations into any other language it may designate. Other Parties may apply the principle of reciprocity.

Article 36 **Legalisation**

Documents transmitted in implementation of this chapter shall not be subject to any legalisation

formalities.

Article 37 **Content of the request**

1. Any request for cooperation provided for in this chapter shall specify:
 - a) the authority that has made the request and the authority entrusted with conducting the investigations or proceedings;
 - b) the subject matter and the grounds of the request;
 - c) the case, including therein the facts related to it (such as the date, place, and circumstances of the criminal offence), to which the investigations or proceedings are connected, except in cases where the request contains a notification;
 - d) to the extent that cooperation entails the taking of coercive measures:
 - i) the text of the legal provisions or, where this is not possible, a statement of the relevant applicable law; and
 - ii) an indication as to whether the requested measure or any other measure having similar effects may be taken in the territory of the requesting Party under its own legislation;
 - e) where necessary and to the extent possible:
 - i) details regarding the relevant person/persons, including the name, date and place of birth, nationality and location of him/them, and in the case of a legal person, its registered office; and
 - ii) the property in respect of which cooperation is requested, its location, its connections with the person/persons concerned, any links to the criminal offence, as well as any information available regarding other persons, interests in such property; and
 - f) any specific procedure desired by the requesting Party.
2. Where a request for a provisional measure is submitted under Section 3 seeking the seizure of property that may be subject to a confiscation order relating to an obligation to pay a sum of money, such request shall indicate the maximum amount to be recovered from that property.
3. In addition to the particulars mentioned in paragraph 1, any request made pursuant to Section 4 shall contain:
 - a) in the case of Article 23, paragraph 1a:
 - i) a certified copy of the confiscation order, issued by the court of the requesting Party, and a statement of the grounds which are the basis of the order, where these are not mentioned in the order itself;
 - ii) certification by the competent authority of the requesting Party, stating that the confiscation order is enforceable and is not subject to ordinary means of appeal;
 - iii) information regarding the extent to which the execution should proceed; and
 - iv) information regarding the necessity of taking provisional measures;
 - b) in the case of Article 23 paragraph 1.b, a statement of facts provided by the requesting Party, sufficient to enable the requested Party to take a decision based on its domestic law;
 - c) where third parties have had the opportunity to claim rights, documents showing that they have had such an opportunity.

Article 38 **Requests with deficiencies**

1. When the request does not comply with the provisions of this chapter or when the information provided is not sufficient to enable the requested Party to take a decision on the request, that Party may ask the requesting Party to modify the request or to supplement it with further information.
2. The requested Party may set a time limit for receiving such modifications or information.
3. Pending receipt of the modifications or information requested in relation to a request submitted pursuant to section 4 of this chapter, the requested Party may order all measures provided for in sections 2 and 3 of this chapter.

Article 39
Competition of requests

1. When the requested Party receives more than one request submitted pursuant to sections 3 and 4 of this chapter concerning the same person or the same property, such requests do not prevent the requested Party from handling requests that result in the taking of provisional measures.

2. In the event of competing requests submitted pursuant to section 4 of this chapter, the requested Party shall take into account consultations with the requesting Parties.

Article 40
Obligation to state reasons

The requested Party shall give reasons for any decision refusing, postponing or attaching conditions to any cooperation requested pursuant to this chapter.

Article 41
Notification

1. The requested Party shall promptly inform the requesting Party:
 - a) of the immediate execution of the request made pursuant to this chapter;
 - b) of the final outcome of the execution of the request;
 - c) of the decision refusing, postponing or attaching conditions, in whole or in part, to any cooperation provided for in this chapter;
 - d) of all circumstances that render impossible the execution of the requested measures or that risk delaying their execution significantly; and
 - e) in the event of provisional measures taken for a request made pursuant to section 2 or 3 of this chapter, of the provisions of its domestic law which would automatically result in the removal of the measure.
2. The requesting Party shall promptly inform the requested Party:
 - a) of any review, decision or other fact that removes, in whole or in part, the enforceable character of the confiscation decision;
 - b) of any factual or legal change that renders unjustified any further action taken pursuant to this chapter.
3. When one Party requests the confiscation of property in several Parties on the basis of the same confiscation decision, it shall inform all relevant Parties of the execution of the decision.

