

Law 3875/2010 (Government Gazette No. 158 A')
**“Ratification and Implementation of the United Nations Convention against Transnational
Organized Crime and related provisions»**

(...)

Article Second
Amendments to provisions of the Penal Code

(...)

2. In Par. 1 of Article 187A of the Penal Code the phrase “with the exception of the cases referred to in Par. 8” is removed.

3. Pars. 3 to 9 of Article 187A of the Penal Code are replaced as follows:

“3. Whoever seriously threatens with the commission of the offence referred to in paragraph 1 and, thus, causes terror, shall be punished with imprisonment of at least two years. The attempt to commit such an offence shall not be punishable.

4. With incarceration of up to ten years is punished whoever forms or accedes as a member to a structured group with a continuous activity, consisting of three or more persons acting jointly and with the purpose of committing the offence referred to in paragraph 1 (terrorist organization). The act shall be punished with a reduced penalty (article 83), when the terrorist organization has been set up to commit the misdemeanors of paragraph 1. The manufacturing, procurement or possession of weapons, explosives and chemical or biological materials or materials emitting radiations harmful to man for the purpose or serving the objectives of the terrorist organization shall constitute an aggravating circumstance. The non-commission by the terrorist organization of any of the offences listed in paragraph 1 shall constitute a mitigating circumstance.

5. Whoever heads the terrorist organization referred to in the first sentence of the preceding paragraph shall be punished with incarceration of at least ten years. Whoever heads the terrorist organization referred to in the second sentence of the preceding paragraph shall be punished with the same penalty, reduced according to article 83.

6. Whoever provides any kind of assets, tangible or intangible, movable or immovable or any kind of financial instruments, regardless of their mode of acquisition, to a terrorist organization or an individual terrorist or for setting up a terrorist organization or for someone to become a terrorist or whoever receives, collects or manages any such assets or instruments with reference to the above, irrespective of the commission of any of the offences referred to in paragraph 1, shall be punished with incarceration of up to ten years.

With the same penalty is also punished whoever provides substantial information, with knowledge of such information being used in the future, to facilitate or support the commission by a terrorist organization or an individual terrorist of any of the felonies referred to in paragraph 1.

7. Whoever, with a purpose to commit the offence referred to in paragraph 1, carries out aggravated theft (article 374), robbery (paragraphs 1 and 3 of article 380), forgery (article 216) which pertains to a public document or extortion (article 385) shall be punished with incarceration, unless the extortion is punished with a heavier penalty. If the act committed is a misdemeanour, then a penalty of imprisonment of at least three years shall be imposed.

8. Paragraph 4 of Article 187 shall also apply to the offences referred to in the preceding paragraphs.”

(...)

Article Ninth

Amendments to 3691/2008 Act (GG 166 A')

1. In Par. 4 of Article 2 of 3691/2008 Act the phrase “as replaced by par. 1 of article 53 of the present Act” is removed.

2. Art. 51 of 3691/2008 Act is replaced as follows:

*“Article 51
Liability of legal persons*

1. Where any of the money laundering offences is committed for the benefit of a legal person by a physical person acting either individually or as part of an organ of the legal person and who possesses a leading position within the legal person based on a power of representation of the legal person or an authority to take decisions on behalf of the legal person or an authority to exercise control within the legal person, the following sanctions are imposed to the legal person, cumulatively or alternatively:

a. Regarding obligated legal persons or companies listed in a regulated market, by a decision of the competent authority referred to in Article 6 of the present Act, the following sanctions are imposed:

- i) An administrative fine of fifty thousand (50.000) up to five million (5.000.000) euro;*
 - ii) final or provisional - for a period from one month up to two years - withdrawal or suspension of the permit for the operation of the legal person or prohibition from carrying out its business;*
 - iii) prohibition from carrying out specific business activities or from the establishment of branches or capital increase, for the same period of time;*
 - iv) final or provisional exclusion, for the same period of time, from public grants, aids, subsidies, awarding of contracts for public works or services, procurement, advertising and tenders of the public sector or of the legal persons belonging to the public sector;*
- The administrative fine referred to in item i) above shall always apply, irrespective of the imposition of other sanctions.*

The Hellenic Capital Market Committee shall be the competent authority for the imposition of the above sanctions on the companies listed in a regulated market which are not supervised by other competent authorities referred to in Article 6 above.

b. Regarding non-obligated legal persons the following sanctions shall be imposed by a joint decision issued by the Minister of Justice, Transparency and Human Rights and the competent Minister in each case:

- i) An administrative fine of twenty thousand (20.000) up to two million (2.000.000) euro;*
- ii) the sanctions listed in subparagraph a) items ii) iii) and iv) above.*

Competent Minister in each case shall be considered the Minister who is in charge of a Ministry which has, in priority order, the following powers:

- to supervise the proper and legitimate operation of the legal person and to impose sanctions;*
- to grant the required permit for the operation of the legal person;*
- to keep a registry, in which the legal person is registered;*
- to fund and grant subsidies or provide financial aid.*

The above powers may be exercised by agencies or other bodies subordinated to or supervised by the relevant Ministry.

