

THE GREEK LAW ON MONEY LAUNDERING

UNFAIR COMPETITION PREVENTION LAW

Law No. 2331/24 August 1995

(Amendments: Law No. 2515/1997, Article 6)

(unofficial translation, source: Greek Ministry of Justice)

"Prevention and combating of the legalization of income from criminal activities" and other penal rules - Full member meetings of the Supreme Court (Arios Pagos) - Arbitrations and other provision's (Government Gazette No. 173/24.8.95. p.5231)

THE PRESIDENT OF THE HELLENIC REPUBLIC We
issue the following law which was voted by the Parliament

CHAPTER ONE

Prevention and combating of the legalization of illegal proceeds

Article 1

For the application of this law, the following terms have the following meaning:

1. "Criminal activity", the crimes foreseen by the following law provisions as valid:

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- a) Crimes foreseen by the law regarding the traffic of drugs;
- b) Crimes of par. 1 of Article 15 L. 2168/93 "about guns etc"
- c) Robbery (article 380 of Penal Code);
- d) Blackmail (article 385 of Penal Code);
- e) Kidnapping (article 322 of Penal Code);
- f) Larceny of especially high value (article 372, par. 1, Section b of Penal Code) and of distinguished cases of larceny of article 374 points a-f of Penal Code;
- g) Embezzlement if the object is of especially high value (article 375 par. 1 b of Penal Code) or if the action involves abuse of special trust or if the remaining circumstances of article 375 par. 2 of Penal Code coincide;
- h) Fraud, if the resulting damage is of especially high value (article 386 par. 1 Section b of Penal Code) or if the liable person commits frauds professionally or due to habit or if the circumstances under which the action is committed evidence that he is especially dangerous (article 386 par. 3 of Penal Code); i) Illegal trade of antiquities; j) Theft of cargo of a vessel, if its object is of especially high value (article 217, par. 1 section b, Code of Public Maritime Law);

- k) The crimes foreseen by points c and d of section 2 of par. 2 and par. 3 of article 10, L. 1383/83 "removals and transplantations of tissues and organs"; l) The crimes of par. 1 of article 1 of L. 1608/50 "about increase of penalties foreseen for the embezzlers of the State", as in force; m) Contraband, within the cases of article 102 par. 1B of the Customs Code (L. 1165/18, as in force);
- n) Crimes foreseen by L.D. 181/74 "about protection from ion radiations"; o) Crimes foreseen and punished by article 349, par. 3 of Penal Code (prostitution and exploitation of women); p) Crimes foreseen and punished by Royal Decree 29/1971 regarding the codification of rules about games and gambling.
2. *"Legalization of proceeds from criminal activity"*:
The crimes foreseen in the following article 2 of present law,
3. *"Property"*.
Property assets of every kind, incorporated or non incorporated, mobile or immobile, material or immaterial, as well as the legal deeds or documents which prove ownership of title or rights for the acquisition of such property assets.
4. *"Credit Institution"*:
An enterprise, the activity of which consists in the acceptance of deposits from the public or other returnable funds and in the granting of credits for its own account as well as the branch or a representative office in Greece of a Credit Institution situated abroad. More branches in the country of the same foreign credit institution are considered as a single credit institution.
This definition also includes the Post Savings Bank, the Consignations and Loans Fund, the Greek Bank of Industrial Development and the Bank of Greece.
5. *"Financial Organisation"*:
An enterprise which is not a credit institution and of which the main activity consists in investing in titles or the exercising of one or more of the financial activities mentioned in points 2-12 of article 24 L 2076/92 "assumption and exercising of activities of credit institutions and other relative matters". In the meaning of "credit institution", for the needs of this law are included mainly the portofolio investment companies, companies of management of mutual funds, the members of the Athens Stock exchange, any person acting for his account every activity of exchange transactions, the enterprises which are active in the sector of consumption credit, the insurance companies, as well as the branches of the financial organisations which have their main office abroad.
6. *"Competent Authority"*:
For the credit institutions, the Societes Anonymes of leasing, factoring, venture capital, bureaux de change, the Bank of Greece; for the insurance companies, the Ministry of Trade; and for the other financial organisations, the Committee of Capital Market.
7. *"Competent Organisation"*:
The Committee foreseen by article 7 of present law. *(This committee has meanwhile been set up and is now in operation)*

