

PRESIDÊNCIA DA REPÚBLICA

Decreto do Presidente da República n.º 17/2006 de 9 de Março

O Presidente da República decreta, nos termos do artigo 135.º, alínea b), da Constituição, o seguinte:

É ratificado o Segundo Protocolo Adicional à Convenção Europeia de Auxílio Judiciário Mútuo em Matéria Penal, aberto à assinatura, em Estrasburgo, em 8 de Novembro de 2001, aprovado, para ratificação, pela Resolução da Assembleia da República n.º 18/2006, em 7 de Dezembro de 2005.

Assinado em 9 de Fevereiro de 2006.

Publique-se.

O Presidente da República, JORGE SAMPAIO.

Referendado em 22 de Fevereiro de 2006.

O Primeiro-Ministro, *José Sócrates Carvalho Pinto de Sousa*.

ASSEMBLEIA DA REPÚBLICA

Resolução da Assembleia da República n.º 18/2006

Aprova, para ratificação, o Segundo Protocolo Adicional à Convenção Europeia de Auxílio Judiciário Mútuo em Matéria Penal, aberto à assinatura em Estrasburgo em 8 de Novembro de 2001.

A Assembleia da República resolve, nos termos da alínea i) do artigo 161.º e do n.º 5 do artigo 166.º da Constituição, aprovar, para ratificação, o Segundo Protocolo Adicional à Convenção Europeia de Auxílio Judiciário Mútuo em Matéria Penal, aberto à assinatura em Estrasburgo em 8 de Novembro de 2001, cujo texto, nas versões autenticadas nas línguas inglesa e francesa e respectiva tradução em língua portuguesa, se publica em anexo.

Aprovada em 7 de Dezembro de 2005.

O Presidente da Assembleia da República, *Jaime Gama*.

SECOND ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Strasbourg, 8.XI.2001.

The member States of the Council of Europe, signatory to this Protocol:

Having regard to their undertakings under the Statute of the Council of Europe;

Desirous of further contributing to safeguard human rights, uphold the rule of law and support the democratic fabric of society;

Considering it desirable to that effect to strengthen their individual and collective ability to respond to crime;

Decided to improve on and supplement in certain aspects the European Convention on Mutual

Assistance in Criminal Matters, done at Strasbourg on 20 April 1959 (hereinafter referred to as «the Convention»), as well as the Additional Protocol thereto, done at Strasbourg on 17 March 1978;

Taking into consideration the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950, as well as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981;

have agreed as follows:

CHAPTER I

Article 1

Scope

Article 1 of the Convention shall be replaced by the following provisions:

«1 — The Parties undertake promptly to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party.

2 — This Convention does not apply to arrests the enforcement of verdicts or offences under military law which are not offences under ordinary criminal law.

3 — Mutual assistance may also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Party by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

4 — Mutual assistance shall not be refused solely on the grounds that it relates to acts for which a legal person may be held liable in the requesting Party.»

Article 2

Presence of officials of the requesting Party

Article 4 of the Convention shall be supplemented by the following text, the original article 4 of the Convention becoming paragraph 1 and the provisions below becoming paragraph 2:

«2 — Requests for the presence of such officials or interested persons should not be refused where that presence is likely to render the execution of the request for assistance more responsive to the needs of the requesting Party and, therefore, likely to avoid the need for supplementary requests for assistance.»

Article 3

Temporary transfer of detained persons to the territory of the requesting Party

Article 11 of the Convention shall be replaced by the following provisions:

«1 — A person in custody whose personal appearance for evidentiary purposes other than for standing trial