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From:	Presidency
To:	Delegations
No. prev. doc.:	15451/17
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Subject:	Proposal for a Regulation of the European Parliament and of the Council on the mutual recognition of freezing and confiscation orders - Four column table with Presidency comments/suggestions

The four column table in the Annex allows to compare three texts concerning the above draft Regulation:

- 1) the Commission proposal of 21 December 2016 (see doc. 15816/16);
- 2) the text as it results from the (draft) amendments to the Commission proposal, as voted by LIBE Committee on 11 January 2018 (see doc. 5482/17);
- 3) the General Approach, as reached by the (JHA) Council on 8 December 2017 (doc. 15451/17).

The Council in its general approach has reversed the order of Chapters II and III, putting the provisions on the mutual recognition of *freezing* orders prior to the provisions on the mutual recognition of *confiscation* orders, in line with the title of the proposed instrument. As a result, the references in the text of the Council General Approach can differ from those in the other two texts.

Further, as a result of some structural changes in the text of the Council General Approach, compared to the Commission proposal, it is not possible to put all texts perfectly side-by-side.

Doc. 5619/18 allows to assess the EP amendments in the context of the General Approach.

At the Working Party meeting on 13/14 February 2018, the Presidency intends firstly discussing the questions set out in doc. 5621/18. Subsequently, the Presidency intends discussing the questions indicated by **bold** and underlining in the fourth column of the attached four column table.

If time remains, the Presidency may discuss (other) EP amendments set out in the four column table, on the basis of the comments and suggestions set out in the fourth column thereof.

FOUR COLUMN TABLE**DRAFT REGULATION ON THE MUTUAL RECOGNITION OF FREEZING AND CONFISCATION ORDERS**

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice.	(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice.	(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice.	Keep GA (texts identical)
(2) Judicial cooperation in criminal matters in the Union is based on the principle of mutual recognition of judgments and judicial decisions, which is, commonly referred to as a cornerstone of judicial cooperation in criminal matters within the Union since the Tampere European Council of 15 and 16 October 1999.	(2) Judicial cooperation in criminal matters in the Union is based on the principle of mutual recognition of judgments and judicial decisions, which is, commonly referred to as a cornerstone of judicial cooperation in criminal matters within the Union since the Tampere European Council of 15 and 16 October 1999.	(2) Judicial cooperation in criminal matters in the Union is based on the principle of mutual recognition of judgments and judicial decisions, which is, commonly referred to as a cornerstone of judicial cooperation in criminal matters within the Union since the Tampere European Council of 15 and 16 October 1999.	Keep GA (texts identical)
(3) Freezing and confiscation of instrumentalities and proceeds of crime are among the most effective means of combatting crime. The European Union is committed to ensuring more effective identification, confiscation and re-use of criminal assets ¹ .	(3) Freezing and confiscation of instrumentalities and proceeds of crime are among the most effective means of combating crime, infringements of the law, in particular by organised criminals, and terrorism, due to the fact that they deprive criminals of the proceeds of their illegal activities and prevent terrorists from organising an	(3) The freezing and the confiscation of instrumentalities and proceeds of crime are among the most effective means of combatting crime. The Union is committed to ensuring more effective identification, confiscation and re-use of criminal assets in accordance with the "The Stockholm programme – An open and	EP AM 1 seems acceptable, subject to redrafting: (3) The freezing and the confiscation of instrumentalities and proceeds of crime are among the most effective means of combatting crime, since they deprive criminals of the proceeds of their illegal activities. The

¹ "The Stockholm programme – An open and secure Europe serving and protecting the citizens", OJ C 115, 4.5.2010, p.1.

	<p>attack. The European Union is committed to ensuring more effective identification, confiscation and re-use of criminal assets. <i>Confiscated criminal assets can be rechannelled into law enforcement, crime prevention or victim compensation.</i> [AM 1]</p>	<p><i>secure Europe serving and protecting the citizens"</i>.²</p>	<p>Union is committed to ensuring more effective identification, confiscation and re-use of criminal assets <i>in accordance with the "The Stockholm programme – An open and secure Europe serving and protecting the citizens". Confiscated criminal assets could inter alia be rechannelled into law enforcement, crime prevention or victim compensation.</i></p> <p><u>MS are invited to state their position on this amendment as refined.</u></p>
<p>(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.</p>	<p>(4) As crime is often transnational in nature, effective cross-border cooperation, <i>continuing exchange of information and reciprocal support</i> is essential in order to <i>detect</i>, seize and confiscate the proceeds and instrumentalities of crime. <i>Therefore, law enforcement bodies and authorities, persons, units or services within the Member States should closely cooperate and communicate in order to optimize duration and efficiency of freezing and confiscation procedures.</i> [AM 2]</p>	<p>(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.</p>	<p>EP AM 2 seems acceptable. It probably does not hurt to recall the need for close cooperation in a recital.</p> <p><u>MS are invited to state their position on this amendment.</u></p>

² OJ C 115, 4.5.2010, p.1.

	<i>(4a) In the area of financial services, several legal acts of the Union regarding financial markets provide for freezing and confiscation orders as sanctions for financial institutions. Effective cross-border cooperation of criminal courts and other national competent authorities is paramount for the stability of, and trust in, the Union financial system. [AM 3]</i>		EP AM 3 seems acceptable. It might be appropriate to recall, in a recital, the existence of other Union legal acts on freezing and confiscation in the area of financial services. <u>MS are invited to state their position on this amendment.</u>
(5) The current Union legal framework in relation to the mutual recognition of freezing and confiscation orders is composed of Council Framework Decision 2003/577/JHA <i>of 22 July 2003 on the execution in the European Union of orders freezing property or evidence</i> ³ and Council Framework Decision 2006/783/JHA <i>of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders</i> ⁴ .	(5) The current Union legal framework in relation to the mutual recognition of freezing and confiscation orders is composed of Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence ⁵ and Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders ⁶ .	(5) The current Union legal framework in relation to the mutual recognition of freezing orders and confiscation orders is composed of Council Framework Decisions 2003/577/JHA ⁷ and 2006/783/JHA ⁸ .	The GA text has been suggested by the legal-linguists; it seems preferable to keep it.

³ OJ L 196, 2.8.2003, p. 45.

⁴ OJ L 328, 21.11.2006, p. 59.

⁵ OJ L 196, 2.8.2003, p. 45.

⁶ OJ L 328, 21.11.2006, p. 59.

⁷ Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence (OJ L 196, 2.8.2003, p. 45).

⁸ Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders (OJ L 328, 21.11.2006, p. 59).

