

PREVENTION AND SUPPRESSION OF INVOLVEMENT
IN TRANSNATIONAL CRIMINAL ORGANISATION ACT,
B.E. 2556 (2013)

BHUMIBOL ADULYADEJ, REX;
Given on the 18th Day of June B.E. 2556;
Being the 68th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on the prevention and suppression of involvement in transnational criminal organisation;

This Act contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section 32, section 33, section 36, section 41 and section 45 of the Constitution of the Kingdom of Thailand so permit by the virtue of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act is called the “Prevention and Suppression of Involvement in Transnational Crime Organisation Act, B.E. 2556 (2013)”.

Section 2.¹ This Act shall come into force ninety days from the date of its publication in the Government Gazette.

* Translated by Ms. Mattanee Kaewpanya, under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Initial Version – pending review and approval by the Office of the Council of State.

¹ Published in the Government Gazette, Vol. 130, Part 55 Kor, Page 1, dated 26th June B.E. 2556 (2013).

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Section 3. In this Act:

“organized criminal group” means a group of three or more persons, existing for a period of time and acting in concert with the aim of committing a serious offence in order to obtain, directly or indirectly, a financial, proprietary or other material benefit;

“transnational criminal organisation” means an organized criminal group who has committed an offence with one of the following characteristics:

- (1) an offence committed in more than one State;
- (2) an offence committed in one State but its preparation, planning, direction, support or control of the commission of the offence takes place in another State;
- (3) an offence committed in one State but involves an organized criminal group that commits an offence in more than one State;
- (4) an offence committed in one State but has substantial effects in another State;

“serious offence” means a criminal offence punishable by imprisonment with the maximum terms of at least four years or a more serious penalty;

“investigating officer” means an investigating officer in accordance with the Criminal Procedure Code;

“competent official” means the person whom the Attorney-General or the National Police Commissioner-General appointed to assist the investigating officer in the inquiry, investigation and suppression of offences of involvement in transnational criminal organisation under this Act;

Section 4. The Prime Minister, the Minister of Justice and the Attorney-General shall have charge and control of the execution of this Act, in the parts relating to their powers and duties.

The Attorney-General has the power to issue Regulations for the execution of this Act.

The Regulations shall come into force upon their publication in the Government Gazette.

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CHAPTER I

GENERAL PROVISION

Section 5. Any person who commits one of the following acts:

(1) being a member of or a part of a working network of a transnational criminal organisation;

(2) agreeing with one or more other persons to commit a serious offence relating to a transnational criminal organisation;

(3) being involved in the commission of any act, whether directly or indirectly, relating to the activities or operations of a transnational criminal organisation, with knowledge of the objectives and operation of the activities or with knowledge of the intention to commit a serious crime of such transnational criminal organisation;

(4) organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime of a transnational criminal organization, with knowledge of the objectives and the operation of the activities or with knowledge of the intention to commit the serious crime of such transnational criminal organisation;

such person commits an offence of involvement in an organized criminal group.

Section 6. Any person who commits an offence under section 5 outside of the Kingdom shall be liable to receive a penalty inside of the Kingdom as prescribed under this Act.

In this regard, section 10 of the Penal Code shall apply *mutatis mutandis*.

Section 7. If a particular offender of the offence of involvement in transnational criminal organisation commits a serious offence in accordance with the objectives of the transnational criminal organisation, an offender of the offence of

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involvement in transnational criminal organisation, including all of the leaders, managers and persons who have positions in such transnational criminal organisation, who is also present while the serious offence is committed, or is present at a meeting but does not object to the agreement to commit such serious offence shall, all of them, be liable to the penalty prescribed for such serious offence.

Section 8. Any person who is a Member of the House of Representative, Member of the Senate, local Councillor, local Administrator, civil servants, an official of the local administration, an official of State organisation or agencies, board member or an executive or official of a State enterprise, officer, board member, manager or any other person responsible for the operation of a financial institution or a board member of various organisations under the Constitutions who commits an offence under this Chapter, shall be liable for twice the penalty prescribed for the offence.

Section 9. Any competent officer or investigating officer under this Act who commits an offence in the performance of his or her official duty, in relation to an offence under this Chapter, shall be liable to three times the penalty prescribed for the offence.