Article 2

1. Whoever on purpose: a) transfers or converts property resulting from criminal activity or from participation in such activity, aiming to hide its origin, b) offers assistance to a person involved in the criminal activity, so that he may avoid the consequences of his actions, c) acquires, receives as pledge, owns or uses property or acts as an intermediate in the transfer, conversion or in an action aiming to hiding property, whereas the property is derived imprisonment from five to ten years. If the perpetrator exercises such activities professionally or he is especially dangerous or he is a recidivist, he is punished with an imprisonment of ten years at least, unless there is a case of a more severe sentence.
2. Whoever being examined by court or other competent authorities or reporting to them, on purpose hides or covers the truth, concerning the nature, origin, disposal or use of property or of the place where such property lies, knowing that such property is derived from criminal activity, is punished with an imprisonment of six months at least, provided there is no case of heavier punishment. The court may not impose a penalty, in case the examined or reporting is husband/wife or relative by blood up to the second degree with the person who performed criminal activity.
3. Whoever establishes or acquires an enterprise or forms an organisation aiming to commit a crime mentioned in the first paragraph of this article or knowingly participates in such enterprise or organisation or grants to another person advice for the commitment of such a crime, is punished with an imprisonment of two years at least, provided there is no case of heavier punishment.
4. The crimes of this article are punished even if they were committed abroad.
5. The crimes foreseen in this article belong to the jurisdiction of the Three Members Court of Appeals for Felonies.
6. The property which is a product of criminal activity or is acquired in any way from a product of such a criminal activity or the property which was used, partly or in total, for criminal activity is seized and if there is no case of returning it to its owner, according to articles 310 par. 2 and 373 of the Code of Criminal Procedure, it is obligatorily confiscated with the passing of sentence of the competent Court. The confiscation is imposed even if the property belongs to a third person, provided that he knew about the crime.
7. In case of irrevocable sentence for attempt of committing a crime, mentioned in Article 1 par. 1, the property the perpetrator was going to use for the crime is also seized and confiscated.
8. Confiscation of property is also ordered even if, for any reason, no penal action or prosecution is exercised, and even if the one which was exercised was stopped or was considered to be unacceptable. In such cases the confiscation is ordered by an order of the Court Council or by a decision of the Competent Court which relieves or declares the penal prosecution unacceptable and if no prosecution was exercised, with the order of the first instance court council of the place the seizure took place. The orders of article 492 of the Code of Penal Procedure are accordingly applied in this case, too, unless the decision or the order was issued by the Supreme Court or by a Competent Court or Court Council which decides finally.

Also the orders of article 504 par. 3 of the Code of Penal Procedure are applied accordingly, unless the decision was issued by the Supreme Court (Arios Pagos).

9. A third person, against the property of whom confiscation was ordered, without his participation in the trial, nor being summoned, is entitled to apply for the nullity of the relevant order of the decision, within three months from its delivery to him. Articles 492 and 504 par. 3 of the Code of Penal Procedure are applied accordingly in the present case as well.
10. If the property mentioned in par. 1 of this article does not exist anymore or it has not been found, then a money penalty is imposed, which is equal to the value of such property, determined by the Court, at the time of the convicting decision.