(6) The Commission's implementation reports on Framework Decisions 2003/577/JHA and 2006/783/JHA show that the existing regime for the mutual recognition of freezing and confiscation orders is not fully effective. The current instruments have not been implemented and applied uniformly in the Member States, leading to insufficient mutual recognition.	(6) The Commission's implementation reports on Framework Decisions 2003/577/JHA and 2006/783/JHA show that the existing regime for the mutual recognition of freezing and confiscation orders is not fully effective. The current instruments have not been implemented and applied uniformly in the Member States, leading to insufficient mutual recognition <i>and inefficient cross-border cooperation. [AM 4]</i>	(6) The Commission's implementation reports on Framework Decisions 2003/577/JHA and 2006/783/JHA show that the existing regime for the mutual recognition of freezing orders and confiscation orders is not fully effective. The current instruments have not been uniformly implemented and applied in the Member States, leading to insufficient mutual recognition.	EP amendment 4 – adding some words at the end of the recital - seems acceptable. <u>MS are invited to state their position on this amendment.</u>
(7) The Union legal framework on mutual recognition of freezing and confiscation orders has not kept up with recent legislative developments at Union and national levels. In particular, Directive 2014/42/EU ⁹ sets out common minimum rules on freezing and confiscation of property. These common minimum rules concern the confiscation of proceeds and instrumentalities of crime, including in case of illness and absconding of the suspect or accused person where criminal proceedings have been initiated <i>regarding a</i>	(7) The Union legal framework on mutual recognition of freezing and confiscation orders has not kept up with recent legislative developments at Union and national levels. In particular, Directive 2014/42/EU ¹⁰ sets out common minimum rules on freezing and confiscation of property. These common minimum rules concern the confiscation of proceeds and instrumentalities of crime, including in case of illness and absconding of the suspect or accused person where criminal proceedings have been initiated regarding a	(7) The Union legal framework on mutual recognition of freezing orders and confiscation orders has not kept up with recent legislative developments at Union and national levels. In particular, Directive 2014/42/EU <i>of the European Parliament and of the Council</i> ¹¹ sets out common minimum rules on <i>the</i> freezing and <i>the</i> confiscation of property. These common minimum rules concern: <i>(i)</i> the confiscation of proceeds and instrumentalities of crime, including in cases of illness <i>or</i> absconding of the suspect or accused person, where	The GA text, which only slightly differs from the other texts, has been suggested by the legal-linguists; it seems preferable to keep it.

⁹ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

¹⁰ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

¹¹ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

<p><i>criminal offence</i>, extended confiscation <i>and</i> third party confiscation. Those common minimum rules also concern the freezing of property with a view to possible subsequent confiscation. The types of confiscation and freezing covered by Directive 2014/42/EU should also be covered by the legal framework on mutual recognition.</p>	<p>criminal offence, extended confiscation and third party confiscation. Those common minimum rules also concern the freezing of property with a view to possible subsequent confiscation. The types of confiscation and freezing covered by Directive 2014/42/EU should also be covered by the legal framework on mutual recognition.</p>	<p>criminal proceedings have already been initiated; <i>(ii)</i> extended confiscation; <i>(iii)</i> third party confiscation. Those common minimum rules also concern the freezing of property with a view to possible subsequent confiscation. The types of freezing and confiscation covered by Directive 2014/42/EU should also be covered by the legal framework on mutual recognition.</p>	
	<p><i>(7a) Extended confiscation and third party confiscation must comply with the guarantees enshrined in the ECHR, in particular articles 6 and 7, and the Charter of Fundamental Rights of the European Union. The decision by competent authorities shall be based on a thorough assessment of the individual case of the person subjected to the confiscation order, including the certainty that goods confiscated were acquired or obtained through criminal activities; [AM 5]</i></p>		<p>EP could be invited to explain why particular attention should be paid to extended confiscation and third party confiscation. There seems <i>prima facie</i> no need for this, in the light also of the general reference in Art. 1(2) to fundamental rights.</p> <p><u>MS are invited to state their position on this amendment.</u></p>
	<p><i>(7b) Organised crime, corruption and money laundering pose serious threats to the economy of the Union by, for example, significantly reducing the tax revenues of Member States and the Union as a whole, and to the accountability of Union-funded projects, as criminal organisations</i></p>		<p>This recital might not be of crucial importance, but it does not seem to hurt either. Could probably be acceptable.</p> <p><u>MS are invited to state their position on this amendment.</u></p>

	<i>operate in various sectors, many of which are subject to governmental control. [AM 6]</i>		
(8) When adopting Directive 2014/42/EU, the European Parliament and the Council stated that an effective system of freezing and confiscation in the European Union is inherently linked to well-functioning mutual recognition of freezing and confiscation orders. Considering the need of putting in place a comprehensive system for freezing and confiscation of proceeds and instrumentalities of crime, the European Parliament and the Council called on the Commission to present a legislative proposal on mutual recognition of freezing and confiscation orders.	(8) When adopting Directive 2014/42/EU, the European Parliament and the Council stated that an effective system of freezing and confiscation in the European Union is inherently linked to well-functioning mutual recognition of freezing and confiscation orders. Considering the need of putting in place a comprehensive system for freezing and confiscation of proceeds and instrumentalities of crime, the European Parliament and the Council called on the Commission to present a legislative proposal on mutual recognition of freezing and confiscation orders.	(8) When adopting Directive 2014/42/EU, the European Parliament and the Council stated <i>in a declaration</i> that an effective system of freezing and confiscation in the Union is inherently linked to the well-functioning mutual recognition of freezing orders and confiscation orders. Considering the need to put in place a comprehensive system for freezing and confiscation of the proceeds and instrumentalities of crime, the European Parliament and the Council called on the Commission to present a legislative proposal on mutual recognition of freezing orders and confiscation orders.	GA text is a slightly improved version of the COM proposal. Text was suggested by the legal-linguists. Suggest keeping it.
(9) In the European Agenda on Security ¹² , the Commission considered that judicial cooperation in criminal matters relies on effective cross-border instruments and that mutual recognition of judgments and judicial	(9) In the European Agenda on Security ¹³ , the Commission considered that judicial cooperation in criminal matters relies on effective cross-border instruments and that mutual recognition of judgments and judicial	(9) In <i>its communication on the "European Agenda on Security" of 28 April 2015</i> , the Commission considered that judicial cooperation in criminal matters relies on effective cross-border instruments and that	The GA text has been suggested by the legal-linguists; it seems preferable to keep it.

¹² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *The European Agenda on Security*, COM(2015) 185 final.

