



2016/0412(COD)

18.9.2017

AMENDMENTS

28 - 85

Draft opinion
Fulvio Martusciello
(PE608.163v01-00)

Mutual recognition of freezing and confiscation orders

Proposal for a regulation
(COM(2016)0819 – C8-0002/2017 – 2016/0412(COD))

AM_Com_LegOpinion

Amendment 28

Ashley Fox

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) As crime is often transnational in nature, effective cross-border cooperation is essential in order to seize and confiscate the proceeds and instrumentalities of crime.

Amendment

(4) As crime, **money laundering and terrorism** is often transnational in nature, effective cross-border cooperation is essential in order to seize and confiscate the proceeds and instrumentalities of crime.

Or. en

Amendment 29

Lieve Wierinck

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) In order to ensure effective mutual recognition of freezing and confiscation orders, the rules on recognition and execution of those orders should be established by a legally binding and directly applicable legal act of the Union.

Amendment

(11) In order to ensure effective mutual recognition of freezing and confiscation orders, the rules on recognition and execution of those orders should be established by a legally binding and directly applicable legal act of the Union, **in the form of a regulation.**

Or. en

Amendment 30

Cătălin Sorin Ivan

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Whereas the mutual recognition of freezing and confiscation orders in the Union is an important step in the fight against crime, considerable number of assets are held offshore, unreported and untaxed, in third countries outside the Union. A comprehensive plan to discourage transfers of assets to other non-EU countries and to find an effective way to recover them will represent a major step forward.

Or. en

Amendment 31
Cătălin Sorin Ivan

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of criminal proceedings.

Amendment

(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of criminal, ***civil and administrative*** proceedings.

Or. en

Amendment 32
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) It is important to facilitate the

Amendment

(12) It is important to facilitate the

mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of criminal proceedings.

mutual recognition and execution of orders to freeze and to confiscate property by establishing rules obliging a Member State to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of criminal *and administrative* proceedings *in relation to criminal activities. Some Member States and third country jurisdictions have national provisions allowing freezing and confiscation orders both within and outside the framework of 'criminal proceedings' in the strict sense of the word.*

Or. en

Amendment 33 **Cătălin Sorin Ivan**

Proposal for a regulation **Recital 13**

Text proposed by the Commission

(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in relation to a criminal offence and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of orders issued without final conviction within the framework of criminal *proceedings. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil or administrative proceedings.*

Amendment

(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in relation to a criminal, *civil or administrative* offence and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of orders issued without final conviction within the framework of criminal, civil or administrative *proceedings.*

Or. en

Amendment 34

Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in relation to *a* criminal *offence* and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of orders issued without final conviction within the framework of criminal proceedings. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil or administrative *proceedings*.

Amendment

(13) This Regulation should apply to all confiscation orders imposed by a court *or by a competent authority* following proceedings in relation to criminal *activities* and all freezing orders issued with a view to possible subsequent confiscation. It should therefore cover all types of orders covered by Directive 2014/42/EU, as well as other types of orders issued without final conviction within the framework of criminal proceedings. This Regulation should not apply to freezing and confiscation orders issued within the framework of civil *proceedings* or administrative *proceedings not related to criminal activities*.

Or. en

Amendment 35
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU, as well as orders related to other offences. The offences should therefore not be limited to the areas of particularly serious *crime* with a cross-border dimension, as Article 82 TFEU does not require such limitation for measures laying down rules and procedures for ensuring mutual

Amendment

(14) This Regulation should cover confiscation and freezing orders related to offences covered by Directive 2014/42/EU, as well as orders related to other offences. The offences should therefore not be limited to the areas of particularly serious *crimes* with a cross-border dimension, as Article 82 TFEU does not require such limitation for measures laying down rules and procedures for ensuring mutual

recognition of judgments in criminal matters.

recognition of judgments in criminal matters. *Tax fraud, aggravated tax fraud and tax evasion, for example, constitute particularly important cross-border offences which should be included in the list of offences covered by this Regulation. However, given that in certain Member States such offences are not punishable by a custodial sentence of a maximum of at least three years, the maximum custodial sentence should be lowered to two years for those specific offences.*

Or. en

Amendment 36

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) This Regulation should be applied taking into account Directives 2010/64/EU³⁰, 2012/13/EU³¹, 2013/48/EU³², 2016/343³³, 2016/800³⁴ and 2016/1919 of the European Parliament and of the Council³⁵, which concern procedural rights in criminal proceedings.