Article 3

1. The State, after having the opinion of the Legal Council of the State, can claim at civil courts from the irrevocably convicted to imprisonment of at least three years, for a crime, of those mentioned in article 1 par. 1 of this law, any property he has acquired from similar crimes, even though for these crimes there has been no prosecution or no conviction was passed. Every property acquired by such a person during the last five years from the time of the commitment of the crime for which he was convicted and until the time this conviction became irrevocable, is presumed in favour of the State that it was acquired through committing similar crimes. The interested parties are allowed to prove the opposite.
2. If the property was transferred to a third person, the convicted is obliged to a recompensation, equal to its value during the time of discussion of the lawsuit. The above claim can be exercised against any third person who acquired through donation or equivalent manner and at the time of acquisition he was a husband or a wife or blood relative of first grade to the convicted or his brother or sister or an adopted child, as well as against any third person who acquired after the exercising against the convicted of a penal action for the above crime and who was in bad faith, if during the time of the acquisition he knew of the exercising of the penal action against the convicted. The third person and the convicted are liable in whole.

Article 4

1. The credit institutions and the financial organisations must, during the conclusion of contracts, while conducting any business activity and especially during the opening of a deposit account of any nature, during the conclusion of a contract for the safekeeping of property assets and for the leasing of a treasury compartment, as well as during the conclusion of a contract of a mortgaged loan, claim the evidence of the identity of contracting or the transacting person. For the evidence a police identity card or a passport or another official document is required. This obligation exists for every transaction, apart from the ones mentioned above herewith, the amount of which is equal in Drachmas to fifteen thousand European Currency Units (ECU) at least, either performed with one transaction or by more, which take place in the same day or refer to the same legal relationship.

If the amount is not known during the time of transaction, the credit institution or the financial organisation verifies the identity as soon as it is informed about the amount or finds out that it amounts to a sum of Drachmas equal to 15,000 ECU at least.

2. If the contracting or transacting person acts for the account of another person, besides the proof of his own identity according to paragraph 1, he must also prove the identity of the third person as well, either natural or legal, for the account of which he acts. The credit institution or the financial organisation must also verify such particulars when the contracting or transacting person does not make the previous declaration, but there is a justified doubt as to whether he acts on his own account or certainly that he acts for the account of another person.
3. In case there is doubt whether the contracting or transacting persons, mentioned in previous paragraphs, act on their own account or in case of certainty that they are not acting for their own account, the credit institutions and the financial organisations take the reasonably required measures in order to collect information about the real identity of the persons for the account of which they act.
4. Identification is not required:
 - a) For the insurance contracts concluded by insurance companies which come under the article 1 of present law, if the amount of the insurance premium or of the periodical insurance premiums, which are to be paid during the period of one year, do not exceed the amount in Drachmas equal to one thousand (1.000) ECU or, in case of a single payment, the amount equal to two thousand and five hundred (2.500) ECU. In case the insurance premium or the periodical insurance premiums to be paid during the period of one year are increased, so much that they exceed the lowest limit of one thousand (1.000) ECU, then the identification is required.
 - b) In contracts of pension insurance concluded according to the labour contracts or professional activity of the insured, under the condition that such contracts can neither include the clause of repurchase nor be used as a loan guarantee.
5. The credit institutions and the financial organisations may decide according to their judgement, but they are not obliged to undertake the identification according to this article when the contracting party is a credit institution, a financial organisation, a legal person of public law, or an organisation which belongs to the State by 51 % at least.
6. Identification also takes place in any case there is a serious suspicion about legalisation of income derived from criminal activity.
7. The data in relation to the above contracts and transactions and the relevant deeds and data are kept by the credit institution or the financial organisation for a period of five years at least. This five-year period starts from the moment the contracts are concluded and ends with the expiry of their relations with their customers, and for transactions from the date the last transaction is concluded, unless in both cases their record keeping is ordered by another law which provides for a longer period.
8. In case of liable violation of its obligation according to this article, a fine of five hundred thousand (500.000) and up to fifty million (50.000.000) Drachmas can be imposed against the credit institution or the financial organisation, by common decision of the Ministers of National Economy and Trade, which is issued after a proposal of the competent organisation.