CHAPTER II

INVESTIGATION OF CASES UNDER THE OFFENCE OF INVOLVEMENT IN TRANSNATIONAL CRIMINAL ORGANISATION

Section 10. In a case where the offender of the offence of involvement in transnational criminal organisation is a State official in accordance with the Organic law on the prevention and suppression of corruption and under the powers and duties of the National Anti-Corruption Commission, the responsible investigating officer may continue to take legal action in accordance with this Act but he or she needs to inform the National Anti-Corruption Commission.

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The operation of the responsible investigating officer under paragraph is without prejudice to the power of the National Anti-Corruption Commission to take the following actions:

- (1) to investigate facts themselves, in this case, the responsible investigating officer shall submit the case file of the investigation and evidence obtained from the investigation, only where it is relevant to the commission of offence under the powers and duties of the National Anti-Corruption Commission, to the National Anti-Corruption Commission; and the National Anti-Corruption Commission may hold such case file of the investigation as a part of its factual investigation; or
- (2) to assign an inquiry officer under the Organic law on the prevention and suppression of corruption to join the investigation with the responsible investigating officer;

Section 11. In a case of an offence of involvement in transnational criminal organisation, an investigating officer may continue with the investigation, except where the Commission on Special Cases passes a resolution for such case to be handled by the Department of Special Investigation, then the investigating officer shall submit the case to the Department of Special Investigation to carry out its operation.

Section 12. For the benefits of co-ordinating the performance of the prevention and suppression of the commission of an offence of involvement in transnational criminal organisation, the Attorney-General, the National Police Commissioner-General and the heads of relevant State agencies shall reach an agreement on the performance of their duties between the relevant State agencies as follows:

- (1) the method of operations between agencies concerning receipt of complaints or accusation, the process relating to summon, criminal warrant, arrest, control, detention, search or temporary release, inquiry, investigation, comparison, submission of case and any other processes relating to criminal cases between the State agencies with the powers and duties to prevent and suppress the commission of criminal offences;

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(2) the scope of responsibilities of the administrative officer or the police, any other State official, investigating officer and competent official under this Act in the inquiry and investigation of a case; in this regard, in order for it to be appropriate for the characteristics of each State agency's performance of duties, specialised expertise, the affect of the commission of the offence and the efficiency in the thorough prevention and suppression of commission of a criminal offence, a case may be prescribed, for this purpose, to be a joint operation between relevant State agencies as well;

(3) the exchange of information concerning the prevention and suppression of commission of an offence of involvement in transnational criminal organisation;

(4) the support of the State agencies and State officials in the performance of duties concerning the inquiry and investigation of a case;

(5) any other matters concerning the inquiry and investigation of a case for the offence of involvement in transnational criminal organisation.

When an agreement under paragraph one is reached, the relevant State agencies shall have the duties to execute the agreement. If such agreement is a prescription of duties between State officials who are administrative officers or police officers or investigating officers for the performance of their duties to be in accordance with the Criminal Procedure Code, the operations of such state officials in the relevant parts shall be deemed to be an operation by a person who has the powers and duties to inquire and investigate in accordance with the Criminal Procedure Code;

Section 13. In the performance of the prevention and suppression of the commission of an offence of involvement in transnational criminal organisation, the Attorney-General, the National Police Commissioner-General or a person so assigned, as the case may be, may request for the heads of State agencies or other State officials to assist, support or join in with the performance of duties as necessary.

The heads of State agencies or other State officials under paragraph one shall have a duty to give assistance, support or to participate in the performance of duties, as the case may be.

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Section 14. For the benefit of the inquiry and investigation of the commission of the offence of involvement in transnational criminal organisation, the investigating officer or a competent official shall have the following powers:

(1) to enter into a place of residence or any other places in order to carry out a search when there is a reasonable cause to believe that there is a property the possession of which is an offence or that the property has been acquired through the commission of an offence, or that there is a person, material and an object, which may be used as evidence in a litigation, hidden in the residence or such places and there is also a reasonable cause to believe that if there is a delay in obtaining a search warrant such property or evidence may be moved, hidden, destroyed or modified;

(2) to issue a letter of inquiry or to summon any person to give statement or to submit an account document or any other materials for examination or to be used as a part of the consideration;

(3) to search a person or a vehicle where there is a reasonable cause to suspect that there is a hidden property the possession of which is an offence or that the property has been acquired through the commission of an offence or has been used or shall be used for the commission of an offence or which may be used as evidence;

(4) to confiscate or seize the property found or submitted as stated under (1), (2) and (3).