Amendment

(18) This Regulation should be applied taking into account Directives 2010/64/EU³⁰, 2012/13/EU³¹, 2013/48/EU³², 2016/343³³, 2016/800³⁴ and 2016/1919 of the European Parliament and of the Council³⁵, which concern procedural rights in criminal proceedings. *Where non-conviction based confiscations constitute preventive confiscations following proceedings in relation to criminal activities, it is extremely important to ensure that the following strict conditions are met: non-conviction based confiscations should only be imposed against a finite list of possible targets identified by law, such as suspects of organised crime or of terrorism; the prosecution should prove that the property provenance cannot be justified and that the property to be confiscated is either disproportionate with regard to the declared income or the*

activity carried out or is of illicit origin or the result of reinvestment of the proceeds of crime; and effective procedural safeguards should be in place in order to ensure that the targets of non-conviction based confiscations have the right to a fair trial and the right to an effective remedy and that their presumption of innocence is respected.

³⁰ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

³¹ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

³² Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).

³³ Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

³⁴ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

³⁵ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects

³⁰ Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

³¹ Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

³² Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).

³³ Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

³⁴ Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

³⁵ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects

and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p.1).

and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p.1).

Or. en

Amendment 37
Lieve Wierinck

Proposal for a regulation
Recital 33

Text proposed by the Commission

Amendment

(33) Member States should not be able to claim from each other the refund of costs resulting from the application of this Regulation. However, where the executing State has had large or exceptional costs, a proposal by the executing authority that the costs be shared should be taken into account by the issuing authority.

deleted

Or. en

Amendment 38
Lieve Wierinck

Proposal for a regulation
Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) Should a progressive system of appropriation of gains be adopted, the same principle should apply to costs.

Or. en

Amendment 39

Cătălin Sorin Ivan

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of criminal proceedings.

Amendment

1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing or a confiscation order issued by another Member State within the framework of criminal, ***civil and administrative*** proceedings.

Or. en

Amendment 40

Cătălin Sorin Ivan

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘confiscation order’ means a final penalty or measure imposed by a court following proceedings in relation to a criminal offence, resulting in the final deprivation of property from a natural or legal person;

Amendment

(1) ‘confiscation order’ means a final penalty or measure imposed by a court ***or a competent authority*** following proceedings in relation to a criminal, ***civil or administrative*** offence, resulting in the final deprivation of property from a natural or legal person;

Or. en

Amendment 41

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) ‘confiscation order’ means a final

Amendment

(1) ‘confiscation order’ means a final

penalty or measure imposed by a court following proceedings in relation to *a* criminal **offence**, resulting in the final deprivation of property from a natural or legal person;

penalty or measure imposed by a court *or a competent authority* following proceedings in relation to criminal **activities**, resulting in the final deprivation of property from a natural or legal person;

Or. en

Amendment 42
Cătălin Sorin Ivan

Proposal for a regulation
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) 'proceeds' means any economic advantage derived directly or indirectly from a criminal offence; it may consist of any form of property and includes any subsequent reinvestment or transformation of direct proceeds and any valuable benefits;

Amendment

(4) 'proceeds' means any economic advantage derived directly or indirectly from a criminal, **civil or administrative** offence; it may consist of any form of property and includes any subsequent reinvestment or transformation of direct proceeds and any valuable benefits;

Or. en

Amendment 43
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) 'proceeds' means any economic advantage derived directly or indirectly from a criminal **offence**; it may consist of any form of property and includes any subsequent reinvestment or transformation of direct proceeds and any valuable benefits;

Amendment

(4) 'proceeds' means any economic advantage derived directly or indirectly from a criminal **activity**; it may consist of any form of property and includes any subsequent reinvestment or transformation of direct proceeds and any valuable benefits;

Or. en

Amendment 44
Cătălin Sorin Ivan

Proposal for a regulation
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) 'instrumentalities' means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences ;

Amendment

(5) 'instrumentalities' means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal, ***civil or administrative*** offence or criminal, ***civil or administrative*** offences ;

Or. en

Amendment 45
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

(5) 'instrumentalities' means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal ***offences*** ;