¹³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *The European Agenda on Security*, COM(2015) 185 final.

decisions is a key element in the security framework. The Commission also recalled the need to improve mutual recognition of freezing and confiscation orders.	decisions is a key element in the security framework. The Commission also recalled the need to improve mutual recognition of freezing and confiscation orders.	mutual recognition of judgments and judicial decisions is a key element in the security framework. The Commission also recalled the need to improve mutual recognition of freezing orders and confiscation orders.	
(10) In its Communication <i>to the European Parliament and the Council</i> on an Action Plan for strengthening the fight against terrorist financing ¹⁴ , the Commission highlighted the need to ensure that criminals who fund terrorism are deprived of their assets. In order to disrupt organised crime activities that finance terrorism, it is essential to deprive those criminals of the proceeds of crime. To this end, it is necessary to ensure that all types of freezing and confiscation orders are enforced to the maximum extent possible throughout the Union through the application of the principle of mutual recognition.	(10) In its Communication to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing ¹⁵ , the Commission highlighted the need to ensure that criminals who fund terrorism are deprived of their assets. In order to disrupt organised crime activities that finance terrorism, it is essential to deprive those criminals of the proceeds of crime. To this end, it is necessary to ensure that all types of freezing and confiscation orders are enforced to the maximum extent possible throughout the Union through the application of the principle of mutual recognition	(10) In its communication on an "Action Plan for strengthening the fight against terrorist financing" of 2 February 2016 , the Commission highlighted the need to ensure that criminals who fund terrorism are deprived of their assets. In order to disrupt organised crime activities that finance terrorism, it is essential to deprive those criminals of the proceeds of crime. To this end, it is necessary to ensure that all types of freezing orders and confiscation orders are enforced to the maximum extent possible throughout the Union through the application of the principle of mutual recognition.	The GA text has been suggested by the legal-linguists; it seems preferable to keep it.
(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.	(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 <i>that is wider in</i>	(11) In order to ensure effective mutual recognition of freezing orders 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.	The text as proposed by EP explains the text of COM proposal / GA. While it is probably not wrong, it seems not compatible with recital 37a of the GA. It seems therefore preferable not to accept it (at least at this stage).

¹⁴ COM(2016) 50 final.

¹⁵ COM(2016) 50 final.

	<i>scope than other legal acts to date and contains clear provisions for ordering the freezing and confiscation of assets. One single instrument for mutual recognition of both freezing and confiscation orders containing a standard certificate and form, together with applicable rules and deadlines, will ensure that the orders are recognised and executed without delay within the Union. A regulation improves clarity and legal certainty, eliminates the problems of transposition into national systems and thus allows freezing and confiscation orders to be more rapidly and effectively enforced. [AM 7]</i>		<u>MS are invited to state their position on this amendment.</u>
	<i>(11a) Whereas the mutual recognition of freezing and confiscation orders in the Union is an important step in the fight against crime, a considerable amount of assets are held offshore, unreported and untaxed, in third countries outside the Union. A comprehensive plan to discourage transfers of assets to third countries and to find an effective way to recover them would represent a major step forward. [AM 8]</i>		<p>This amendment has a political character and deviates somewhat from the subject matter of this Regulation. It seems preferable not to accept it.</p> <p>EP could be asked to explain why it is important for them.</p> <p><u>MS are invited to state their position on this amendment.</u></p>
(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate	(12) It is important to facilitate the mutual recognition and execution of orders to freeze and to confiscate	(12) It is important to facilitate the mutual recognition and execution of orders to freeze and <i>orders</i> to	It seems not necessary to make a reference to the " <i>undue delay</i> " and " <i>additional formalities</i> " in the recital.

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.	property by establishing rules obliging a Member State, <i>without undue delay or additional formalities</i> , to recognise and execute in its territory freezing and confiscation orders issued by another Member State within the framework of proceedings <i>in criminal matters</i> . [AM 9 and 10]	confiscate property by establishing rules <i>that oblige</i> a Member State to recognise the freezing <i>orders</i> and confiscation orders issued by another Member State within the framework of criminal proceedings <i>and to execute those orders in its territory</i> .	Good idea though of EP to refer to " <i>criminal matters</i> ". Suggested text: (12) It is important to facilitate the mutual recognition and execution of orders to freeze and <i>orders</i> to confiscate property by establishing rules <i>that oblige</i> a Member State to recognise the freezing <i>orders</i> and confiscation orders issued by another Member State within the framework of proceedings in criminal <i>matters</i> <i>and to execute those orders in its territory</i> . <u>MS are invited to confirm that they can accept this text.</u>
	<i>(12a) In the light of the case law of the Court of Justice of the European Union and the European Court of Human Rights (ECtHR), it is not always enough, when seeking to determine whether proceedings belong to the criminal sphere, to consider only their status under national law. If the aims of the Treaties and of this Directive are to be achieved and the fundamental rights laid down, for example, by the ECHR and the Charter, are to be upheld in full, due account should be taken, in applying the Directive, not only of the status of the proceedings under national law, but also of the nature of the offence involved and the severity</i>		Scope - see note with questions. EP seems to refer here to the <i>Engel</i> criteria. It is not sure whether mentioning these criteria in this Regulation is useful and appropriate.

	<i>of the penalty which the accused person faces. [AM 11]</i>		
(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 <i>within the framework of criminal proceedings.</i> This Regulation should not apply to freezing and confiscation orders issued within the framework of civil or administrative proceedings.	(13) This Regulation should apply to all confiscation orders imposed by a court following proceedings in criminal <i>matters</i> 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 <i>proceedings.</i> [AM 12]	(13) This Regulation should apply to all freezing orders and to all confiscation orders issued within the framework of proceedings <i>in criminal matters.</i> <i>'Proceedings in criminal matters' is an autonomous concept of Union law.</i> It should therefore cover all types of <i>freezing orders and confiscation orders issued following proceedings in relation to a criminal offence, not only orders</i> covered by Directive 2014/42/EU, <i>but also</i> other types of orders issued without a final conviction. <i>While such orders might not exist in the legal system of a Member State, the Member State concerned should be able to recognise and execute the order if it was issued by another Member State. Proceedings in criminal matters could also encompass criminal investigations by the police and other law enforcement authorities. Freezing orders and confiscation orders that are issued within the framework of proceedings in civil or administrative matters are excluded from the scope of this Regulation.</i>	The EP amendment has been taken on board in the GA. It should be verified though if the EP can accept the text of the GA.
(14) This Regulation should cover confiscation and freezing orders related to offences covered by	(14) This Regulation should cover confiscation and freezing orders related to offences covered by	(14) This Regulation should cover freezing <i>orders</i> and confiscation orders related to offences covered by	The GA text has been suggested by the legal-linguists; it seems preferable to keep it.

