Combating Criminal Organizations Law, 5763-2003*

Chapter One: Interpretation

Definitions

1. In this Law –

"criminal organization" means an incorporated or unincorporated body of persons acting in an organized, systematic and continuous format for the commission of offenses which, under the laws of Israel, fall within the category of a felony or the offenses enumerated within the First Schedule, except offenses falling within the category of a felony enumerated within the Second Schedule; for this purpose, it is irrelevant –

(1) whether or not the members of the organization know the identity of the other members;

(2) whether the composition of the members of the group is fixed or changing;

(3) whether the aforesaid offenses in the opening passage are committed or intended to be committed in Israel or abroad, provided however that they constitute offenses both under the laws of Israel and under the laws of the place in which they were committed, or that under Israeli law, the Israeli penal laws apply to them, even if they are not offenses under the laws of that place;

(4) whether the organization also commits lawful acts and whether it also acts for lawful purposes;

"public servant" is as defined in sections 34X and 290(b) of the Penal Law, 5737-1977[1] (hereinafter -"the Penal Law");

"grounds for forfeiture" means the facts and conditions required for forfeiture of property under Chapters Three and Four, subject to the restrictions on forfeiture of property under Chapter Five;

"property" means immovable and movable property, monies and rights, inclusive of property which is the proceeds of any such property, and any property accruing or originating from the profits of any such property;

"property connected with an offense" means property satisfying one of the following:

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[1] *Sefer Ha-Chukkim* of 5737, p. 226.

(1) the offense was committed in it, it was used for the commission of the offense, it enabled the commission of the offense or was intended for commission of the offense;

(2) it was directly or indirectly obtained as remuneration for commission of the offense, intended to be remuneration for commission of the offense or obtained in consequence of commission of the offense.

Chapter Two: Offenses

Activist in a criminal organization

2. (a) A person who heads a criminal organization or a person who does one of the following acts in a manner that could promote the criminal activity of a criminal organization shall be liable to imprisonment for 10 years:

(1) he directly or indirectly manages, organizes, directs or supervises activities in a criminal organization;

(2) he directly or indirectly finances activities of a criminal organization or receives financing for the purpose of operating the organization or decides with respect to the distribution of monies in a criminal organization.

(b) A person providing a consulting service to a criminal organization with the object of promoting the criminal activities of the criminal organization shall be liable to imprisonment for ten years.

(c) Where an offense as stated in subsections (a) and (b) has been committed with respect to a criminal organization whose activities also include an offense for which the penalty prescribed exceeds imprisonment for 20 years, the person committing such an offense shall be liable to imprisonment for 20 years.

Offense within the framework of a criminal organization – aggravating circumstance

3. A person committing an offense within the framework of activities of a criminal organization, not being an offense under this Law or an offense for which the penalty prescribed is mandatory life imprisonment, shall be liable to twice the penalty prescribed for such offense, but no more than imprisonment for twenty five years.

Public servant aiding a criminal organization

4. A public servant who abuses his office or powers in a manner that could promote the criminal activity of a criminal organization shall be liable to imprisonment for ten years.

Chapter Three: Forfeiture of Property after Conviction in Criminal Proceedings

Post-conviction mandatory forfeiture, except on special grounds

5. Where a person has been convicted of an offense under sections 2, 3 or 4, the court shall order, unless it decides not do so on special grounds that it shall detail, that in addition to any penalty, the following property shall be forfeited:

    (1) property connected with the offense found in the possession of the convicted person, under his control or in his account;

    (2) property of the convicted person which is equal in value to the property connected with the offense.

Post-conviction optional forfeiture of property financed or gratuitously given to another person by the convicted person

6. Where no property as stated in section 5 is found for the grant of a forfeiture order under the section in question or to realize the forfeiture order in full, the court may grant a forfeiture order or direct that the order be realized from the property of another person, the acquisition of which was financed by the convicted person or which he transferred to the other person without consideration; the court shall not order as stated with respect to property which the convicted person financed or transferred to that other person prior to the commission of the offense for which he was convicted and with regard to which the forfeiture order was made, unless it has been proved that the financing or transfer were performed with the object of avoiding the forfeiture of the property.

Post-conviction optional forfeiture of property connected with an offense

7. Where a person has been convicted of an offense under sections 2, 3 or 4, the court may order the forfeiture of property connected with the offense, even if it is not found in the possession of the convicted person, under his control or in his account.