Article 42
Restriction of use

1. The requested Party may subject the execution of a request to the condition that the information or evidence obtained, without its prior approval, shall not be used or transmitted by the authorities of the requesting Party for investigations or proceedings other than those specified in the request.

2. Any Party or the European Community, at the time of signing or depositing its instruments of ratification, acceptance, approval or accession, may declare, by means of a statement addressed to the Secretary General of the Council of Europe, that information or evidence provided by it under this chapter, without its prior approval, may not be used by the authorities of the requesting Party for investigations or proceedings other than those specified in the request.

Article 43
Confidentiality

1. The requesting Party may ask the requested Party to keep the request and its contents confidential, except where it is necessary for the execution of the request. Where the requested Party cannot comply with this condition of confidentiality, it shall promptly inform the requesting Party thereof.

2. The requesting Party, when so requested and provided that this does not conflict with the fundamental principles of its domestic law, shall keep confidential all evidence and information communicated by the requested Party, except where it is necessary for the purposes of the investigation or proceeding described in the request.

3. Subject to the provisions of its domestic law, the Party that has received a spontaneous transmission of information under Article 20 shall comply with the condition of confidentiality required by the Party transmitting the information. If the other Party cannot comply with such a condition, it shall promptly inform the Party transmitting the information thereof.

Article 44
Expenses

Ordinary expenses incurred in executing a request shall be borne by the requested Party. Where it becomes necessary to incur substantial or extraordinary expenses in order to comply with the request, the Parties shall agree on the conditions under which the request shall be executed and on the manner in which the expenses related to such a request shall be covered.

Article 45
Damages

1. When a person has brought an action regarding liability for damages resulting from the commission or omission of an act within the framework of the cooperation provided for in this chapter, the Parties concerned shall consult each other and, where appropriate, shall determine the method of compensation and proper settlement.

2. The Party which is the subject of a claim for compensation shall endeavor to inform the other Party without delay, where the latter may have an interest in that matter.

CHAPTER V
COOPERATION BETWEEN FIUS

Article 46
Cooperation between FIUs

1. The Parties shall ensure that the FIUs, as defined in this Convention, cooperate for the purpose of combating money laundering, collect and analyze or, as appropriate, investigate within the relevant FIU information, regarding any fact that may be indicative of money laundering, in accordance with their internal competences.

2. For the purposes of paragraph 1, each Party shall ensure that the FIUs exchange, spontaneously or upon request, in accordance with this Convention or in accordance with existing or future memoranda of understanding, in accordance with this Convention, any possible information

that may be relevant for the processing or analysis of the information or, as appropriate, for investigation by the FIU in relation to financial transactions related to money laundering and the natural and legal persons involved.

3. Each Party shall ensure that the exercise of the functions of the FIU under this Article is not affected by their internal status, regardless of whether they are administrative, enforcement or judicial authorities.

4. Any request made under this Article shall be accompanied by a brief description of the facts known to the requesting FIU. The FIU shall specify in the request how the requested information will be used.

5. If a request is made pursuant to this Article, the requested FIU shall provide all relevant information, including any possible financial information and the data required for legal execution, as requested in the application, without the need for a formal letter of request, on the basis of conventions or applicable agreements between the Parties.

6. An FIU may refuse to disclose information that could lead to the prejudice of a criminal proceeding initiated in the requested Party or in exceptional circumstances, if the disclosure of such information would not be in relation to the legitimate interests of a natural or legal person or of the respective Party, or would not be in accordance with the fundamental principles of the domestic law of the requested Party. Any such refusal shall be duly explained to the FIU requesting the information.

7. Information or documents obtained under this Article shall be used only for the purposes provided in paragraph 1. Information provided by a counterpart FIU shall not be given to a third party nor shall it be used by the receiving FIU for purposes other than analysis, without the prior consent of the providing FIU.

8. During the transmission of information or documents in accordance with this Article, the transmitting FIU may impose restrictions and conditions on the use of the information for purposes other than those specified in paragraph 7. The receiving FIU shall comply with any such restrictions and conditions.