Directive 2014/42/EU, as well as orders related to other offences. The offences should therefore not be limited to <i>the areas of</i> 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 recognition of judgments in criminal matters.	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 recognition of judgments in criminal matters	Directive 2014/42/EU, as well as such orders related to other offences. The offences should therefore not be limited to particularly serious crimes <i>that have</i> a cross-border dimension, as Article 82 of the <i>Treaty on the Functioning of the European Union (TFEU)</i> does not require such limitation for measures laying down rules and procedures for ensuring the mutual recognition of judgments in criminal matters.	
(15) Cooperation between Member States, based on the principle of mutual recognition and immediate execution of judicial decisions, presupposes confidence that the decisions to be recognised and executed will always be taken in compliance with the principles of legality, subsidiarity and proportionality. It also presupposes that the rights granted to the parties or <i>bona fide</i> interested third parties will be preserved.	(15) Cooperation between Member States, based on the principle of mutual recognition and immediate execution of judicial decisions, presupposes confidence that the decisions to be recognised and executed will always be taken in compliance with the principles of legality, subsidiarity and proportionality. It also presupposes that the rights granted to the parties or <i>bona fide</i> interested third parties will be preserved	(15) Cooperation between Member States, <i>which is</i> based on the principle of mutual recognition and immediate execution of judicial decisions, presupposes confidence that the decisions to be recognised and executed will always be taken in compliance with the principles of legality, subsidiarity and proportionality. It also presupposes that the rights of persons <i>that are affected by a freezing order or a confiscation order should be preserved. Such affected persons, which could be natural persons or legal persons, should include the person against whom a freezing order or a confiscation order was issued, or the person owning the property that is covered by that order, as well as any third parties whose rights in relation to that property are directly prejudiced</i>	It should be verified whether the EP can accept the text of the GA.

		<i>by that order, including bona fide third parties. Whether such third parties are directly prejudiced by a freezing order or a confiscation order, is to be decided in accordance with the law of the executing State.</i>	
(16) This Regulation does not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the TEU.	(16) This Regulation <i>is without prejudice to</i> the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of <i>the TEU and in the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’)</i> . [AM 13]	(16) This Regulation does not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the <i>Treaty on European Union</i> (TEU).	Art. 6 TEU already refers to the Charter. Hence, the addition suggested by EP does not appear to be useful.
(17) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union (the Charter) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR). This Regulation should be applied in accordance with those rights and principles.	(17) This Regulation respects the fundamental <i>and procedural</i> rights and observes the <i>relevant</i> principles recognised in the Charter of Fundamental Rights of the European Union (the Charter) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (the ECHR). This Regulation should be applied in accordance with those rights and principles. [AM 14]	(17) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union (the "Charter") and the European Convention for the Protection of Human Rights and Fundamental Freedoms (the "ECHR"). <i>This includes that any discrimination based on any ground such as sex, racial or ethnic origin, religion, sexual orientation, nationality, language or political opinion, or disability should be prohibited.</i> This Regulation should be applied in accordance with those rights and principles.	The EP amendment seems acceptable. Suggested compromise text: (17) This Regulation respects the fundamental <i>and procedural</i> rights and observes the <i>relevant</i> principles recognised in the Charter of Fundamental Rights of the European Union (the "Charter") and the European Convention for the Protection of Human Rights and Fundamental Freedoms (the "ECHR"). <i>This includes that any discrimination based on any ground such as sex, racial or ethnic origin, religion, sexual orientation, nationality, language or political opinion, or disability should be prohibited.</i> This Regulation should be applied in

			<p>accordance with those rights and principles.</p> <p><u>MS are invited to confirm that they can accept this text.</u></p>
<p>(18) This Regulation should be applied taking into account Directives 2010/64/EU¹⁶, 2012/13/EU¹⁷, 2013/48/EU¹⁸, 2016/343¹⁹, 2016/800²⁰ and 2016/1919 of the European Parliament and of the Council²¹, which concern procedural rights in criminal proceedings.</p>	<p>(18) This Regulation should be applied <i>in accordance with</i> 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. <i>[AM 15]</i></p>	<p>(18) <i>The procedural rights set out in Directives 2010/64/EU, 2012/13/EU, 2013/48/EU, 2016/343, 2016/800 and 2016/1919 of the European Parliament and of the Council should apply, within the scope of application of these Directives, to criminal proceedings covered by this Regulation as regards the Member States bound by these Directives. In any case, the safeguards under the Charter should apply to all proceedings covered by this Regulation. In particular, the essential safeguards of criminal proceedings set out in the Charter should apply to proceedings in</i></p>	<p>It is suggested to keep the GA text, which is more precise in determining what should be the applicable safeguards. This holds true, in particular, for the situations which fall under the notion "criminal matters", but which are not covered by the procedural rights Directives that apply to "criminal proceedings".</p>

¹⁶ 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).

¹⁷ 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).

¹⁸ 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).

¹⁹ 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).

²⁰ 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).

²¹ 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).

		<i>criminal matters covered by this Regulation, which are not criminal proceedings.</i>	
(19) While ensuring that fundamental rights are respected, the rules for the transmission, recognition and execution of freezing orders and confiscation orders should ensure the efficiency of the process of recovering criminal assets.	(19) While ensuring that fundamental rights are respected, the rules for the transmission, recognition and execution of freezing orders and confiscation orders should ensure the efficiency of the process of recovering criminal assets.	<i>(18a) While the rules for the transmission, recognition and execution of freezing orders and confiscation orders should ensure the efficiency of the process of recovering criminal assets, fundamental rights should be respected.</i>	The texts say basically the same thing, but the GA text was recommended by legal-linguists. It is therefore suggested to keep it.
		<i>(18b) When assessing double criminality, the competent authority of the executing State should verify whether the factual elements underlying the offence, as reflected in the freezing certificate or confiscation certificate submitted by the competent authority of the issuing State, would also, per se, be subject to a criminal penalty in the executing State if they were present in that State at the time of the decision on the recognition.</i>	Keep GA text.
		<i>(18c) The issuing authority should ensure that, when issuing a freezing order, the principles of necessity and proportionality are respected. Under this Regulation a freezing order should only be issued when it could have been ordered in a similar domestic case.</i>	Keep GA text. It could be suggested to EP to accept this text instead of Art. 1(2a) (new).
		<i>(18d) Member States should be able</i>	Keep GA text.

		<p><i>to present a declaration stating that when a freezing certificate or a confiscation certificate is transmitted to them with a view to the recognition and execution of a freezing order or a confiscation order, the issuing authority should transmit, together with the freezing certificate or the confiscation certificate, the original freezing order or confiscation order, or a certified copy thereof. Member States should inform the Commission when they present or withdraw such a declaration. The Commission should make the information received available to all Member States and to the European Judicial Network as set up by Joint Action 98/428/JHA.²² The EJN should make the information available on the website referred to in Article 9 of Council Decision 2008/976/JHA.²³</i></p>	
		<p>(19) Where a freezing order is issued by a court, the issuing authority could also include an authority, designated by the issuing State, which is competent in criminal matters to execute or enforce the freezing order in accordance with national law.</p>	<p>Keep GA text.</p>

²² Joint Action 98/428/JHA of 29 June 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on the creation of a European Judicial Network (OJ L 191, 7.7.1998, p. 4).

²³ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, p. 130).