Post-conviction forfeiture of property of a person heading a criminal organization

8. Where a person has been convicted of an offense under the opening passage of section 2(a) for heading a criminal organization, the court may order that in addition to any penalty, the following property shall be forfeited:

    (1) property of the convicted person connected with another offense committed within the framework of the criminal organization headed by the convicted person, or equal in value to such property;

    (2) property of the criminal organization headed by the convicted person; where the court makes a forfeiture order under this paragraph, it shall take into account, *inter alia*, the scope of the

criminal activities of the criminal organization. Forfeiture of property under this paragraph shall be done at the application of a District Attorney.

Presumption regarding property of the convicted person

9. Property found in the possession of the convicted person, under his control or in his account is presumed to be his property, unless proven otherwise.

Application of prosecutor to forfeit property – specification in the indictment

10. The application of a prosecutor to forfeit property under this Chapter, and the details of the property for which forfeiture is requested or the value of the property with respect to which the forfeiture order is requested shall be mentioned in the indictment; when additional property is discovered, the forfeiture of which is requested, the prosecutor may amend the indictment at any stage of the proceedings prior to delivery of the sentence.

Right of argument

11. (a) Notice of an application of a prosecutor for forfeiture of property shall be delivered to the convicted person, as well as to the owner of the property, the person in whose possession, under whose control or in whose account the property is situated, and to any person claiming a right to the property (in this Law referred to as a "person claiming a right to the property"), if he may be traced with reasonable diligence in the circumstances of the case.

(b) The court may order the publication of an application for forfeiture of property in a newspaper or in any other manner that it determines; such publication shall not prejudice the right of a person claiming a right to the property to file an application to amend or cancel the forfeiture order under section 28.

(c) The court shall not order the forfeiture of property under this Chapter except after having given the person claiming a right to the property, if known, an opportunity to state his case.

Proof of facts and conditions required for forfeiture

12. Proof of the facts and conditions for forfeiture under this Chapter, after conviction in criminal proceedings, shall be performed to the level required in a civil trial.

Transfer of hearing on forfeiture to civil proceedings and forfeiture within the framework of such proceedings

13. (a) Where the court considers that an examination of the arguments on forfeiture is likely to impede the continuation of the hearing in criminal

proceedings, it may, on grounds to be recorded, determine that the hearing on forfeiture shall take place in civil proceedings in a District Court.

(b) Forfeiture of property in civil proceedings after the hearing has been transferred, as stated in subsection (a), from the court which convicted the person in the criminal proceedings, shall be performed under the provisions of this Chapter, *mutatis mutandis*, and the provisions of Chapter Four shall not apply.

Chapter Four: Forfeiture of Property in Civil Proceedings Without Prior Criminal Proceedings

Forfeiture of property in civil proceedings without prior criminal proceedings or without transfer after criminal proceedings

14. The District Court, on the application of a District Attorney, may order the forfeiture of property in civil proceedings, whether or not a person has been convicted or accused of an offense under this Law, where it is satisfied that one of the following conditions has been fulfilled:

(1) the property is property connected with an offense enumerated in Chapter Two;

(2) the property is property of a criminal organization.

Mode of filing prosecutor's application for forfeiture of property

15. (a) The application of the District Attorney shall be filed in writing and shall specify the property the forfeiture of which is requested; where additional property is discovered whose forfeiture is requested under this Chapter, the District Attorney may amend the application.

(b) The respondent in the application shall be the person claiming a right to the property, if he may be traced with reasonable diligence in the circumstances of the case.

Right of argument

16. (a) Notice of an application of a prosecutor for forfeiture of property shall be delivered to the person claiming a right to the property, if he may be traced with reasonable diligence in the circumstances of the case.

(b) The court may order the publication of an application for forfeiture of property in a newspaper or in any other manner that it determines; such publication shall not prejudice the right of a person claiming a right to the property to file an application to amend or cancel the forfeiture order under section 28.

(c) The court shall not order the forfeiture of property under this Chapter except after having given the person claiming a right to the property, if known, an opportunity to state his case.

Proof of facts and conditions required for forfeiture

17. (a) For the purpose of forfeiture of property under this Chapter, proof of the commission of the offense under Chapter Two or the existence of a criminal organization, as stated in section 14, shall be performed to the level of proof required in a criminal trial.