9. If a Party wishes to use the information or documents transmitted for investigations or criminal proceedings for the purposes provided in paragraph 7, the transmitting FIU may not refuse its consent for such use except when it does so on the basis of restrictions under its domestic law or the conditions provided in paragraph 6. Any refusal to grant such consent shall be properly explained.

10. FIUs shall take all necessary measures, including security measures, to ensure that information provided under this Article is not given to any other authority, agency, or department.

11. The information provided shall be protected in accordance with the Council of Europe Convention of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data (ETS No. 108) and taking into account Recommendation NoR(87)15 of 15 September 1987 of the Committee of Ministers of the Council of Europe concerning the use of personal data in the police sector, by at least the same rules of confidentiality and protection of personal data as those applicable under domestic legislation and which apply to the requesting FIU.

12. The transmitting FIU may make reasonable requests regarding the use of the information provided and the receiving FIU, as appropriate, shall provide the relevant data.

13. The Parties shall designate the unit that is an FIU within the meaning of this Article.

Article 47

International cooperation for the postponement of suspicious transactions

1. Each Party shall adopt such legislative and other measures as may be necessary to allow immediate action to be initiated by the FIU, at the request of a foreign FIU, to suspend or not give consent to a transaction being carried out for such proceeds and subject to the same conditions as are applicable under its domestic law in relation to the postponement of transactions.

2. The action referred to in paragraph 1 shall be taken if the requested FIU is satisfied, on the basis of the reasoning of the requesting FIU, that:

- a) the transaction concerns money laundering; and
- b) the transaction would have been suspended or consent to the transaction being carried out

would not have been given, if the transaction were the subject of a domestic report as a suspicious transaction.

CHAPTER VI MONITORING MECHANISM AND SETTLEMENT OF DISPUTES

Article 48

Monitoring mechanism and settlement of disputes

1. The Conference of the Parties (COP) is responsible for monitoring the implementation of the Convention. COP:

- a) monitors the proper implementation of the Convention by the Parties;
- b) at the request of a Party, expresses an opinion on any issue relating to the interpretation and implementation of the Convention.

2. COP carries out the functions under paragraph 1.a above, using any public summary made by the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (Moneyval) (for Moneyval countries) and any public summary provided by FATF (for FATF countries), additionally supplementing, as appropriate, with periodic self-assessment questionnaires. The monitoring procedure addresses the areas covered by this Convention only in relation to those areas that are not covered by other relevant international standards for which mutual evaluations are conducted by FATF and Moneyval.

3. If COP is of the opinion that it needs further information in order to carry out its functions, it contacts the relevant Parties, using, if requested by COP, the Moneyval procedure and mechanism. The relevant Party reports to COP. On this basis, COP decides whether or not to carry out a more advanced assessment of the position of the relevant Party. This may include, but is not necessarily limited to, an on-site visit by an assessment team.

4. In the event of a dispute between the Parties regarding the interpretation or application of the Convention, they shall endeavor to resolve the dispute through negotiations or by other peaceful means of their choice, including referring the dispute to COP, an arbitration court whose decisions are binding on the Parties, or to the International Court of Justice, as agreed by the relevant Parties.

5. COP adopts its own rules of procedure.

6. The Secretary General of the Council of Europe shall convene COP no later than one year after the entry into force of this Convention. Thereafter, regular meetings of COP shall be held in accordance with the rules of procedure adopted by COP.

CHAPTER VII FINAL PROVISIONS

Article 49

Signature and entry into force

1. This Convention is open for signature by the member States of the Council of Europe and by non-member States that have participated in its drafting. These States may express their consent to be bound by:

- a) signature without reservation as to ratification, acceptance or approval; or
- b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration

of a three-month period after the date on which six signatory States, of which at least four are member States of the Council of Europe, have expressed their consent to be bound by this Convention, in accordance with the provisions of paragraph 1.

4. For any signatory State that subsequently expresses its consent to be bound by this Convention, it shall enter into force on the first day of the month following the expiration of a three-month period after the date of the expression of consent to be bound by the Convention in accordance with the provisions of paragraph 1.