(20) To this end, freezing and confiscation orders should be transmitted directly by the issuing authority to the executing authority or, where applicable, to a central authority.	(20) To this end, freezing and confiscation orders should be transmitted directly by the issuing authority to the executing authority and communicated to a central authority responsible for assisting the competent authorities, logging the freezing or confiscation orders transmitted and received at the national level and streamlining the transmission and reception of orders. [AM 16]	(20) Therefore, the issuing authority should transmit a freezing certificate or a confiscation certificate, together with the freezing order or confiscation order where applicable, directly to the executing authority or, where applicable, to the central authority of the executing State by any means capable of producing a written record under conditions that allow the executing authority to establish authenticity, including by registered mail and by secured e-mail.	Keep GA text. EP could be asked to explain why the extra words relating to the central authority are necessary.
	(20a) With a view to ensuring the transmission of the freezing and confiscation order to the competent authority of the executing State, the issuing authority should be able to make use of any possible or relevant means of transmission, for example the secure telecommunications system of the European Judicial Network, Eurojust, or other channels used by judicial authorities. [AM 17]		This amendment seems in principle acceptable.
		(20a) The issuing authority should transmit the freezing certificate or the confiscation certificate, relating to an order concerning an amount of money, to the Member State where the issuing authority has reasonable grounds to believe that the person against whom the order was issued has property or income. On this basis,	Keep text GA.

		<i>the certificate could be transmitted to the Member State in which the natural person, against whom the order was issued, is residing or, if this person has no permanent or settled address, is habitually residing. If the order was issued against a legal person, the certificate could be transmitted to the Member State where the legal person is domiciled.</i>	
	<i>(20b) The designation by the Member States of one or more central authorities, which may clearly play an administrative support and coordination role, is a key element in supporting the rapid mutual recognition of freezing and confiscation orders between the issuing and enforcing authorities and in speeding up these mutual recognition procedures. With that in mind, the European Judicial Network should also be strengthened to help the issuing and executing authorities to communicate more quickly with each other and cooperate more effectively. [AM 18]</i>		See also Art. 27(2). EP wants to make it obligatory for MS to designate a central authority. <u>MS are invited to state their position on this amendment, and on AM 120 relating to Art. 27(2).</u>
		<i>(21) Where a confiscation certificate concerning an amount of money is transmitted to more than one executing State, the issuing State should seek to avoid that more property is confiscated than necessary</i>	Keep text GA.

		<i>so that the total value would go beyond the maximum amount. To that end, the issuing authority should, among other things, (i) indicate in the confiscation certificate the value of assets, if known, in each executing State, so that the executing authorities can take account thereof; (ii) maintain the necessary contacts and dialogue with the executing authorities on the property to be confiscated; and (iii) inform the relevant executing authority or authorities immediately if it considers that there could be a risk that execution beyond the maximum amount might occur. Where appropriate, Eurojust could exercise a coordinating role within its remit in order to avoid excessive confiscation.</i>	
(21) A confiscation order should be transmitted together with a standard certificate.	(21) A confiscation or freezing order should be transmitted together with a standard certificate. [AM 19]	(incorporated in recital 20)	AM 19 is taken on board in recital 20.
	<i>(21a) When making a declaration concerning the language regime they are adopting pursuant to this Regulation, Member States should include at least one official language of the European Union other than their official language(s). [AM 20]</i>		This is a politically sensitive amendment. To be noted that in the context of the EIO, practitioners have indicated that it would be helpful if in all MS English could be used, at least in urgent cases. <u>MS are invited to state their position on this amendment.</u>

<p>(22) The executing authority should recognise a confiscation order <i>without further formalities</i> and should take the necessary measures for its execution. The decision on the recognition and execution of the confiscation order should be taken and the confiscation should be carried out with the same celerity and priority as for a similar domestic case. Time limits should be set out in order to ensure a quick and efficient decision and execution of the confiscation order.</p>	<p>(22) The executing authority should recognise a confiscation order without further formalities <i>or undue delay</i> and should take the necessary measures for its execution. The decision on the recognition and execution of the confiscation order should be taken <i>without any undue delay</i> and the confiscation should be carried out with the same <i>speed</i> and priority as for a similar domestic case. <i>This Regulation should set out time limits by which the different steps of the procedure must be completed</i> in order to ensure a quick and efficient decision and execution of the confiscation order. <i>[AM 21]</i></p>	<p>(22) The executing authority should recognise <i>a freezing order or</i> a confiscation order and should take the measures necessary for its execution. The decision on the recognition and execution of <i>the freezing order or</i> the confiscation order should be taken and the freezing or confiscation should be carried out with the same <i>speed</i> and priority as for similar domestic cases. Time limits, <i>which should be calculated in accordance with Regulation 1182/71,²⁴</i> should be set out in order to ensure a quick and efficient decision and execution of the <i>freezing order or</i> the confiscation order. <i>As regards freezing orders, the executing authority should, no later than 48 hours after the decision on the recognition and execution of such an order has been taken, start taking the concrete measures necessary to execute that order.</i></p>	<p>Keep text GA. It seems not necessary to mention the further formalities and the undue delay in this recital.</p>
<p>(23) <i>In light of the urgency of freezing and of its provisional nature, a freezing order should be issued in a standard form.</i> The issuing authority should ascertain whether issuing the freezing order is necessary and proportionate for the purpose of provisionally preventing the</p>	<p>(23) The issuing authority should ascertain whether issuing the freezing order is necessary and proportionate for the purpose of provisionally preventing the destruction, transformation, moving, transfer or disposal of property. To align the conditions for issuing freezing orders</p>	<p><i>Deleted</i></p>	<p>Proportionality - see note with questions.</p> <p>Amendment / text seems not acceptable. It is suggested to deal with the proportionality issue only in recital 18c.</p>

²⁴ Regulation 1182/71 of the Council of 3 June 1971 on determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

destruction, transformation, moving, transfer or disposal of property. To align the conditions for issuing freezing orders in domestic and cross-border cases, a freezing order under this Regulation should be issued only when it could have been ordered in a similar domestic case.	in domestic and cross-border cases, a freezing order under this Regulation should be issued only when it could have been ordered in a similar domestic case. <i>[AM 22]</i>		
(24) The executing authority should recognise a freezing order without further formalities and should immediately take the necessary measures for its execution. The decision on the recognition and execution of the freezing order should be taken and the freezing should be carried out with the same celerity and priority as for a similar domestic case. Time limits should be set out in order to ensure a quick and efficient decision and execution of the freezing order.	(24) The executing authority should recognise a freezing order without further formalities <i>or undue delay</i> and should immediately take the necessary measures for its execution. The decision on the recognition and execution of the freezing order should be taken <i>without undue delay</i> and the freezing should be carried out with the same <i>speed</i> and priority as for a similar domestic case. <i>This Regulation</i> should set out <i>firm time</i> limits <i>by which the different steps of the procedure must be completed</i> in order to ensure a quick and efficient decision and execution of the freezing order. <i>[AM 23]</i>	(merged into recital 22)	Freezing orders and confiscation orders are both taken care of in recital 22. No need for this text anymore.
(25) In the execution of a freezing order, the issuing authority and the executing authority should take due account of the confidentiality of the investigation. In particular, the executing authority should guarantee the confidentiality of the facts and the substance of the freezing order.	(25) <i>Without prejudice to the right to information of any person concerned, in</i> the execution of a freezing order, the issuing authority and the executing authority should take due account of the confidentiality of the investigation. In particular, the executing authority should guarantee the confidentiality of the facts and the	(25) In the execution of a freezing order, the issuing authority and the executing authority should take due account of the confidentiality of the investigation. In particular, the executing authority should guarantee the confidentiality of the facts and substance of the freezing order.	This amendment, with a reference to the " <i>right to information of any person concerned</i> ", seems to be very broad. EP could be asked what it does mean with this text. <u>MS are invited to state their position on this amendment.</u>