(b) For the purpose of forfeiture of property under this Chapter, proof of the connection between the property and the offense, or between the property and the criminal organization, as stated in section 14, shall be performed to the level of proof required in a civil trial.

Chapter Five: Restrictions on Forfeiture of Property

Property which may not be forfeited due to rights of another person

18. (a) The court shall not order the forfeiture of all or of part of any property, even if the facts and conditions for forfeiture of property under sections 5, 6, 7, 8, and 14 have been proved, in the following circumstances:

(1) in forfeiture under sections 5(2), 8 or 14(2) - the person claiming a right to the property has proved his right to the property;

(2) in forfeiture under sections 5(1), 7 and 14(1) - one of the following has been fulfilled:

(a) the person claiming a right to the property proved his right to the property and that he acquired such right prior to the commission of the offense in connection with which the forfeiture is requested, and he brought evidence that he was unaware or did not agree, as the case may be, that the property would be property connected with the aforesaid offense; where a doubt arises as to whether he was unaware or did not agree, and this doubt is not removed, the doubt shall operate in favor of the person claiming the right;

(b) the person claiming a right to the property proved his right to the property and that he acquired such right after commission of the offense in connection with which the forfeiture is requested, and he proved that he did so for consideration and in good faith; for this purpose, “for consideration” includes by way of inheritance;

(3) In forfeiture under section 6 - the person claiming a right to the property is not the person to whom the convicted person transferred the property or he who the convicted person financed the acquisition of his right to the property; he has proved his right to the property, and the provisions of subparagraphs (a) or (b) of paragraph (2), as the case may be, have been fulfilled.

(b) Where the court has found that part of the property should not be forfeited under the provisions of subsection (a) on account of the right of a person claiming a right to the property, it may, notwithstanding the provisions of the opening passage of subsection (a), also forfeit that part of the property, if it finds it proper to do so, subject to instructions assuring the right of the person claiming a right to the property, and preventing any unreasonable injury to that person, and instructions regarding compensation for any reasonable injury to that person.

(c) In this section, "a person claiming a right to property" - to the exclusion of the convicted person.

Property which cannot be forfeited and assurance of means of subsistence and housing

19. (a) The court may not order the forfeiture of property under this Law falling within the movable property which cannot be attached under section 22 of the Execution Law, 5727-1967[2].

(b) The court may not order the forfeiture of property under this law unless the court has found that the owner of the property to be forfeited and his family residing with him shall have reasonable means of subsistence and a reasonable place of residence.

Proof of existence of the restrictions on forfeiture

20. Subject to the provisions of section 18(a)(2)(a) on the raising of doubt, proof of the restrictions on forfeiture under this Chapter, and removal of the doubt aforesaid in the above paragraph, shall be performed to the level of proof required in a civil trial.

Chapter Six: Temporary Remedies

Power to grant temporary remedies

21. Where an indictment has been filed including an application for forfeiture, or an application for forfeiture in civil proceedings has been filed under this Law, the court may, upon the application of a District Attorney, make a temporary order with respect to the grant of sureties on behalf of the convicted person or any other person in possession of property, an injunction, an attachment order or other instructions, including instructions to the Administrator General or any

[2] *Sefer Ha-Chukkim* of 5727, p. 116.

other person with respect to temporary management of the property (hereinafter referred to in this Law as "the temporary order"). In this Chapter, "court" means the District Court in which the indictment or the application for forfeiture in civil proceedings has been filed, as the case may be.

Conditions for grant of temporary remedies

22. The court may make a temporary order as stated in section 21 where it is satisfied that *prima facie* evidence exists to prove the grounds for forfeiture and that failure to make the order will impede the realization of the forfeiture.

Grant of temporary remedy prior to filing indictment

23. (a) The court may make a temporary order under the provisions of this Chapter even prior to the filing of an indictment or an application for forfeiture in civil proceedings, as the case may be, upon the application of a District Attorney, if it has been duly satisfied that there are reasonable grounds to believe that the property with respect to which the order is requested is likely to disappear or that actions are likely to be done with such property preventing the realization of the forfeiture.

(b) A temporary order made prior to the filing of an indictment or prior to filing of an application for forfeiture in civil proceedings, as the case may be, shall lapse if the indictment or the application are not filed within six months from the day the order was given; the court may extend this period for additional periods not exceeding three months, provided that the total period does not exceed one year from the day the order was given.

(c) Notwithstanding the provisions of subsection (b), a judge of the Supreme Court may order the extension of validity of the temporary order from time to time for a period not exceeding three months each time.