5. No State Party to the 1990 Convention may ratify, accept or approve this Convention without complying with at least the corresponding provisions of the 1990 Convention, the implementation of which is a legal obligation.

6. From the moment of its entry into force, the States Parties to this Convention, which are simultaneously also States Parties to the 1990 Convention:

- a) shall apply the provisions of this Convention in their relations with each other;
- b) shall continue to apply the provisions of the 1990 Convention in their relations with the States Parties to the 1990 Convention, but not to this Convention.

Article 50

Accession to the Convention

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the States Parties to the Convention, may invite any non-member State of the Council of Europe to accede to this Convention by means of a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimity of the representatives of the States Parties entitled to sit on the Committee.

2. For each acceding state, the Convention shall enter into force on the first day of the month following the expiration of a three-month period after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 51

Territorial application

1. Any state, at the time of signing or depositing the instrument of ratification, acceptance, approval or accession, may designate the territory or territories to which this Convention shall apply.

2. Any state, at any later date, by means of a declaration addressed to the Secretary General of the Council of Europe, may extend the application of this Convention to any other territory specified in the declaration. The Convention shall enter into force for that territory on the first day of the month following the expiration of a three-month period after the date of receipt of the declaration by the Secretary General of the Council of Europe.

3. Any declaration made under the two preceding paragraphs may be withdrawn, in respect of any territory specified in the declaration, by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall enter into force on the first day of the month following the expiration of a three-month period after the date of receipt of the notification by the Secretary General of the Council of Europe.

Article 52

Relationship with conventions and other agreements

1. This Convention shall not affect the rights and obligations arising from multilateral international conventions relating to specific matters.

2. The Parties to the Convention may conclude between themselves bilateral or multilateral agreements concerning matters governed by this Convention, with the purpose of supplementing or strengthening its provisions or facilitating the implementation of the principles it embodies.

3. When two or more States Parties have already concluded an agreement or a treaty on a

matter covered by this Convention or have otherwise regulated their relations regarding such subject, they shall be entitled to apply that agreement or treaty, in lieu of this Convention, if it facilitates international cooperation.

4. The States Parties which are Member States of the European Union shall, in their mutual relations, apply the relevant rules of the Union and the European Community to the extent that such rules regulate and are applicable to the matter concerned, without prejudice to the object and purpose of this Convention, and without prejudice to its full implementation in relation to the other Parties.

Article 53

Declarations and reservations

1. Any State or the European Community, at the time of signature or deposit of the instrument of ratification, acceptance, approval or accession, may make one or more declarations as provided for in Article 3 paragraph 2, Article 9 paragraph 4, Article 17 paragraph 5, Article 24 paragraph 3, Article 31 paragraph 2, Article 35 paragraphs 1 and 3, and Article 42 paragraph 2. No other reservation shall be permitted.

2. Any State or the European Community, at the time of signature or deposit of the instrument of ratification, acceptance, approval or accession, may also, by means of a written notification addressed to the Secretary General of the Council of Europe, declare that it avails itself fully or partially of the reservation(s) provided for in Article 7 paragraph 2 subparagraph c, Article 9 paragraph 6, Article 46 paragraph 5, and Article 47.

3. Any State or the European Community, at the time of signature or deposit of the instrument of ratification, acceptance, approval or accession, may declare the manner in which it intends to implement Article 17 and 19 of this Convention, in particular taking into account the applicable international agreements in the field of international cooperation in criminal matters. For any changes to this information, it shall notify in writing the Secretary General of the Council of Europe.

4. Any State or the European Community, at the time of signature or deposit of the instrument of ratification, acceptance, approval or accession, may declare:

- a) that it will not apply Article 3 paragraph 4 of the Convention; or
- b) that it will not apply Article 3 paragraph 4 of the Convention only partially; or
- c) the manner in which it intends to implement Article 3 paragraph 4 of the Convention.

5. No other reservation may be made.

6. Any State which has formulated a reservation under this Article may withdraw it wholly or partially by addressing a written notification to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of the notification by the Secretary General of the Council of Europe.

7. A Party which has formulated a reservation in respect of a provision of this Convention may not claim the application of that provision by another Party; it may, if the reservation is partial or conditional, claim the application of that provision to the extent that it has itself accepted it.