	substance of the freezing order. [AM 24]		
(26) The recognition and execution of a freezing order or a confiscation order should not be refused on grounds other than those stated in this Regulation. In particular, it should be possible for the executing authority not to recognise and execute a confiscation order on the basis of the principle <i>ne bis in idem</i> , of the rights of any interested party, or of the right to be present at the trial.	(26) The recognition and execution of a freezing order or a confiscation order should not be refused on grounds other than those stated in this Regulation. In particular, it should be possible for the executing authority not to recognise and execute a confiscation order on the basis of <i>fundamental rights</i> , the principle <i>ne bis in idem</i> , of the rights of any interested party, or of the right to be present at the trial. [AM 25]	(26) The recognition and execution of a freezing order or a confiscation order should not be refused on grounds other than those provided for in this Regulation. In particular, it should be possible for the executing authority not to recognise and execute a confiscation order on the basis of the principle <i>ne bis in idem</i> , on the basis of the rights of any interested party, or on the basis of the right to be present at the trial.	Fundamental rights - see the note with questions.
	<i>(26a) The principle of ne bis in idem is a fundamental principle of law in the Union, as recognised by the Charter and developed by the case-law of the Court of Justice of the European Union. Therefore the executing authority should be entitled to refuse to execute a confiscation or freezing order if execution would be contrary to that principle. [AM 26]</i>		Text identical to the first two sentences of recital 17 of the EIO Directive. This amendment seems acceptable, but EP could be asked why there is a need for a specific recital on <i>ne bis in idem</i> . <u>MS are invited to state their position on this amendment.</u>
	<i>(26b) The creation of an area of freedom, security and justice within the Union is based on mutual confidence and a presumption of compliance by other Member States with Union law and, in particular, with fundamental rights. However,</i>		Text identical to recital 19 in the EIO Directive. Fundamental rights - see the note with questions.

	<i>that presumption is rebuttable. Consequently, if there are substantial grounds for believing that the execution of a confiscation or freezing order would result in a breach of a fundamental right of the person concerned and that the executing State would disregard its obligations concerning the protection of fundamental rights recognised in the Charter, execution of the confiscation or freezing order should be refused. [AM 27]</i>		
	<i>(26c) This Regulation respects the fundamental rights and observes the principles recognised by Article 6 of the TEU and in the Charter, notably Title VI thereof, by international law and international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions in their respective fields of application. Nothing in this Regulation may be interpreted as prohibiting refusal to execute a confiscation or freezing order when there are reasons to believe, on the basis of objective elements, that the confiscation or freezing order has been issued for the purpose of prosecuting or punishing a</i>		Text identical to recital 39 in the EIO Directive. Fundamental rights - see the note with questions.

	<i>person on account of his or her sex, racial or ethnic origin, religion, sexual orientation, nationality, language or political opinions, or that the person's position may be prejudiced for any of these reasons.</i> [AM 28]		
	<i>(26d) It is vital to take into account the rights of any third party affected by an order for the confiscation or freezing of specified property, for example because he is the owner of such property but has been unable to assert his rights in the proceedings in the issuing Member State because he is not a party to those proceedings. Accordingly, an executing authority should have the right to refuse to recognise or execute a confiscation or freezing order where it relates to a specific item of property which is not the property of the natural or legal person against whom the confiscation order was made in the issuing Member State or of any other natural or legal person who was a party to the proceedings in the issuing State.</i> [AM 29]		<p>This amendment is linked to the suggested insertion of a new ground for non-recognition (AM 69 and 101). Such ground could substantially widen the possibility to refuse recognition and execution of freezing and confiscation orders, and could hence jeopardize the system of mutual recognition.</p> <p><u>MS are invited to state their position on this AM 29, and on AM 69 and AM 101.</u></p>
		<i>(26a) There should be a ground for non-recognition of confiscation orders based on the fact that the person did not appear in person at the trial resulting in a confiscation order</i>	Keep text GA.

		<p><i>linked to a final conviction. This ground for non-recognition only applies to trials resulting in confiscation orders linked to a final conviction and does not apply to proceedings resulting in non-conviction based confiscation orders. However, in order for such ground to be able to apply, one or more hearings should be held. The ground cannot apply if the relevant national rules of procedure do not provide for a hearing. Such national rules should comply with the Charter and with the ECHR, in particular with regard to the right to a fair trial. This is the case, for example, if the proceedings are conducted in a simplified manner following, solely or in part, a written procedure or a procedure in which no hearing is provided for.</i></p>	
		<p><i>(26b) In exceptional circumstances only, it should be possible not to recognize or execute a freezing order or confiscation order where such recognition or execution would prevent the executing State from applying its constitutional rules relating to freedom of the press and freedom of expression in other media.</i></p>	Keep text GA.
(27) Before deciding to apply a ground for non-recognition and non-execution, the executing authority	(27) Before deciding to apply a ground for non-recognition and non-execution, the executing authority	<p><i>(27) Before deciding not to recognise or execute a freezing order or a confiscation order on the basis of a</i></p>	<p>Time-limits, see note with questions.</p> <p>Keep text GA. It is doubtful if adding a</p>

should consult the issuing authority, in order to obtain any necessary additional information.	should consult the issuing authority <i>without any undue delay</i> , in order to obtain necessary additional information. <i>[AM 30]</i>	<i>ground for non-recognition or non-execution</i> , the executing authority should consult the issuing authority, in order to obtain any necessary additional information.	time-limit at this place, although in vague terms, would be useful.
		<i>(27a) When examining a request from the executing authority to limit the period for which the property should be frozen, the issuing authority should take into account all circumstances of the case, in particular whether the continuation of the freezing order could cause unjustified damage in the executing State. The executing authority is encouraged to consult with the issuing authority on this issue before making a formal request.</i>	Keep text GA.
		<i>(27b) The issuing authority should inform the executing authority when the authority of the issuing State receives any sum of money which the person concerned has paid in respect of the confiscation order, it being understood that the executing State must only be notified if the amount of payment towards the order impacts on the amount that should be confiscated pursuant to the order.</i>	Keep text GA.
(28) It should be possible for the executing authority to postpone the execution of a confiscation or a	(28) It should be possible for the executing authority to postpone the execution of a confiscation or a	(28) It should be possible for the executing authority to postpone the execution of a or <i>a freezing order or a</i>	Text of GA was suggested by legal-linguists. It is suggested to keep it.