Amendment

(5) 'instrumentalities' means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal ***activities*** ;

Or. en

Amendment 46
Cătălin Sorin Ivan

Proposal for a regulation
Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued within the

Amendment

(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued within the

framework of criminal proceedings;

framework of criminal, *civil or administrative* proceedings;

Or. en

Amendment 47

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued within the framework of criminal proceedings;

Amendment

(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued within the framework of criminal *and administrative* proceedings;

Or. en

Amendment 48

Cătălin Sorin Ivan

Proposal for a regulation

Article 2 – paragraph 1 – point 8 – point a – point 2

Text proposed by the Commission

(2) any other competent authority as defined by the issuing State which has competence in criminal proceedings to order the freezing of property or to execute a freezing order in accordance with national law. In addition, before it is transmitted to the executing authority the freezing order shall be validated, after examination of its conformity with the conditions for issuing such an order under this Regulation, in particular the conditions set out in Article 13(1), by a judge, court, investigating judge or a public prosecutor in the issuing State. Where the order has

Amendment

(2) any other competent authority as defined by the issuing State which has competence in criminal, *civil or administrative*, proceedings to order the freezing of property or to execute a freezing order in accordance with national law. In addition, before it is transmitted to the executing authority the freezing order shall be validated, after examination of its conformity with the conditions for issuing such an order under this Regulation, in particular the conditions set out in Article 13(1), by a judge, court, investigating judge or a public prosecutor

been validated by such an authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the order;

in the issuing State. Where the order has been validated by such an authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the order;

Or. en

Amendment 49

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 8 – point a – point 2

Text proposed by the Commission

(2) any other competent authority as defined by the issuing State which has competence in criminal proceedings to order the freezing of property or to execute a freezing order in accordance with national law. In addition, before it is transmitted to the executing authority the freezing order shall be validated, after examination of its conformity with the conditions for issuing such an order under this Regulation, in particular the conditions set out in Article 13(1), by a judge, court, investigating judge or a public prosecutor in the issuing State. Where the order has been validated by such an authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the order;

Amendment

(2) any other competent authority as defined by the issuing State which has competence in criminal *or administrative* proceedings to order the freezing of property or to execute a freezing order in accordance with national law. In addition, before it is transmitted to the executing authority the freezing order shall be validated, after examination of its conformity with the conditions for issuing such an order under this Regulation, in particular the conditions set out in Article 13(1), by a judge, court, investigating judge or a public prosecutor in the issuing State. Where the order has been validated by such an authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the order;

Or. en

Amendment 50

Cătălin Sorin Ivan

Proposal for a regulation

Article 2 – paragraph 1 – point 8 – point b

Text proposed by the Commission

(b) in respect of a confiscation order, a competent authority as defined by the issuing State which, in criminal proceedings, has competence to enforce a confiscation order issued by a court in accordance with national law;

Amendment

(b) in respect of a confiscation order, a competent authority as defined by the issuing State which, in criminal, ***civil or administrative*** proceedings, has competence to enforce a confiscation order issued by a court in accordance with national law;

Or. en

Amendment 51

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point 8 – point b

Text proposed by the Commission

(b) in respect of a confiscation order, a competent authority as defined by the issuing State which, in criminal proceedings, has competence to enforce a confiscation order issued by a court in accordance with national law;

Amendment

(b) in respect of a confiscation order, a competent authority as defined by the issuing State which, in criminal ***or administrative*** proceedings, has competence to enforce a confiscation order issued by a court in accordance with national law;

Or. en

Amendment 52

Miguel Viegas

Proposal for a regulation

Article 3 – paragraph 1 – indent 7 a (new)

Text proposed by the Commission

Amendment

– ***financial crimes, including tax fraud, money laundering and measures restricting competition, such as abuse of a dominant position or concerted practices,***

Amendment 53
Miguel Viegas

Proposal for a regulation
Article 3 – paragraph 1 – indent 10 a (new)

Text proposed by the Commission

Amendment

– *mis-selling of financial products,*

Or. en

Amendment 54
Cătălin Sorin Ivan

Proposal for a regulation
Article 3 – paragraph 1 – indent 12

Text proposed by the Commission

Amendment

- *computer-related crime,*

– *cybercrime,*

Or. en

Amendment 55
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A freezing order or confiscation order shall give rise to execution without verification of the double criminality of the acts if the acts giving rise to the freezing or confiscation order constitute one or more of the following offences, as defined by the law of the issuing State, and are punishable in the issuing State by a custodial sentence of a maximum of at

least two years:

- *tax fraud,*
- *aggravated tax fraud,*
- *tax evasion.*

Or. en

Amendment 56
Cătălin Sorin Ivan

Proposal for a regulation
Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall, by means of delegated acts, update on a regular basis the list of offences covered by paragraph 1.