2. Where the lack of supervision or control by a physical person referred to in paragraph 1 of the present article has made possible the commission, by a physical person under its authority, of the money laundering offence for the benefit of a legal person, the following sanctions shall, cumulatively or alternatively, apply:

a. In the case referred to in paragraph 1 subparagraph a) above:

- An administrative fine of ten thousand (10.000) euro up to one million (1.000.000) euro;
 - the sanctions listed in subparagraph a) items ii) iii) and iv) above, for a period up to six months.
- b. In the case referred to in paragraph 1 subparagraph b) above:
- An administrative fine of five thousand (5.000) euro up to five hundred thousand (500.000) euro;
 - the sanctions listed in subparagraph a) items ii) iii) and iv) above, for a period up to six months.

3. For the cumulative or alternative imposition of the sanctions listed in the previous paragraphs and the determination of such sanctions, the following shall inter alia be taken into account: the gravity of the offence, the degree of culpability, the financial condition of the legal person, the amount of illegal profits or any likely acquired benefit and any recidivism of the legal person. No sanction is imposed without prior summoning of the legal representatives of the legal person to provide explanations. The summons is served on the interested party at least ten (10) days prior to the date of the hearing. In any other respect, the provisions of paragraphs 1 and 2 of Article 6 of 2690/1999 Act (Code of Administrative Procedure) shall apply.

4. The implementation of the provisions of the preceding paragraphs shall be independent of any civil, disciplinary or criminal liability of the physical persons mentioned therein.

5. The prosecution and police authorities, the Special Audits Agency and the Commission shall inform the competent authorities and the Minister of Justice, Transparency and Human Rights about the involvement of a legal person in cases under paragraphs 1 to 2 above regarding the commission of money laundering offences as well as about the relevant Court judgments issued.

6. The liability of legal persons regarding the offences of paragraph 6 of Article 187A of the Penal Code is determined in Article 41 of 3251/2004 Act”.

3. Par. 2 of Art. 52 of 3691/2008 Act is replaced as follows:

“2. The sanctions referred to in the previous paragraph shall be independent of the sanctions under Art. 51 of the present Act and Art. 41 of 3251/2004 Act. These sanctions shall be justified and publicized provided that their publication is unlikely to cause disproportionate damage to the legal person on whom the sanction is imposed”.

Article Tenth **Amendment to 3251/2004 Act (GG 127 A’)**

Art. 41 of 3251/2004 Act is replaced as follows:

“Article 41 *Liability of legal persons*

1. Where any of the offences of Articles 187 and 187A of the Penal Code is committed through or for the benefit or on behalf of a legal person by a physical person acting either individually or as part of an organ of the legal person and who possesses a leading position within the legal person based on a power of representation of the legal person or an authority to take decisions on behalf of the legal person or an authority to exercise control within the legal person, the following sanctions are imposed, cumulatively or alternatively, on the legal person by a joint decision issued by the Minister of Justice, Transparency and Human Rights and the Minister of Citizen Protection:

- i) An administrative fine of fifty thousand (50.000) up to five million (5.000.000) euro;
- ii) final or provisional - for a period from one month up to two years - withdrawal or suspension of the permit for the operation of the legal person or prohibition from carrying out its business;
- iii) prohibition from carrying out specific business activities or from the establishment of branches or capital increase, for the same period of time;

iv) final or provisional exclusion from public grants, aids, subsidies, awarding of contracts for public works or services, procurement, advertising and tenders of the public sector or of the legal persons belonging to the public sector;

The administrative fine referred to in item i) above shall always apply, irrespective of the imposition of other sanctions.

2. The above mentioned sanctions also apply when any of the offenses referred to in Article 187 paragraph 1 of the Penal Code has been committed by a criminal organization on behalf of the legal person, provided that the physical persons referred to in the previous paragraph are responsible.

3. Where the lack of supervision or control by a physical person referred to in paragraph 1 has made possible the commission, by a physical person under its authority, of any of the offences referred to in paragraphs 1 and 2, through or for the benefit or on behalf of a legal person, the following sanctions are imposed, cumulatively or alternatively, on the legal person:

- An administrative fine of ten thousand (10.000) euro up to one million (1.000.000) euro;

- the sanctions listed in items ii) iii) and iv) above, for a period up to six months.

4. For the cumulative or alternative imposition of the sanctions referred to in the previous paragraphs and the determination of such sanctions, the following shall inter alia be taken into account: the gravity of the offence, the degree of culpability, the financial condition of the legal person, and any recidivism of the legal person. No sanction is imposed without prior summoning of the legal representatives of the legal person to provide explanations. The summons is served on the interested party at least ten (10) days prior to the date of the hearing. In any other respect, the provisions of paragraphs 1 and 2 of Article 6 of 2690/1999 Act (Code of Administrative Procedure) shall apply.

5. The implementation of the provisions of the preceding paragraphs shall be independent of any civil, disciplinary or criminal liability of the physical persons mentioned therein.

6. The prosecution and police authorities shall inform the Minister of Justice, Transparency and Human Rights about the involvement of a legal person in cases under paragraphs 1 to 3 above regarding the commission of the offences under Articles 187 and 187A of the Penal Code, as well as about the relevant Court judgments issued.”

(...)

Article Thirteenth

1. The present Act comes into effect from its publication in the Government Gazette.

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