freezing order, notably where its execution might damage an ongoing criminal investigation. As soon as the ground for postponement has ceased to exist, the executing authority should take the necessary measures for the execution of the order.	freezing order, notably where its execution might damage an ongoing criminal investigation. As soon as the ground for postponement has ceased to exist, the executing authority should take the necessary measures for the execution of the order.	confiscation order, <i>in particular</i> where its execution might damage an ongoing criminal investigation. As soon as there is no longer a ground for postponement, the executing authority should take the measures <i>necessary</i> to execute the order.	
		<i>(28a) After the execution of a freezing order, and following the decision to recognise and execute a confiscation order, the executing authority should, in so far as possible, inform affected persons known to it of such execution or such decision. This means that the executing authority should do all reasonable efforts to determine who the affected persons are, verify how they can be reached and inform those persons of the execution of the freezing order or of the decision to recognise and execute a confiscation order. In carrying out these obligation, the executing authority could ask the issuing authority for assistance, for example when the affected persons appear to reside in the issuing State. The obligation under this Regulation for the executing authority to provide information to affected persons is without prejudice to any obligation incumbent on the issuing authority to provide information to persons under the law of the issuing State, e.g.</i>	Keep text GA.

		<i>regarding the issue of a freezing order or regarding existing legal remedies under the law of the issuing State.</i>	
		<i>(28b) In order to ensure the adequate management of the frozen property, the executing authority has the possibility to sell or transfer the property, where necessary, in accordance with Article 10 of Directive 2014/42/EU, in particular where the property is frozen for a considerable period of time.</i>	Keep text GA.
(29) The issuing authority should be notified without delay of the impossibility to execute an order. Such impossibility might arise from the reason that the property has already been confiscated, has disappeared, cannot be found in the location indicated by the issuing authority or the location of the property has not been indicated in a sufficiently precise manner.	(29) The issuing authority should be notified without <i>undue</i> delay of the <i>reasons for which the execution of</i> an order <i>is impossible</i> . Such impossibility might arise from the <i>fact</i> that the property has already been confiscated, has disappeared, cannot be found in the location indicated by the issuing authority or the location of the property has not been indicated in a sufficiently precise manner. <i>[AM 31]</i>	(29) The issuing authority should be notified without delay <i>if it is impossible</i> to execute an order. Such impossibility might arise <i>because</i> the property has already been confiscated, has disappeared, <i>has been destroyed</i> , cannot be found at the location indicated by the issuing authority, or <i>because</i> the location of the property has not been indicated in a sufficiently precise manner <i>despite consultations between the executing authority and the issuing authority. In such circumstances, the executing authority will no longer be under the obligation to execute the freezing order.</i>	Keep text GA, which seems to encompass almost the entire EP text.
	<i>(29 a) Where there are doubts as to the location of property which is the subject of a confiscation order,</i>		Amendment seems acceptable, although EP may be asked what is exactly the added value: it seems

	<i>Member States should use all available means in order to identify the correct location of that property, including the use of all available information systems. [AM 32]</i>		ARO's are perfectly aware of the possibility to use available information systems.
		<i>(29a) Where mandatory provisions of law in the executing State make the execution of a freezing order or a confiscation order legally impossible, the executing authority should contact the issuing authority in order to discuss the situation and to find a solution. Such a solution could consist in the issuing authority withdrawing the order concerned.</i>	Keep text GA.
		<i>(29b) As soon as the execution of a confiscation order has been completed, the executing authority should inform the issuing authority of the results of the execution. Where practically possible, the executing authority should, at this occasion, also inform the issuing authority of the amount of money or the property that has been confiscated, and of other details that it considers relevant.</i>	Keep text GA.
(30) The execution of a confiscation or a freezing order should be governed by the law of the executing State and its authorities should alone be competent to decide on the procedures for execution.	(30) The execution of a freezing or a confiscation order should be governed by the law of the executing State and its authorities should alone be competent to decide on the procedures for execution. <i>[AM 33]</i>	(30) The execution of a freezing order or a confiscation order should be governed by the law of the executing Member State and only its authorities should be competent to decide on the procedures for execution.	Texts seem almost identical.

<p>(31) The proper practical operation of this Regulation presupposes close communication between the competent national authorities involved, in particular in cases of simultaneous execution of a confiscation order in more than one Member State. The competent national authorities should therefore consult each other whenever necessary.</p>	<p>(31) The proper practical operation of this Regulation presupposes close communication and optimal cooperation between the competent national authorities involved, in particular in cases of simultaneous execution of a freezing or confiscation order in more than one Member State. The competent national authorities should therefore consult each other and should use modern communication technologies accepted under the procedural rules of the Member States concerned. [AM 34]</p>	<p>(31) The proper practical operation of this Regulation presupposes close communication between the competent national authorities involved, in particular in cases of the simultaneous execution of a confiscation order in more than one Member State. The competent national authorities should therefore consult each other whenever necessary.</p>	<p>Amendment seems acceptable, although "optimal" might also be replaced by another word ("good"?).</p> <p>Addition of modern communication technologies seems OK.</p> <p><u>MS are invited to state their position on this amendment.</u></p>
<p>(32) The victims' rights to compensation and restitution should not be prejudiced in cross-border cases. Rules for disposal of the confiscated property should give priority to the compensation and restitution of property to the victims. Member States should also take into account their obligations to assist in the recovery of tax claims from other Member States in accordance with Directive 2010/24/EU²⁵.</p>	<p>(32) The victims' rights to compensation and restitution shall not be prejudiced in cross-border cases. Rules for disposal of the confiscated property shall give priority to the compensation and restitution of property to the victims. Member States should also take into account their obligations to assist in the recovery of tax claims from other Member States in accordance with Directive 2010/24/EU³⁶. [AM 35]</p>	<p>(32) The victims' rights to compensation and restitution should not be prejudiced in cross-border cases. Rules for the disposal of frozen and confiscated property should give priority to the compensation and restitution of property to victims. The notion of victim is to be interpreted in accordance with the national law of the issuing State, which could also provide that a legal person could be a victim for the purpose of this Regulation. This Regulation should be without prejudice to rules on compensation and restitution of property to victims in national</p>	<p>Keep text GA. A reference to tax Directive 2010/24/EU should be avoided.</p>

²⁵ Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

		<i>proceedings.</i>	
	<p><i>(32a) Property frozen with a view to later confiscation, and property confiscated, should be managed adequately in order not to lose its economic value, to encourage its reuse for social purposes and to avoid the risk of further criminal infiltration. Accordingly, Member States should take the necessary measures, including sale or transfer of the property, to minimise such losses and to favour social aims. They should adopt all appropriate legislative or other measures such as the creation of centralised national property management offices or equivalent arrangements, with a view to the proper management of frozen or confiscated property. To that end, it would be useful to consider the formation of a Union fund that would collect a part of the confiscated assets from Member States. Such a fund should be accessible for pilot projects from EU citizens, associations, NGO groupings and any other civil society organisation, in order to encourage the effective reuse of confiscated property for social purposes. [AM 36]</i></p>		Management - see note with questions.
		<p><i>(32a) Where an executing authority has received information on a decision, issued by the issuing</i></p>	Keep text GA.