(d) Where a temporary order has been made under this section and within the duration of its validity an indictment or an application for forfeiture in civil proceedings, as the case may be, have been filed, the temporary order shall lapse upon the expiration of ten days from the time of filing the indictment or application, as the case may be, if no application for the grant of a temporary order pursuant to the provisions of sections 21 and 22 has been filed in the court within the aforesaid period.

Ex parte temporary order

24. The court may make an *ex parte* temporary order under this Chapter, where it has reason to suspect that something will be done immediately to the property to frustrate its forfeiture; the validity of a temporary order given *ex parte* shall not exceed ten days and the application shall be heard in the presence of both parties as soon as possible and within the duration of validity of the order; the court may, on grounds to be recorded, extend the validity of a temporary order made *ex parte* for additional periods, provided that the total period does not exceed thirty days from the day the order was given.

Application of provisions on the right of argument and restrictions on the forfeiture of property

25. In a hearing on the application for grant of a temporary order under the provisions of this Chapter, except for an application for an *ex parte* order under section 24, the provisions of section 11 and the provisions of sections 18 and 19 shall apply, *mutatis mutandis*.

Grant of temporary order to the extent not exceeding what is required

26. Where the court has decided to make a temporary order under this Chapter, it shall determine the class, scope, conditions and duration of the order, all to an extent not exceeding what is required to realize the objects of the temporary order.

Compensation

27. Where the court has made a temporary order and the property has not been forfeited under this Law, the court may instruct that a person injured by such order shall be paid compensation from the State treasury.

Chapter Seven: Amendment and Cancellation of Forfeiture Order and Appeal

Amendment or cancellation of forfeiture order

28. (a) A person claiming a right to property forfeited under this Law (hereinafter referred to in this Chapter as "the applicant") who was not summoned to state his case with respect to the forfeiture order, may apply to the court which ordered the forfeiture to amend or cancel the order.

(b) An application to amend or cancel a forfeiture order shall be filed within two years from the day the forfeiture order was given, or within a later time to be determined by the court, if it deems it just to do so.

(c) Where the court has amended or canceled a forfeiture order, it shall order the return of all or part of the property to the applicant, or reimbursement from the State treasury to the applicant where it is impossible to return the property, or the applicant has agreed to receive the proceeds thereof; where the court has ordered the payment of the proceeds of the property, it shall determine in the order the amount of the payment according to the free market value of the property on the day the forfeiture order was given, or on the day the payment order was given, according to the higher of the two; the payment order or the order for the return of the property shall be given no later than three months from the day on which the court decided to cancel the forfeiture order.

(d) Where the court has amended or canceled a forfeiture order, it may order that any person injured on account of the order shall be compensated from the State treasury.

(e) An order for the return of property or a payment order shall be implemented as soon as possible, and no later than sixty days from the day on which they were given.

Reconsideration of temporary order

29. The court may reconsider a temporary order it has given, if it deems it justified to do so because of changed circumstances or new facts discovered after the temporary order was given.

Appeal

30. A decision on the grant, amendment or cancellation of a forfeiture order under this Law and any decision within a hearing on the application for the grant of a temporary order shall be appealable to the Supreme Court within 30 days from the day on which the appellant is notified of the making of the decision, in the same manner as an appeal is made on a decision in a civil matter; however, if a decision is made in a sentence and an appeal is filed on the judgment, the Supreme Court may also hear the appeal relating to the forfeiture order; an appeal on a decision concerning a temporary order shall be heard by a single judge.

Chapter Eight: Miscellaneous Provisions

Proof of a continuous and systematic format – past offenses and acts

31. For the purpose of proving a continuous and systematic format in which an organization, as stated in the definition of "criminal organization" in section 1, operates, evidence may be brought as to offenses committed and acts perpetrated prior to the commencement of this Law, provided that evidence is brought as to the continuation of the activity of the organization even after the commencement of this Law.

Value of forfeited property

32. The value of property forfeited according to forfeiture orders made under this Law, except with respect to the property of a criminal organization, shall not exceed the value of property connected to the offense in connection with whose commission the order was given.

Powers of search and seizure

33. Powers of search and seizure under the Arrest and Searches Ordinance [New Version], 5729-1969[3], shall apply, subject to the provisions of this Law and *mutatis mutandis*, also with respect to property in relation to which a forfeiture order may be given under this Law.

