


Procedure file

Basic information	
CNS - Consultation procedure	1998/0909(CNS)
Procedure completed	
Fight against organized crime: tracing, seizure, confiscation of proceeds from crime	
Amended by 2012/0036(COD)	
Subject	
7.30.30 Action to combat crime	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties and Internal Affairs		30/03/1998
		V ORLANDO Leoluca	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs, Citizens' Rights	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2146	03/12/1998

Key events			
02/03/1998	Legislative proposal published	06490/1998	Summary
30/03/1998	Committee referral announced in Parliament		
03/06/1998	Vote in committee		Summary
02/06/1998	Committee report tabled for plenary, 1st reading/single reading	A4-0222/1998	
17/07/1998	Debate in Parliament		
17/07/1998	Decision by Parliament	T4-0458/1998	Summary
03/12/1998	Act adopted by Council after consultation of Parliament		
03/12/1998	End of procedure in Parliament		
09/12/1998	Final act published in Official Journal		

Technical information	
Procedure reference	1998/0909(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
	Amended by 2012/0036(COD)
Legal basis	Treaty on the European Union (after Amsterdam) M K.3-p2

Stage reached in procedure	Procedure completed
Committee dossier	LIBE/4/09928

Documentation gateway					
Legislative proposal		06490/1998	03/03/1998	CSL	Summary
Committee draft report		PE226.837	18/05/1998	EP	
Amendments tabled in committee		PE226.837/AM	02/06/1998	EP	
Committee report tabled for plenary, 1st reading/single reading		A4-0222/1998 OJ C 210 06.07.1998, p. 0008	03/06/1998	EP	
Text adopted by Parliament, 1st reading/single reading		T4-0458/1998 OJ C 292 21.09.1998, p. 0206-0225	17/07/1998	EP	Summary

Final act
Justice and Home Affairs act 1998/699 OJ L 333 09.12.1998, p. 0001-0003

Fight against organized crime: tracing, seizure, confiscation of proceeds from crime

OBJECTIVE: joint action to increase cooperation between the Member States with regard to confiscating the proceeds of crime in the context of the European Action Plan to combat organized crime (see COS0548). **SUBSTANCE:** With a view to improving coordination between the Member States' law enforcement authorities in the context of combating organized crime, this proposed joint action aims to increase cooperation in identifying, tracing, freezing or seizing and confiscating the means and proceeds of crime. Operating on the principle that criminal activities can be disrupted if the assets of criminal organizations are confiscated, the project sets up a system for exchanging information through establishing national contact points from which the Member States' competent authorities can obtain advice and assistance with regard to confiscating the proceeds of crime. These contact points are indicated in the relevant guides which are to be distributed to Europol and the European Judicial Network, which will evaluate them and make any useful proposals to improve cooperation in this area. As well as improving information, the proposal establishes the principle that the Member States will give the same priority to requests from other Member States concerning the confiscation of assets as they would in domestic proceedings. Contacts between investigators, examining magistrates and prosecutors are also encouraged if this does not contravene national laws. There are also provisions to ensure that requests for mutual judicial assistance are only made when necessary. If urgent action is justified, requests for mutual assistance will be made to the other Member States, which must consider them and give an appropriate response. In most cases, the Member States will prefer to use the existing cooperation arrangements. There are also provisions to minimize the risk that the assets of criminal organizations will dissipated. ?

Fight against organized crime: tracing, seizure, confiscation of proceeds from crime

The Committee has unanimously adopted the report by Leoluca ORLANDO (Greens, I) on the draft joint action on cooperation arrangements between Member States for "the identification, tracing, freezing or seizing and confiscation of instrumentalities and the proceeds from crime". The joint action is supposed to implement some of the recommendations of the Action Plan to Combat Organised Crime, especially the recommendation on strengthening measures for tracing and seizing illegal assets. However, the committee argues that the draft text does not contain a single practical measure to improve cooperation between Member States. It has therefore adopted 17 amendments designed to remedy this shortcoming. According to the committee, it should be spelled out in the text that requests from other Member States for legal assistance in this area must be given the same priority as domestic requests. Thus, in investigations to identify illegal assets, any Member State should have free and direct access to all information freely available in another Member State. Where investigations suggest that certain assets likely to belong to criminal organisations are located in another Member State, the investigating officer should be able to inspect public registers (such as the Land Register or the Companies Register) in another Member State without having to make a request to the criminal prosecution authorities of that State. However, says the committee, applications should still be required for any information that is not accessible to the public in another Member State. ?

Fight against organized crime: tracing, seizure, confiscation of proceeds from crime

In adopting the report by Mr Leoluca ORLANDO (Greens, I) on the draft joint action concerning the fight against organised crime, Parliament amended the basic text by improving and rendering more efficient the means of identifying, seizing or confiscating illegal assets, including in cases where the person responsible for the crime has died or has absconded. In particular it requested: - as part of the identification procedure intended to trace illegally obtained assets, that each Member States should have free and direct access to any information that was publicly accessible in another Member State; - that each Member State should ensure that its legislation and procedures enabled it to permit the confiscation of the instrumentalities and the proceeds from crime and of property, the value of which corresponds to such proceeds both in

purely domestic proceedings and in proceedings instituted at the request of another Member State; - if in identifying and tracing illegally obtained assets there would be infringement of the protected rights of persons or institutions, court decisions would be required in the requesting and the receiving Member State; - mutual legal assistance with regard to illegal asset identification, tracing and confiscation should be given the same priority as was given to such measures in domestic proceedings; - improved direct contact should be achieved between investigators, investigating magistrates and prosecutors; - in order to minimise the risk of illegal assets being dissipated, the Member States should be invited to draw up a catalogue of data which legal requests for confiscating instrumentalities and freezing the proceeds from crime must contain. Seizure of instrumentalities and the freezing of proceeds from crime must be justified within an appropriate period, not exceeding one year, by a decision of the requesting Member State ordering the confiscation of the seized or frozen assets. Parliament also requested that an appeal against the decision by the receiving Member State should not have suspensory effect. It considered that the seizure or freezing should be lifted only if a court decision adopted following an appeal required it. It also called for enquiries to be able to be pursued in another judicial region than that in which the initial request was made. It was also necessary to establish provisions to ensure that the decisions of another Member State might be implemented with regard to the seizure of certain assets. Lastly, Parliament hoped that the Court of Justice would be recognised as competent to issue preliminary rulings concerning interpretation of this Joint Action. ?