

Freezing and confiscation orders

The European Commission proposed, in 2016, a new regulation to improve the EU legal framework on the freezing and confiscation of criminal assets in cross-border cases. It covers new types of confiscation orders, speeds up procedures and ensures victims' rights to compensation and restitution. The European Parliament is due to vote during its October I plenary session on the agreed text reached in trilogue negotiations.

Background

Confiscating the proceeds of crime is a key measure for fighting organised crime. [Europol](#) estimated in 2016 that 98.9 % of criminal profits are not confiscated, thus remaining in criminals' hands. Despite this, Member States have poorly implemented or rarely used the existing EU measures on the freezing and confiscation of criminal assets, resulting in their insufficient recovery and inadequate protection for victims' rights.

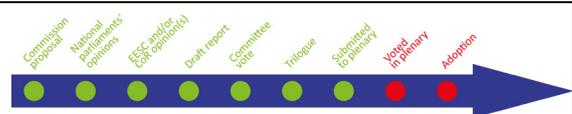
European Commission proposal

To better address the [challenge](#) of criminals and [terrorists](#) hiding their assets in other Member States, the Commission adopted a package of measures in December 2016, to strengthen the EU's capacity to fight the financing of terrorism and organised crime. It includes a [proposal](#) for a regulation on the mutual recognition of freezing and confiscation orders for the proceeds of crime, following the European Parliament's [call](#) for legislation on the issue. The proposed regulation aims at [simplifying](#) the existing legal framework, and improving the cross-border enforcement of freezing and confiscation orders, while ensuring victims' rights to compensation and restitution. It replaces two existing framework decisions with a single directly applicable instrument. Accordingly, an order issued by one Member State's authorities would be recognised and executed in another Member State as if it were a domestic one. Standard certificates and tight deadlines aim to improve the speed of execution. The scope would also extend to new types of confiscation – in line with [Directive 2014/42/EU](#), which set common minimum rules on extended and third-party confiscation, and a limited form of non-conviction based confiscation (NCBC) – but would [go beyond](#) the '[eurocrimes](#)' covered by that directive, to cover all criminal offences and other types of NCBC orders issued in criminal proceedings.

European Parliament position

On 11 January 2018, Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted its [report](#) on the proposal. It welcomes the unprecedented choice of a regulation (instead of directive) in the area of mutual recognition in criminal matters; suggests improvements to the procedures for recognition and execution of freezing and confiscation orders; and prioritises victims' rights to compensation and restitution. Key aspects of the report are the inclusion of a non-recognition clause based on fundamental rights, and the respect for procedural safeguards of 'affected persons'. In June 2018, the co-legislators agreed on the [text of the regulation](#) in trilogue negotiations. It now includes the grounds for non-recognition and non-execution in case of manifest breach of fundamental rights, under strict conditions; a 45-day deadline for the decision to recognise and execute a confiscation order and, for freezing orders, a deadline of 48 hours for recognition and another 48 hours for execution, in urgent cases; and provisions on victims' rights. The new regulation, which will apply two years after its entry into force, does not bind Ireland and Denmark, to which the provisions of Framework Decisions [2003/577/JHA](#) on freezing property and [2006/783/JHA](#) on confiscation orders continue to apply.

First-reading report: [2016/0414\(COD\)](#); Committee responsible: LIBE; Rapporteur: Nathalie Griesbeck (ALDE, France). For further information see our 'EU Legislation in progress' [briefing](#).



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