Or. en

Amendment 57
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) if, in a case referred to in Article 3(2), the conduct on which the confiscation order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the confiscation order shall not be refused on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the

(f) if, in a case referred to in Article 3(2), the conduct on which the confiscation order is based does not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of the confiscation order shall not be refused on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules **or offences** as regards taxes, duties and customs and exchange regulations as

law of the issuing State;

the law of the issuing State;

Or. en

Amendment 58

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

2. In the cases referred to in paragraph 1, before deciding not to recognise and execute the confiscation order, either in whole or in part, the executing authority shall consult the issuing authority by any appropriate means and shall, where appropriate, request the issuing authority to supply any necessary information without delay.

Amendment

2. In the cases referred to in paragraph 1, before deciding not to recognise and execute the confiscation order, either in whole or in part, the executing authority shall consult the issuing authority by any appropriate means **capable of producing a written record** and shall, where appropriate, request the issuing authority to supply any necessary information without delay.

Or. en

Amendment 59

Lieve Wierinck

Proposal for a regulation

Article 10 – paragraph 2

Text proposed by the Commission

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **30** days after the executing authority has received the confiscation order.

Amendment

2. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 5, no later than **15** days after the executing authority has received the confiscation order.

Or. en

Amendment 60
Lieve Wierinck

Proposal for a regulation
Article 10 – paragraph 4

Text proposed by the Commission

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **30** days following the taking of the decision referred to in paragraph 2 of this Article.

Amendment

4. Unless grounds for postponement pursuant to Article 11 exist, the executing authority shall carry out the confiscation without delay and without prejudice to paragraph 5 of this Article, not later than **15** days following the taking of the decision referred to in paragraph 2 of this Article.

Or. en

Amendment 61
Lieve Wierinck

Proposal for a regulation
Article 10 – paragraph 5

Text proposed by the Commission

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, without delay, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended by a maximum of **30** days.

Amendment

5. Where it is not possible in a specific case to meet the time limits set out in paragraphs 2 or 4, the executing authority shall, without delay, inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the confiscation. In such a case, the time limit laid down in paragraphs 2 or 4, may be extended by a maximum of **15** days.

Or. en

Amendment 62

Lieve Wierinck

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified ***without delay***. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

Amendment

Where it is impossible to execute the confiscation order because the property to be confiscated has already been confiscated, has disappeared, has been destroyed, or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified ***within 24 hours***. Where possible, the order may be executed on other property in accordance with Article 8(2) or (3).

Or. en

Amendment 63
Lieve Wierinck

Proposal for a regulation
Article 19 – paragraph 2

Text proposed by the Commission

2. Where the issuing authority has indicated in the freezing order that there are legitimate grounds to believe that the property in question will imminently be moved or destroyed and that immediate freezing is necessary, or if the issuing authority has indicated in the freezing order that the freezing measure has to be carried out on a specific date, the executing authority shall ***take full account of*** this requirement.

Amendment

2. Where the issuing authority has indicated in the freezing order that there are legitimate grounds to believe that the property in question will imminently be moved or destroyed and that immediate freezing is necessary, or if the issuing authority has indicated in the freezing order that the freezing measure has to be carried out on a specific date, the executing authority shall, ***as far as possible within its powers, comply with*** this requirement.

Or. en

Amendment 64
Lieve Wierinck

Proposal for a regulation
Article 19 – paragraph 7

Text proposed by the Commission

7. Where it is not possible in a specific case to meet the time limits set out in paragraphs 3 or 6, the executing authority ***shall immediately*** inform the issuing authority by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the freezing.

Amendment

7. Where it is not possible in a specific case to meet the time limits set out in paragraphs 3 or 6, the executing authority inform the issuing authority ***within 24 hours*** by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the freezing.