In exercising the power under paragraph one (1), the investigating officer or the competent official who carries out the search shall follow the Rules prescribed by the Attorney-General, by presenting his or her innocence before the search and shall present his or her identification card and document authorising the search and submit, in writing, a cause to believe that the search can be carried out to the person in possession of the residence or the searched place, except where there is no person in possession at the place, then the search shall be carried out in front of at least two other persons whom the investigating officer or competent official requested as witnesses. In such a case, the investigating officer or competent official shall submit the copies of document and letter to the person in possession of such residence or place, as soon as possible. If it is a night-search, there must

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be a public prosecutor from level 3 upwards or a civil servant from the professional level upwards or a police official of the position of an inspector or the equivalent as the head of the operation.

The investigating officer or competent official, who is the head of the search, shall submit, as evidence, a copy of a record on the reasonable cause to believe under paragraph two and a copy of a record on the search and a list of the confiscated or seized properties to the Court of the *Changwat* who has the jurisdiction over the searched areas or to a criminal Court in Bangkok within forty-eight hours from the completion of the search.

The powers and duties of an investigating officer or competent official of any position or any level as prescribed in paragraph one, in whole or in part, or the needed approval of such persons before his or her operation of duty shall be in accordance with the Rules prescribed by the Attorney-General by the issuance of a person-specific assignment document to the assigned investigating officer or competent officer.

Section 15. The custody and management of the property confiscated or seized by the investigating officer under section 14 shall be in accordance with the rules prescribed by the Attorney-General.

In a case where the property under paragraph one is not suitable for custody, or it is more of a burden for the State to take custody of it than to use it for other benefit, the investigating officer may order interested person or any person to take such property to care for or to use it for benefit while putting down an insurance or a pledge, or the investigating officer may order for such property to be sold by auction or to be used for the benefit of the State and then report to the Attorney-General.

The taking of the property to care for or to use it for benefit by an interested person or any person, the sale of the property by auction or the taking of the property to be used for the benefit of the State under paragraph two shall be in accordance with the Rules prescribed by the Attorney-General.

If it later appears that the property sold by auction or taken to be used for the benefit of the State under paragraph two is not the property involved in the commission

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of an offence, such property shall be returned, together with the compensations for damage and depreciation in accordance with the Rules prescribed by the Attorney-General, to the owner of or the person in possession of the property. If the property cannot be returned, the price of the property shall be compensated in accordance with an estimated price on the date that the property is confiscated or seized, or in accordance with the price earned from the sale by auction, as the case may be. In this regard, the owner of or the person in possession of the property shall receive interest at the highest rate for a fixed deposit account of the Government Savings Bank for the amount of money returned or compensated, as the case may be.

The estimation of compensations for damage and depreciation under paragraph four shall be in accordance with the Rules prescribed by the Attorney-General.

Section 16. Under the laws concerning firearms and ammunitions, explosives, fireworks and firearms equivalence and the laws concerning the control of war materials, for the benefit of the performance of duties in the inquiry and investigation of the commission of the offence of involvement in transnational criminal organisation, the public prosecutor, investigating officer and competent official under this Act shall have and use firearms, ammunition, war materials and relevant equipments for safety as necessary. In this regard, the possession and usage of such firearms, ammunition, war materials and relevant equipment shall be in accordance with the Rules prescribed by the Attorney-General.

Section 17. In a case where there is a reasonable cause to believe that a document or information sent by post, telex, telephone, facsimile, computer, communication tools or equipments, electronic media or any technological media is used or may be used in order to derive benefit from the commission of an offence of involvement in transnational criminal organisation, the investigating officer, authorised by the Attorney-General, National Police Commissioner-General, or a person so authorised, as the case may be, may submit a unilateral request to the Chief Justice of the Criminal Court for the issuance of an order permitting such document or news information to be obtained.