9. The credit institutions and the financial organisations must
 - a) examine with special attention every transaction, which because of its nature can be connected with the legalisation of proceeds derived from criminal activity,
 - b) introduce and employ procedures of internal control and communication, in order to prevent and to hinder the undertaking of transactions, which have to do with the legalisation of income from criminal activities,
 - c) to take care that the procedures of this paragraph are applied in their branches abroad as well, except if it is prohibited by the relative foreign legislation. In this case they inform the competent Public Prosecutor's Office. With decision of the Competent Authority more specialized criteria or evidence of such transactions can be determined indicatively, as well as the way, the organs and the details of exercising the relative control.
10. Each credit institution or financial organisation must appoint a management executive to whom all other managers and employees should report a) about every transaction which they regard as being suspicious for legalising proceeds from criminal activity, and b) about every event which they come to know because of their service in the credit institution or in the financial organisation, and which could be an indication of criminal activity. At their branches this report must be made to the head of the branch who reports immediately to the appointed management executive, if the head of the branch agrees with the suspicions of the reporting employees.

In case the head of the branch or his alternate is hindered or denies or neglects or does not agree with the suspicions of the reporting employee, then the latter reports directly to the Competent managerial executive. He then reports and communicates, both by telephone as well as with a confidential document, to the Competent Committee, supplying to it at the same time every useful information or other data, if, after the examination that he performs, judges that the existing information and data constitute an indication of criminal activity.
11. The obligation of reporting to the Competent Committee of the previous paragraph is also attached to every employee of the Competent Authority as well as to any other person who is assigned with the undertaking of control in a credit institution or financial organisation, if during the exercise of his duties he observes any facts which could be indications of legalisation of income derived from criminal activity.
12. The credit institutions or financial organisations must not come to transactions for which they know or justifiably suspect that they are connected with the legalisation of proceeds from criminal activity, unless for the direct execution of the transaction there happens to be an urgent case or if this is imposed as a result of its nature as well as when the execution of the transaction may impede the disclosure of evidence or persons who probably are involved in the legalisation of proceeds from criminal activity. In this case the reports is submitted at once after the transaction.
13. The credit institutions and the financial organisations must provide the Competent Committee of article 7, the Public Prosecutor's authority, the examining Judge and the Court, whenever they are asked to, the required information or the evidences for all activities mentioned in paragraphs 1-8 of this article or the execution of other transactions when, according to the judgement of the Competent Committee, the District Attorney or a Court, it is possible to be related with the legalisation of income from a criminal activity or there is a case of confiscation, according to article 2 of this

law. The relevant correspondence is confidential. But if penal action is brought for criminal activity, then this correspondence consists an evidence of the legal proceedings. Otherwise it remains in the archives of the Competent Committee and is confidential.

14. The information and data mentioned in previous paragraphs are used only in trials, which refer to the criminal activity of legalisation of proceeds derived from such activity.
15. The notification of information and data according to the previous paragraphs, when done in good faith, is not an unfair or uncontractual action and can not justify any kind of liability.
16. The credit institutions and the financial organisations, the employees and the directors of paragraph 10, as well as the persons specified in paragraph 11 of this article, are prohibited to notify to the person concerned or to a third person the fact that information was given or that such information was required or that an investigation for the legalisation of income from criminal activity is being carried on. Whoever on purpose violates the duty of secrecy of this paragraph is punished with a penalty of imprisonment of up to two years and with a money penalty.
17. With a Presidential Decree, which is issued after a proposition of the Ministers of Justice, of Finance, and of Trade, the sums mentioned in this article are readjusted.