Or. en

Amendment 65
Cătălin Sorin Ivan

Proposal for a regulation
Article 20 – paragraph 1 – point 4

Text proposed by the Commission

(4) However, this point shall only apply where such an order would have priority over subsequent national freezing orders in criminal proceedings under national law.

Amendment

(4) However, this point shall only apply where such an order would have priority over subsequent national freezing orders in criminal, ***civil or administrative*** proceedings under national law.

Or. en

Amendment 66
Lieve Wierinck

Proposal for a regulation
Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The freezing order shall not exceed the maximum time limit that exists for freezing orders in the national legislation of the executing State or the issuing State, whichever is the lowest. If there are no such time limits in the national legislation of both States, a maximum time limit of 10 years will apply, unless an alternative agreement between issuing and executing authorities can be found.

Or. en

Justification

The aim of this amendment is to ensure that the executing authority is not faced with a freezing period that is excessively long and that could imply excessive costs. In this context, it is important to underline that Articles 31 and 32 can only be effective, with sufficient protection for the executing Member States, if Article 23 is amended in a prescriptive manner that protects it against potential loopholes.

Amendment 67 **Lieve Wierinck**

Proposal for a regulation **Article 24 – paragraph 1**

Text proposed by the Commission

Where it is impossible to execute the freezing order because the property to be frozen has already been confiscated, has disappeared, has been destroyed or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified ***without delay***.

Amendment

Where it is impossible to execute the freezing order because the property to be frozen has already been confiscated, has disappeared, has been destroyed or cannot be found in the location indicated in the certificate or because the location of the property has not been indicated in a sufficiently precise manner, even after consultation with the issuing authority, the issuing authority shall be notified ***within 24 hours***.

Or. en

Amendment 68
Lieve Wierinck

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. The executing State shall manage the frozen or confiscated property with a view to preventing its depreciation in value, and in accordance with Article 10 of Directive 2014/42/EU.

Amendment

1. The executing State shall manage the frozen or confiscated property with a view to preventing its depreciation in value, and in accordance with Article 10 of Directive 2014/42/EU. ***A proper assessment of all confiscated goods shall be carried out by the executing Member States, taking into account their liquid or not liquid nature.***

Or. en

Justification

There is a strong difference between liquid and non-liquid assets, with regard to the potential costs and gains. Therefore, it is important to make such a distinction, and further specific proposals in this regard are welcome.

Amendment 69
Cătălin Sorin Ivan

Proposal for a regulation
Article 31 – paragraph 2 – point a

Text proposed by the Commission

(a) if the amount obtained from the execution of the confiscation order is equal to or less than EUR 10 000, the amount shall ***accrue*** to the ***executing*** State;

Amendment

(a) if the amount obtained from the execution of the confiscation order is equal to or less than EUR 10 000, ***50% of*** the amount shall ***be transferred by the executing State*** to the ***issuing*** State;

Or. en

Amendment 70
Pervenche Berès, Cătălin Sorin Ivan

Proposal for a regulation
Article 31 – paragraph 2 – point b

Text proposed by the Commission

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, **50 % of** the amount shall be transferred by the executing State to the issuing State.

Amendment

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, the amount shall be transferred by the executing State to the issuing State, ***minus the costs of the execution of the confiscation order without exceeding 50 % of the amount.***

Or. en

Amendment 71
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 31 – paragraph 2 – point b

Text proposed by the Commission

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, **50 % of** the amount shall be transferred by the executing State to the issuing State.

Amendment

(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, ***EUR 10 000 shall accrue to the executing State and the rest of the amount shall be transferred by the executing State to the issuing State.***

Or. en

Amendment 72
Lieve Wierinck

Proposal for a regulation
Article 31 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) if the amount obtained from the execution of the confiscation order is more than EUR 100 000, 60% of the amount shall be transferred by the

executing State to the issuing State.

Or. en

Amendment 73

Lieve Wierinck

Proposal for a regulation

Article 31 – paragraph 2 – point b b (new)

Text proposed by the Commission

Amendment

(bb) if the amount obtained from the execution of the confiscation order is more than EUR 500 000, 70% of the amount shall be transferred by the executing State to the issuing State.

