Action to combat organized crime: sharing of assets confiscated following international cooperation

1999/0912(CNS) - 08/02/1999 - Legislative proposal

PURPOSE: to draw up a framework decision regarding the sharing of assets confiscated following international co-operation. CONTENT: This Joint Action establishes a framework for the sharing of assets, or their value, confiscated following internatioanl cooperation in criminal matters. The sharing of assets will concern all offences covered by the Joint Action concerning money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime (see procedure CNS980909). In the absence of bilateral agreements or arrangements concerning the sharing of assets or their value, the provisions of this Joint Action shall be used as a reference on a case by case basis. If a Member State has concluded bilateral agreements or arrangements on the basis of this Joint Action, it will notify the General Secretariat of the Council of this fact. Member States are required to provide for the possibility of having an adequate amount of confiscated assets or their value to be shared. The proportion of assets or their value subject to transfer to another Member State may reflect the extent of assistance of this Member State, which led to, contributed to, or facilitated, the confiscation of the assets or their value. Member States shall have discretion as to the expenditure of the assets or the value received by way of asset sharing. The payment of any funds shall not be made conditional on transferring them to any State, government, organisation, or individual. A Member State may bring any cooperation that has led to or facilitated the confiscation of assets or their value to the attention of the assisted Member State. Bona fide third party rights shall be protected by Member States. Should any such rights become affected by asset sharing, the Member States shall consult with a view to protecting such rights. When implementing this Joint Action, the Member States shall examine the possibilities of applying the principles contained therein also in relation to non-Member States, and in particular with applicant States to the EU which have ratified the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.