Article 5

1. When an ordinary investigation for the legalisation of proceeds from criminal activity is under way, the examining magistrate, with the consistent opinion of the public prosecutor, can prohibit any movement or charge or debit of the accounts kept by a credit institution or by a financial organisation as well as the opening of the safe boxes or compartments of treasury leased by the accused, even when they are kept jointly with other persons, where there are justified suspicions that such accounts or safe boxes include money or objects coming from the legalisation of proceeds derived from criminal activity. The same happens when an investigation for criminal activity is being carried out and there are justified suspicions that the accounts or safe boxes contain money or objects which are liable to seizure according to article 2 of this law. In case of a preliminary investigation, the prohibition of transactions of the accounts or of the opening of the safe boxes can be ordered by the competent Court Council. The order of the examining magistrate or of the Court Council is valid as a seizure report, it is issued without a writ of summons of the accused or of the third person and is not required to refer to any specific account or safety box, and is served to the accused and the competent management executives of the credit institution or of the financial organisation or to the head of the branch of either, depending on where the office of the examining magistrate or the public prosecutor is situated. In case of a joint account or of a joint treasury box this order is served to the third person as well.
2. The prohibition of the first paragraph comes into force from the moment of serving of the examining Judge's order or the court council's decree to either credit institution or financial organisation. From this moment it is prohibited to open the safety treasury box and any withdrawal of money from the bank account concerned is void for the State. Any management executive or any employee of the credit institution or of the financial organisation, who knowingly violates the provisions of the present paragraph, is punished with an imprisonment till two years and a money penalty.

3. Concurring the conditions of par. 1 of this article, the examining Judge or the Court Council can issue an order according to which no real estate of the accused may be sold or change ownership. The order of the examining Judge or the Court Council's decree is equivalent to a seizure report, it is issued without a previous summons writ of the accused and it is served to the accused and to the competent transcription officer, who is obliged to make the required transaction in the books at the same day as well as to make a record of the document which was sent to him. The details for the implementation of this paragraph are to be arranged by a decision of the Minister of justice. Every act of private law, mortgage, seizure or another act to be transcribed in the mortgage register, after the above mentioned recording, is not taken into account for the enforcement of rules of paragraphs 6 onward of article 2 of present law.
4. The accused and the third party are entitled to ask for the removal of the order of the examining magistrate or the revocation of the court council's decree, with an application addressed to the court council and deposited to the examining Judge or the public prosecutor within ten days from the delivery of the order. The Court Council in which the examining Judge does not participate, decides irrevocably within five days. The submission of the application does not suspend the performance of the order or the decree. The order or the decree is recalled when new evidence results.

Article 6

1. The provisions of paragraphs 9 onward of article 4 of present law are, by analogy, applied to the members of the Athens Stock Exchange as well as to the other enterprises mentioned in article 1 par. 5.
2. The Public Prosecutor, the examining magistrate and the Court can be informed about the content of the books and get other information which, according to the orders in force, are kept and recorded by the members of the Stock Exchange as well as by the other enterprises mentioned in article 1 par. 5 of the present law. In case of performance of an investigation or trial it is allowed to ask and to attach to the file of proceedings only an extract of the books or other documents with the relevant registrations which refer to the accused. The accuracy of the extract is certified by the member of the Stock Exchange or by the representative of the enterprise. The Public Prosecutor, the examining magistrate or the Court are entitled to verify the books and such documents in order to ascertain the accuracy of the contents in the extract of registrations or the existence of other registrations which refer to the accused. The accused may examine only the existence of registrations which are believed or which he claims that they refer to him.
3. Every member of the Athens Stock Exchange and every representative of the enterprises mentioned in the previous paragraph must report, by a confidential document, to the Competent Committee every transaction he believes to be suspicious for committing the crime of legalisation of proceeds from criminal activities.
4. The Customs Officers are also considered as special preliminary investigation authority to the crimes foreseen and punished by this law.

5. Until the issue of the Presidential Decree, mentioned in previous paragraph, all items of information according to articles 4 and 6 of this law are submitted to the competent Public Prosecutor from the persons mentioned in paragraph 10 of article 4 and paragraph 3 of article 6.
6. The Committee foreseen by this article accepts, evaluates and investigates every information in relation to transactions of legalisation of proceeds derived from criminal activities, forwarded to it by foreign competent organisations, with whom it co-operates for the granting of every possible assistance.