Or. en

Amendment 74

Lieve Wierinck

Proposal for a regulation

Article 31 – paragraph 2 – point b c (new)

Text proposed by the Commission

Amendment

(bc) if the amount obtained from the execution of the confiscation order is more than EUR 1000 000, 80% of the amount shall be transferred by the executing State to the issuing State.

Or. en

Amendment 75

Lieve Wierinck

Proposal for a regulation

Article 31 – paragraph 2 – point b d (new)

Text proposed by the Commission

Amendment

(bd) if the amount obtained from the execution of the confiscation order is more than EUR 10 000 000, 90% of the amount shall be transferred by the executing State to the issuing State.

Or. en

Amendment 76

Lieve Wierinck

Proposal for a regulation

Article 31 – paragraph 2 – point b e (new)

Text proposed by the Commission

Amendment

(be) if the amount obtained from the execution of the confiscation order is more than EUR 50 000 000, 95% of the amount shall be transferred by the executing State to the issuing State.

Or. en

Amendment 77

Lieve Wierinck

Proposal for a regulation

Article 31 – paragraph 2 – point b f (new)

Text proposed by the Commission

Amendment

(bf) if the amount obtained from the execution of the confiscation order is more than EUR 100 000 000, 98% of the amount shall be transferred by the executing State to the issuing State.

Or. en

Amendment 78
Lieve Wierinck

Proposal for a regulation
Article 32 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States may not claim from each other the refund of costs resulting from the application of this Regulation.

deleted

Or. en

Amendment 79
Lieve Wierinck

Proposal for a regulation
Article 32 – paragraph 2

Text proposed by the Commission

Amendment

2. Where the executing State has had costs which *it considers large or exceptional, the executing authority may propose to the issuing authority that the costs be shared.* The issuing authority shall take into account such a proposal on the basis of detailed specifications given by the executing authority.

2. Where the executing State has had costs which *exceed EUR 10 000, the costs that exceed this amount shall be transferred to the issuing Member State, in accordance with the appropriation provided for in Article 31(2).*

Or. en

Amendment 80
Ashley Fox

Proposal for a regulation
Article 33 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Legal remedies in Member States, including mutual legal assistance, will be carried out without delay and with minimal administrative burdens, in order

to speed up the asset recovery process.

Or. en

Justification

Asset recovery in some Member States has been difficult given the lengthy and bureaucratic procedures involved in mutual legal assistance processes. These should be streamlined.

Amendment 81

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 35 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall regularly collect and maintain comprehensive statistics from the relevant authorities. The statistics collected shall be sent to the Commission *each year* and shall include, in addition to those foreseen in Article 11(2) of Directive 2014/42/EU:

Amendment

1. Member States shall regularly collect and maintain comprehensive statistics from the relevant authorities. The statistics collected shall be sent to the Commission *every six months* and shall include, in addition to those foreseen in Article 11(2) of Directive 2014/42/EU:

Or. en

Amendment 82

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 35 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission shall submit an annual report to the European Parliament, the Council and the European Economic and Social Committee compiling statistics received and accompanied with comparative analysis.

Amendment 83

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 38 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1 *By ... (one year from the date of application of this Regulation) at the latest, the Commission shall submit an assessment to the European Parliament, the Council and the European Economic and Social Committee on the statistics and impact of preventive confiscation orders and the consequences on cross-border cooperation in case of the extension of such orders to all Member States.*

Or. en

Amendment 84

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 38 – paragraph 1

Text proposed by the Commission

Amendment

By [five years from the date of application of this Regulation] at the latest, the Commission shall submit a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Regulation. If necessary, the report shall be accompanied by proposals for adaptation of this Regulation.

2. *By [three years from the date of application of this Regulation]* at the latest, the Commission shall submit a report to the European Parliament, the Council and the European Economic and Social Committee on the application of this Regulation. If necessary, the report shall be accompanied by proposals for adaptation of this Regulation.

Or. en

Amendment 85

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a regulation

Annex I – section 8 – point 3 a (new)

Text proposed by the Commission

Amendment

3a. Is the offence for which the confiscation order is issued punishable in the issuing State by a custodial sentence or detention order of a maximum of at least two years as defined by the law of the issuing State and included in the list of offences set out below? (please tick the relevant box)

- **tax fraud,**
- **aggravated tax fraud,**
- **tax evasion.**

Or. en