

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

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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.