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In granting permission under paragraph one, the affect on personal rights or any other rights shall be considered, together with reasons and necessities, as follows:

- (1) there is a reasonable cause to believe that an offence of involvement in transnational criminal organisation has been committed or is to be committed;
- (2) there is a reasonable cause to believe that information concerning the commission of an offence of involvement in transnational criminal organisation shall be obtained by accessing such information;
- (3) no other methods that is more suitable or efficient may be used.

In granting permission under paragraph one, the Chief Justice of the Criminal Court shall issue an order granting the permission for no more than ninety days. Any conditions may be prescribed and the person relating to the information in the communicative material under the order must co-operate for matters to be in accordance with this section. After the issuance of order granting permission, if it later appears the facts that the reasons and necessities are not as stated or that the circumstances have changed, the Chief Justice of the Criminal Court may change the order granting permission or extend the time period permitted as deemed appropriate.

When the investigating officer has carried out the operation as permitted, he or she shall report the operation to the Chief Justice of the Criminal Court.

From all of the information obtained under paragraph one, only the information concerning the commission of the offence permitted under paragraph one shall be kept and used for the benefit of the investigation, or used as specific evidence only for the litigation of such case. Other information shall be completely destroyed, in accordance with the Rules prescribed by the Attorney-General.

Section 18. It is prohibited for any person carrying out the operation under section 17 to disclose the information obtained, except where it is information concerning the commission of an offence of involvement in transnational criminal organisation which has been granted permission under section 17 and it is an action in accordance with the powers and duties or the laws or the Court's order.

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Section 19. In a necessary case and for the benefit of the inquiry and investigation concerning the commission of an offence of involvement in transnational criminal organisation, the Attorney-General, National Police Commissioner-General or a person so authorised, as the case may be, shall authorise a person to prepare a document or evidence for covert operation for the benefit of the inquiry and investigation, in accordance with the criteria and methods prescribed in the Rules by the Attorney-General.

A covert operation means all operations to conceal the status or objectives of the operation by deceiving others to understand otherwise or for the truths concerning the performance of duties of the officers to be shielded from being known.

The preparation of a document or evidence or the covert operation under paragraph one shall be deemed a legitimate action.

Section 20. In a necessary case and for the benefit of the inquiry and investigation concerning the commission of an offence of involvement in transnational criminal organisation, the investigating officer or a competent official who has been authorised, in writing, by the Attorney-General, the National Police Commissioner-General or the person so authorised, as the case may be, shall have the power of movement under control.

A movement under control means the methods of permission for illegal or suspicious objects to be transferred, to move or to enter into the territory of a State or more than a State, while being under acknowledgement and monitor of an authorised official in order to investigate an offence and to determine persons involved in the commission of the offence.

Criteria, methods and conditions in seeking permission, permitting and movement under control shall be in accordance with the Rules prescribed by the Attorney-General with the approval of the Cabinet. In this regard, under such Rules, there must at least be control and examination measures to the exercise of power.

Action and evidence obtained from the actions of investigating officers or competent official under this section may be admitted as evidence.

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Section 21. An investigating officer or competent official may use communication tools, electronic tools or any other means only for tracing a person under the suspicion that he or she has committed or would commit an offence of involvement in transnational criminal organization in order to inquire, arrest, seek and collect evidence, in accordance with the rules prescribed by the Attorney-General.

Section 22. The commission of an offence of involvement in transnational criminal organisation under this Act shall be a predicate offence under the law on the prevention and suppression of money laundering.

CHAPTER III COOPERATION BENEFICIAL TO LITIGATION

Section 23. During the investigation into a case of an offence of involvement in transnational criminal organisation, if a suspect voluntarily provides information to the investigating officer or the Attorney-General, where the information is very important and beneficial to the inquiry and investigation concerning the activities and wrongdoings of a transnational criminal organisation and the information can be used as evidence in litigation against the leader or those who play an important role in a transnational criminal organisation, the investigating officer shall record such information in the investigation case file and submit it to the Attorney-General.

If the Attorney-General is of the opinion that the information received from the suspect is a very important and beneficial information in accordance with the provision of paragraph one, the Attorney-General shall have the power to exercise his or her discretion to issue an order not to prosecute the suspect on every count or on some of the counts.