Implementation and Regulations

[3] *Dinei Medinat Yisrael (Nusach Chadash)* No. 12, p. 284.

34. The Minister of Justice is charged with the implementation of this Law and he may, with the approval of the Constitution, Law and Justice Committee of the Knesset, prescribe provisions for such implementation, regarding *inter alia* procedures concerning an application for a forfeiture order in criminal or civil proceedings, proceedings for the hearing of objections to forfeiture, an application for the grant of remedies to safeguard property, temporary remedies, reconsideration, appeal, as well as on the modes of implementation of the forfeiture, management of the assets and the giving of notices to persons claiming a right to the property.

Modifications to Schedule

35. The Minister of Justice may, with the approval of the Constitution, Law and Justice Committee of the Knesset, modify the list of offenses in the First and Second Schedules.

Amendment of the Prohibition on Money Laundering Law – No. 2

36. In the First Schedule to the Prohibition on Money Laundering Law, 5760-2000[4], –

(1) the following shall be inserted after paragraph (18):

"(18A) Offenses under sections 2, 3, and 4 of the Combating Criminal Organizations Law, 5763-2003;";

(2) in paragraphs 19 and 20, the words "specified herein" shall be replaced by the words, "in this Schedule".

Amendment of the Courts Law – No. 34

37. In the Courts Law [Consolidated Version], 5744-1984[5] –

(1) in section 51(a)(1)(a), the words " and except for an offense under the Restrictive Trade Practices Law, 5748-1988" shall be replaced by the words "except for an offense under the Restrictive Trade Practices Law, 5748-1988, and except for an offense under section 3 of the Combating Criminal Organizations Law, 5763-2003.";

(2) the following shall be inserted at the end of Part A of the First Schedule:

"6. An offense under section 3 of the Combating Criminal Organizations Law, 5763-2003."

Amendment of the Legal Assistance Between States Law – No. 2

38. In the Legal Assistance between States Law, 5758-1998[6], in the Second Schedule, the following shall be inserted after item (b):

[4] *Sefer Ha-Chukkim* of 5760, p. 293.
[5] *Sefer Ha-Chukkim* of 5744, p.198.

"(c) Offenses under sections 2, 3 and 4 of the Combating Criminal Organizations Law, 5763-2003."

[6] *Sefer Ha-Chukkim* of 5758, p. 356.

First Schedule

(section 1, offenses not within the category of felony, included within the definition of "criminal organization")

1. Offenses under these sections of the Penal Law: closing passage of 144(a), closing passage of 144(b), 228, 192, 161, 278, 279, 280, 282, 283, 284, 292, opening passage of 377, 384, 396, 399, 400, 401, 413D(a), opening passage of 415, 418 with respect to an offense where the penalty prescribed for it is up to three years imprisonment, 419, opening passage of 421, 425, 426, 439, 440, opening passage of 441, 442, 444, 445, 446, 452, 460, 479, 497, 498.

2. Smuggling offenses under sections 211 and 212 of the Customs Ordinance[7].

3. Offenses under section 4 of the Prevention of Terrorism Ordinance[8].

4. Offenses under section 10(c) and (d) of the Copyright Ordinance[9].

5. Offenses under section 60(a) of the Trade Marks Ordinance [New Version], 5732-1972[10].

6. Offenses under section 6(a) of the Performers' and Broadcasters' Rights Law, 5744-1984[11].

7. Offenses under sections 16, the opening passage of 17 and 18 of the Debit Cards Law, 5746-1986[12].

8. Conspiracy to commit one of the offenses specified in this Schedule.

Second Schedule

(section 1, offenses of the category of felony not included within the definition of "criminal organization")

1. Section 155 of the Penal Law.

Ariel Sharon
Prime Minister

Yosef (Tommy) Lapid
Minister of Justice

Moshe Katzav
President of the State

Reuven Rivlin
Speaker of the Knesset

[7] *Dinei Medinat Yisrael (Nusach Chadash)*, No. 3, p. 39.
[8] *Iton Rishmi* 1948, Supp. 1, p. 73.
[9] Laws of Palestine, vol. I, p. 364 (Hebrew edition).
[10] *Dinei Medinat Yisrael (Nusach Chadash)*, No. 26, p. 511.
[11] *Sefer Ha-Chukkim* of 5744, p. 157.
[12] *Sefer Ha-Chukkim* of 5746, p. 187.