Basic information

2001/0803(CNS) CNS - Consultation procedure Decision	Procedure completed
Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium Amended by 2021/0395(COD) See also 2016/0412(COD) **Subject** 7.40 Judicial cooperation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	MARINHO Luís (PSE)	27/02/2001

Former committee responsible	Former rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	MARINHO Luís (PSE)	27/02/2001

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2376	2001-10-16
Justice and Home Affairs (JHA)	2411	2002-02-28
Agriculture and Fisheries	2524	2003-07-22

Key events

Date	Event	Reference	Summary
02/02/2001	Legislative proposal published	05126/2001	Summary
15/02/2001	Committee referral announced in Parliament		
11/07/2001	Vote in committee		Summary
11/07/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0274/2001	
20/09/2001	Decision by Parliament	T5-0471/2001	Summary
20/09/2001	Debate in Parliament		
16/10/2001	Debate in Council		

28/02/2002	Debate in Council		
13/03/2002	Amended legislative proposal for reconsultation published	06980/2002	Summary
03/04/2002	Formal reconsultation of Parliament		
14/05/2002	Vote in committee		Summary
14/05/2002	Committee report tabled for plenary, reconsultation	A5-0172/2002	
11/06/2002	Decision by Parliament	T5-0285/2002	Summary
11/06/2002	Debate in Parliament		
22/07/2003	Act adopted by Council after consultation of Parliament		
22/07/2003	End of procedure in Parliament		
02/08/2003	Final act published in Official Journal		

Technical information

Procedure reference	2001/0803(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Amended by 2021/0395(COD) See also 2016/0412(COD)
Legal basis	Treaty on European Union (after Amsterdam) M 034-p2 Treaty on European Union (after Amsterdam) M 031
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/16187 LIBE/5/14409

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0274/2001	11/07/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0471/2001 OJ C 077 28.03.2002, p. 0019-0091 E	20/09/2001	Summary
Committee final report tabled for plenary, reconsultation		A5-0172/2002	14/05/2002	
Text adopted by Parliament after reconsultation		T5-0285/2002 OJ C 261 30.10.2003, p. 0028-0091 E	11/06/2002	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	13986/2000	22/12/2000	Summary

Legislative proposal	05126/2001 OJ C 075 07.03.2001, p. 0003	02/02/2001	Summary
Amended legislative proposal for reconsultation	06980/2002	13/03/2002	Summary

European Commission

Document type	Reference	Date	Summary
Follow-up document	COM(2008)0885	22/12/2008	Summary

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Justice and Home Affairs act 2003/0577 OJ L 196 02.08.2003, p. 0045-0055	Summary

Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 02/02/2001 - Legislative proposal

PURPOSE: to present an initiative by the Governments of the French Republic, the Kingdom of Sweden and the Kingdom of Belgium for the adoption by the Council of a Framework Decision on the execution in the European Union of orders freezing assets or evidence. CONTENT: The main provisions of Title II on the proposed procedure for executing freezing orders relate to notification of freezing orders; grounds for non-execution; certificate; appeals and finally, liability of the issung State.

Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 22/07/2003 - Final act

PURPOSE : to establish the rules under which a Member State shall recognise and execute in its territory a freezing order issued by a judicial authority of another Member State in the framework of criminal proceedings. COMMUNITY MEASURE : Council Framework Decision 2003/577/JHA on the execution in the EU of orders freezing property or evidence. CONTENT : This Framework Decision applies to freezing orders issued for the purposes of securing evidence or freezing property. It lists the offences that will not be subject to verification of double criminality, so long as they are punishable in the issuing State by a custodial sentence of a maximum period of at least three years. The offences include terrorism, trafficking in human beings, sexual exploitation of children, corruption and money laundering. The Council, acting unanimously, may amend this list after consulting the European Parliament. The main points of the Framework Decision are as follows: - a freezing order together with the pro forma certificate will be transmitted by the judicial authority which issued it directly to the competent judicial authority for execution. If the authority in the executing State which receives a freezing order has no jurisdiction to recognise it, the freezing order must be sent to the competent judicial authority for execution; - the certificate referred to must be translated into one of the official languages of the executing State, but a Member State may declare that it will accept a translation in a language of the EU institutions; - the competent judicial authorities of the executing State must recognise a freezing order properly transmitted without any further formality being required and must "forthwith" take the necessary measures for its immediate execution. A report on the execution of the freezing order shall be made forthwith to the competent authority in the issuing State. The competent judicial authorities of the executing State must communicate the decision on a freezing order as soon as possible and, whenever practicable, within 24 hours of receipt of the freezing order; - there is a list of specified grounds for the non-recognition or non-execution of the order, as well as specified grounds for postponement of execution of a

freezing order; - the Framework Decision sets out the subsequent treatment of the frozen property. Member states must ensure that any interested party has legal remedies without suspensive effect against a freezing order, in order to preserve their legitimate interest; - the Council will assess the extent to which Member States have complied with the provisions of the Decision by 02/08/06. DATE FOR IMPLEMENTATION: 02/08/05. ENTRY INTO FORCE : 02/08/03.

Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 22/12/2008 - Follow-up document

This report is based on Article 14 of the Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence. The main objective of this Framework Decision is to establish the rules under which a Member State shall recognise and execute in its territory an order freezing property or evidence issued by a judicial authority of another Member State in the context of criminal proceedings. It is based on the system of mutual recognition of judicial decisions in the pre-trial phase under which a freezing order is recognised without any formality, grounds for its refusal are strictly limited and the principle of dual criminality is partly abolished.

According to the Commission’s report, implementation of the Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence in the national legislation of the Member States of the European Union is not satisfactory. This conclusion is mainly drawn from the low number of notifications, of which some implementing laws do not even refer to the Framework Decision (provisions were adopted in view of implementation of some other international law instruments). Cyprus and the UK have covered the provisions of the Framework Decision only partly (Cyprus covered only freezing of property and the UK covered only provisions in relation to evidence). The legislation sent by Slovenia also shows that this Member State is still using the traditional rules on mutual legal assistance as regards requests for freezing and therefore it has not implemented the principle of mutual recognition in that regard.

The 19 national legislations received by the Commission indicate numerous omissions and misinterpretations. There is still room for improvement, especially concerning direct contact between judicial authorities, grounds for refusal to recognise or execute the freezing order and also reimbursement. However, the swift execution of freezing orders seems ensured.

The Commission invites Member States to consider this report and to take the opportunity to provide all further relevant information to the Commission and to the Council Secretariat, in order to fulfil their obligations under Article 14 of the Framework Decision. In addition, the Commission encourages those Member State that have signalled that they are preparing relevant legislation, to enact and notify these national measures as soon as possible.

Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 13/03/2002 - Amended legislative proposal for reconsultation

On the basis of a compromise from the Spanish Presidency of the Union, the Council has taken note of a certain number of parliamentary reservations that have come to light on the contents of the framework decision on the execution in the European Union of orders freezing property or evidence. This text has been established for the purpose of the reconsultation of the European Parliament on the draft Framework Decision. To recall, the purpose of this Framework Decision is to establish the rules under which a Member State shall recognise and execute in its territory a freezing order issued by a judicial authority of another Member State. It shall not have the effect of amending the obligation to respect the fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union. This framework decision applies to freezing orders issued for the purpose of securing evidence, or subsequent confiscation of property. With regard to the scope of the framework decision, the Presidency's compromise has been aligned on the solutions reached in the context of the Framework Decision relating to the European arrest warrant (in particular the list of 32 offences, as they are defined by the law of the issuing Member State, and if they are punishable in the issuing Member State by a custodial sentence of a maximum of at least 3 years, shall not be subject to verification of the double criminality. It should also be added that the Council may decide to add other categories of offences to the list of 32 offences at any time, acting unanimously after consultation of the European Parliament under the conditions laid down in Article 39(1) of the TEU. The freezing orders must, in addition, be recognised and implemented in respect of the principles of legality, subsidiarity and proportionality. The Parliament shall be reconsulted on the new contents of the draft framework decision as revised by the Council.

Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 20/09/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament voted 443 to 51 with 20 abstentions to approve the report by Mr Luis MARINHO (PES, P) together with non-binding amendments tabled by the committee responsible (please refer to the previous text). Moreover, the Parliament requests in particular that this framework decision applies to all freezing orders in cases where the offence which prompts the freezing order is punished, under law of the issuing State, by deprivation of liberty or a detention order for a maximum period of at least six months.

Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 11/06/2002 - Text adopted by Parliament after reconsultation

Using its procedure without debate, the European Parliament adopted a resolution drafted by Luis MARINHO (PES, Portugal) on freezing orders. (Please refer to the document dated 14/05/02.) Parliament stated that freezing orders should be subject to adequate checks and should be issued by the competent judicial authority.

Judicial cooperation: orders freezing assets or evidence. Framework decision. Initiative France, Sweden and Belgium

2001/0803(CNS) - 22/12/2000 - Document attached to the procedure

PURPOSE: to present a Communication from the Governments of the French Republic, the Kingdom of Sweden and the Kingdom of Belgium on the Initiative of these countries regarding the adoption by the Council of a Framework Decision on the execution in the European Union of orders freezing assets or evidence. CONTENT: This explanatory note seeks to explain the basis for the Initiative regarding the Framework Decision on the execution of orders freezing assets or evidence. The offences that may give rise to the freezing of assets or evidence under this Directive have been defined restrictively. At this stage of the discussions in the European Union, it was decided that it would be difficult to seek to use this instrument to abolish the conditions of double criminality and double punishability that still exist in many Member States. However, a restricitve list of offences should enable this problem to be overcome. Furthermore, the production of a certificate - at the same time as the order that is to be executed - will enable the court that orders the measures to attest, on its own responsibility, that the freezing order comes within the scope of the instrument. Execution can be refused only on formal grounds (certificate missing or incomplete). The drafters of the initiative wanted to avoid a situation where the State executing a freezing order did not know exactly what to do with the asset that was frozen. The text therefore provides not only for the execution of the freezing order but also for what will happen to the asset which has been frozen once the order has been executed. Against this background, a Framework Decision was a natural choice of instrument involving the approximation of legislation, especially procedural legislation.