Article 54

Amendments

1. Any Party may propose amendments to this Convention and any proposal shall be communicated to the member States of the Council and to any non-member State that has acceded or has been invited to accede to this Convention by the Secretary General of the Council of Europe, in accordance with the provisions of Article 50.

2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems (CDPC), which shall submit its opinion on the proposed amendment to the Committee of Ministers of the Council of Europe.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the European Committee on Crime Problems (CDPC), and may adopt the amendment

by the majority specified in Article 20.d of the Statute of the Council of Europe.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this Article shall be transmitted to the Parties for acceptance.

5. Any amendment adopted in accordance with paragraph 3 of this Article shall enter into force on the thirtieth day after all the Parties have informed the Secretary General of the Council of Europe that they have accepted it.

6. In order to update the list of criminal offences in the annex attached, amendments may be proposed by any Party or by the Committee of Ministers. Such proposals for amendments shall be communicated to the Parties by the Secretary General of the Council of Europe.

7. After consultation with the non-member Parties, the Committee of Ministers may adopt a proposed amendment in accordance with paragraph 6 by the majority provided for in Article 20 point “d” of the Statute of the Council of Europe. The amendment shall enter into force at the end of the period of 1 year from the date it was sent to the Parties. During this period, any Party may notify the Secretary General of the Council of Europe of any possible objection to the entry into force of that amendment, as regards that Party.

8. If one third of the Parties notifies the Secretary General of the Council of Europe of an objection to the entry into force of the amendment, the amendment shall not enter into force.

9. If less than one third of the Parties notify regarding an objection, the amendment shall enter into force for those Parties which have not given notification of the objection.

10. When an amendment has entered into force in accordance with paragraphs 6 to 9 and a Party has expressed an objection to that amendment, then that amendment shall enter into force as regards the Party concerned, which has not accepted it, on the first day of the month following the date on which that Party notifies the Secretary General of the Council of Europe of its acceptance. A Party that has made an objection may withdraw it at any time, by notifying in writing the Secretary General of the Council of Europe.

11. If the Committee of Ministers has adopted a proposed amendment, a State Party or the European Community may not comply with this Convention without at the same time accepting the amendments made.

Article 55 **Denunciation**

1. Any Party may denounce this Convention at any time, by addressing a notification to the Secretary General of the Council of Europe.

2. The denunciation shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General of the Council of Europe.

3. Nevertheless, this Convention shall continue to apply to the execution of confiscation requested pursuant to Article 23, in accordance with the provisions of this Convention on a date prior to the entry into force of the denunciation.

Article 56 **Notifications**

The Secretary General of the Council of Europe shall notify the member States of the Council and any State that has acceded to this Convention of:

- a) any signature;
- b) the deposit of instruments of ratification, acceptance, approval or accession;
- c) any date of entry into force of this Convention in accordance with the provisions of Articles 49 and 50 thereof;
- d) any declaration or reservation pursuant to Article 53;

e) any other act, notification or communication relating to this Convention.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Warsaw, on 16 May 2005, in a single original in the French and English languages, both texts being equally authentic, which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall send a certified copy to each of the member States of the Council of Europe, the European Community, non-member States which participated in the drafting of the Convention, as well as to any other State invited to accede thereto.

ANNEX

- a) Participation in an organised criminal group and extortion
- b) Terrorism, including the financing of terrorism
- c) Trafficking in human beings and smuggling of migrants
- d) Sexual exploitation, including sexual exploitation of children
- e) Illicit trafficking in narcotic drugs and psychotropic substances
- f) Illicit trafficking in weapons
- g) Illicit trafficking in stolen goods and other goods
- h) Corruption and bribery
- i) Fraud
- j) Counterfeiting of currency
- k) Counterfeiting and product piracy
- l) Environmental crime
- m) Murder, grave bodily injury
- n) Kidnapping, unlawful restraint and hostage-taking
- o) Theft or robbery
- p) Smuggling
- q) Extortion
- r) Counterfeiting
- s) Piracy and
- t) Manipulation of the trading of securities and of the market.