Article 8

The notification of information regarding legalisation of proceeds derived from criminal activities by an employee or director, done within their competence according to what is mentioned in articles 4 and 6 of this law, does not constitute violation of any contractual, legal or administrative obligation not to announce information, and it does not entail any kind of liability for the credit institutions and the financial organisations, as they are mentioned in article 1 paragraphs 4 and 5, and for the employees or their directors, except when they act maliciously. The same is in force and applies concerning the members and the employees of the Committee of article 7.

Article 9

From the beginning of application of the present law are abolished the articles 5 and 6 of Chapter 3 (Suppression of legalisation of income from criminal activities) of Law 2145/1993 (Government Gazette A' No. 88).

Law No. 2515/1997, Art. 6

(Amendments of Law 2331/1995 "Prevention" and combating the legalization of illegal proceeds).

Article 6

1. At the end of paragraph 1 of article 1 of Law 2331/1995 concerning the definition of predicate offences are added the following specified crimes under the meaning of "criminal activity":
 - s. The crime of usury ("loan sharking") when this is committed professionally or usually in the meaning of Penal Code (article 404, par. 3);
 - t. the crime of illegal immigration (article 19 of law 1941/1991);
 - u. the crime of contraband of juedeare substances etc. in addition to the case prescribed under "m" above.
2. The paragraph 8 of article 4 of Law 2331/1995 is substituted with the following:

"8. In the case of liable violation according to this article, a fine of five hundred thousand (500.000) and up to fifty million (50.000.000) Drachmas can be imposed against the credit institution or the financial organisation, by common decision of the Ministers of National Economy and Trade, which must be issued after a proposal of the relevant Competent Authority or of the Committee of article 7 of same law 2331/1995."
3. The last sentence of the paragraph 2 of article 7 of Law 2331/1995 is substituted as follows:

"The Committee is situated at the Ministry of Finance and an employee of the Ministry, appointed by the Minister, shall act as its secretary together with his alternate".
4. The second sentence of paragraph 3 of article 7 of Law 2331/1995 is substituted as follows:

"Secretarial support of the Committee is provided by the Ministry of Finance together with the Directorate of Customs being competent for controlling Economic Crime. In case of need this support can be provided also by employees who are dispatched and assigned with the same objective by the above mentioned Ministries".
5. Wherever in the article 1 par. 5, in the article 6 par. 2, 3 and 4, as well as in articles 9 and 10 of the Presidential Decree 401/1996 (Government Gazette 269A') are mentioned either the Ministry of National Economy or Minister of National Economy are meant, respectively, the Ministry of Finance or the Minister of Finance.
6. The paragraph 5 of article 7 of Law 2331/1995 is substituted as follows:

"5. The Committee when it considers a contract or a transaction to be suspicious of legalization of proceeds derived from criminal activities, shall prepare a documented investigative decision which it forwards, together with the file of the case, to the competent public prosecutor. Otherwise the Committee records the case in its archives, from where it can be used in whatever case related with the same or any other suspicious contract or transaction.
The Committee should finish its investigation at least within fifteen (15) days from the day the relevant information comes into its knowledge. In every case the provider of the information is informed for the result of the investigation.

7. The second sentence of paragraph 7 of article 7 of Law 2331/1995 is substituted as follows:
"The remuneration of the Chairman, the members the employees and the Secretary of the Committee is defined with a common decision of the Ministers of the National Economy and Finance, taken without regard of the provisions of Law 1256/1982, as well as of the articles 18 of Law 1505/1994 and 8 of Law 1810/1988. The resultant cost shall be charged to the credit of the budget of the Ministry of Finance."

N.B.: (Addition of a new predicate offence to Law 2331/1995 on money laundering: Bribery)

In article 1 par. 1 of Law 2331/1995 (Government Gazette 173 A') the following subparagraph is added:
"r. The crimes which are defined and punished by the provisions of articles 235, 236 and 237 of the Penal Code."