In a case where the prosecution has commenced, if the giving of such information under paragraph one is done during the Court's proceeding, the Attorney-General shall have the power to issue an order to retract the prosecution, the appeal, the

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petition or an order not to appeal, not to submit a petition for the offence, in all or in part, as the case may be, under the provisions of the Criminal Procedure Code.

Section 24. If the Court is of the opinion that an offender has given very important and beneficial information to the suppression of the commission of the offence of involvement in transnational criminal organisation to an administrative officer or the police, investigating officer or public prosecutor, the Court may give to the person a lesser penalty than the lowest rate of penalty prescribed for the offence under this Act.

CHAPTER IV PENALTY

Section 25. A person who commits an offence of involvement in transnational criminal organisation shall be liable to imprisonment for a term from four years to fifteen years, or to a fine from eighty thousand baht to three hundred thousand baht, or to both.

Section 26. A person who obstructs an inquiry, investigation, prosecution or litigation on a case of an offence of involvement in transnational criminal organisation in order for it not to proceed in an orderly manner, shall be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding two hundred thousand baht or to both, if the action amounts to one of the following:

(1) giving, requesting or agreeing to give property or any other benefit to an injured person or a witness in order to persuade the person not to see a competent official, investigating officer, public prosecutor, or not to go to court to provide facts or to give evidence or for the provision of facts or the giving of evidence to be false or for there to be no provision of facts or giving of evidence in a litigation against an offender;

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(2) forcing, threatening, intimidating, coercing, deceiving or committing other illegitimate acts in order for an injured person or a witness not to see a competent official, investigating officer, public prosecutor, or not to go to court to provide facts or to give evidence or for such person to provide facts and give evidence which is false, or for there to be no provision of facts or giving of evidence in a litigation against an offender;

(3) damaging, destroying, causing to be lost or rendering useless, taking, amending, modifying, concealing or hiding any document or evidence, or falsifying, making or using any document or evidence which is false in a litigation against an offender;

(4) giving, requesting or agreeing to give property or any other benefit to a competent official, justice officer, public prosecutor or investigating officer, or demand, receive or accept to receive property or any other benefit in order to persuade the action, omission or delay of action in such a way that is against his or her duties; or

(5) forcing, threatening, intimidating, coercing, deceiving or committing other illegitimate acts to a competent official, justice officer, public prosecutor or investigating officer in order to persuade the action, omission or delay of action in such a way that is against his or her duties.

Section 27. An owner or person in possession of a residence or other place under section 14 (1) who refuses, without a reasonable cause or justification, to allow an investigating officer or competent official to enter into the residence or other place shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand baht, or to both.

Section 28. A person who does not come to give evidence to does not submit a list, documents or any objects under section 14 (2) shall be liable to imprisonment for a term not exceeding six month or to a fine not exceeding ten thousand baht, or to both.

Section 29. A person who violates section 18 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht or to both.

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If the commission of an offence under paragraph one is done by an investigating officer, competent official, or public prosecutor who is a part of the investigation or operation, or who is a part of the operation under section 13 or section 17, the offender shall be liable to three times the penalty as prescribed in paragraph one.

Section 30. A person who, in the performance of his or her duties under section 19 or section 21, commits an act outside of the objectives of the inquiry and investigation under this Act in order to seek unlawful benefit for himself or herself or for others, the person shall not be protected under this Act. If the commission of the act is a criminal offence, he or she shall be liable for twice the penalty prescribed for that offence.

Section 31. A person who moves, damages, destroys, hides, causes to be lost or renders useless a document or information record or property that an investigating officer or competent official has confiscated or seized, shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand baht or to both.

Section 32. A legal person who commits an offence of involvement in transnational criminal organisation shall be liable to a fine from two hundred thousand baht to one million baht.

In a case where the commission of the offence by a legal person derives from an order or a commission of a person, or the omission of order or of action which is a duty of a board member, manager or a person responsible for the operation of the legal person, such person shall be liable to imprisonment for a term from four years to fifteen years or to a fine from eighty thousand baht to three hundred thousand baht or to both.

Countersigned by
Yingluck Shinawatra
Prime Minister

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