		<p><i>authority or by another competent judicial authority in the issuing State, to restitute frozen property to the victim, it should take the necessary measures to ensure that the property concerned is frozen and restituted to the victim as soon as possible. The executing authority could transfer the property to the issuing State, so that the latter could restitute the property to the victim, or directly to the victim subject to the consent of the issuing State. The obligation to restitute frozen property to the victim is subject to three conditions: the title of the victim to the property should not be contested, meaning that it is accepted that the victim is the rightful owner of the property and there are no serious claims putting this into question; the property should not be required as evidence in criminal proceedings in the executing State; and the rights of affected persons, in particular of bona fide third parties, should not be prejudiced. The executing authority should restitute frozen property to the victim only if these conditions are met. Where an executing authority considers that these conditions have not been met, it should consult with the issuing authority, e.g to request for any additional information and discuss the situation, in order to find a solution. If no solution can be</i></p>	
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		<i>found, the executing authority could decide not to restitute the frozen property to the victim.</i>	
	<i>(32b) The rules on the destination of confiscated goods should include appropriate forms of compensation for the families of police officers and public servants killed in the line of duty and police officers and public servants permanently disabled in the line of duty. Each Member State should accordingly set up a fund earmarked for this purpose and assign to it a portion of the confiscated assets. [AM 37]</i>		Management - see note with questions.
	<i>(32c) The practice of using confiscated assets for social purposes fosters and sustains the dissemination of a culture of legality, assistance to crime victims and action against organised crime, hence creating ‘virtuous’ mechanisms, which may also be implemented through non-governmental organisations, that benefit society and the socio-economic development of an area, using objective criteria. Accordingly, the Member States should be encouraged to develop such practices. [AM 38]</i>		Management - see note with questions.
	<i>(32d) In order that civil society may concretely perceive the effectiveness</i>		Management - see note with questions.

	<i>of the action of the Member States against organised crime, including mafia-type crime, and that proceeds are actually taken away from the criminals, it is necessary to adopt common measures to prevent criminal organisations from recovering possession of property illicitly obtained. Best practice in several Member States has shown that the following are effective tools: management and administration by Asset Management Offices (AMO) or similar mechanisms, as well as the use of the confiscated property for projects aimed at eliminating and preventing crime, and for other institutional or public purposes or social use. [AM 39]</i>		
	<i>(32e) Confiscated assets should be properly managed in order to reaffirm and promote respect for legality through their reuse in the social and economic interest of the communities directly affected by the activities of terrorists and criminal organisations. [AM 40]</i>		Management - see note with questions.
(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	(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	(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 Member State has incurred large or exceptional	Keep text GA

proposal by the executing authority that the costs be shared should be taken into account by the issuing authority.	proposal by the executing authority that the costs be shared should be taken into account by the issuing authority.	costs, <i>for instance because the property has been frozen for a considerable period of time</i> , a proposal by the executing authority that the costs be shared should be taken into account by the issuing authority.	
(34) Any interested party, including <i>bona fide</i> third parties, should have legal remedies against the recognition and execution of a freezing or confiscation order to preserve his or her rights, including the effective possibility to challenge the order before a court or claim title of ownership or other property rights in accordance with Directive 2014/42/EU. The action should be brought before a court in the executing State.	(34) Any interested party, including bona fide third parties, should have legal remedies against the recognition and execution of a freezing or confiscation order to preserve his or her rights, including the <i>right of access to the file and the</i> effective possibility to challenge the order before a court or claim title of ownership or other property rights in accordance with Directive 2014/42/EU. The action should be brought before a court in the executing State. <i>[AM 41]</i>	<i>Deleted</i>	Council felt that this recital did not have any added value in the light of the operative part (Art. 33). For that reason, it has been deleted. EP could be invited to explain the added value.
(35) In order to amend the certificate and the form set out in Annexes I and II to this Regulation , the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous,	<i>Deleted [AM 42]</i>		AM 42 asks for the deletion of this recital, whereas AM 43 only contains a drafting suggestion. Puzzling ...

timely and appropriate transmission of relevant documents to the European Parliament and the Council.			
<p>(35) In order to amend the certificate and the form set out in Annexes I and II to this Regulation , the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts, including at expert level. <i>The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.</i></p>	<p>(35) In order to amend the certificate and the form set out in Annexes I and II to this Regulation , the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts <i>with specialised authorities in the Member States and the corresponding European agencies</i>, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council. <i>[AM 43]</i></p>	<p>(35) In order to <i>be able in the future to address, as quickly as possible, identified problems regarding the content of</i> the certificate and the form set out in Annexes I and II to this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission <i>in respect of amendments to such a certificates and form</i>. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, <i>and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</i></p>	<p>The EP amendment seems acceptable in a slightly modified form. Suggested text, in which also two obsolete references to the cancelled form have been deleted:</p> <p>(35) In order to <i>be able in the future to address, as quickly as possible, identified problems regarding the content of</i> the certificates set out in Annexes I and II to this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission <i>in respect of amendments to such certificates</i>. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, <i>e.g. with specialised authorities in the Member States and the corresponding European agencies</i>, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. <i>In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as</i></p>

			<p><i>Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</i></p> <p><u>MS are invited to state their position on this amendment as refined.</u></p>
<p>(36) Since the objective of this Regulation, namely the mutual recognition and execution of freezing and confiscation orders, cannot be achieved by the Member States but can rather, by reason of its scale and its effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union . In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.</p>	<p>(36) Since the objective of this Regulation, namely the mutual recognition and execution of freezing and confiscation orders, cannot be achieved by the Member States but can rather, by reason of its scale and its effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union . In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.</p>	<p>(36) Since the objective of this Regulation, namely the mutual recognition and execution of freezing orders and confiscation orders, cannot be achieved by the Member States but can rather, by reason of its scale and its effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.</p>	<p>Texts identical.</p>
<p>(37) Provisions of Framework Decision 2003/577/JHA have already been replaced by Directive 2014/41/EU²⁶ as regards freezing of</p>	<p>(37) Provisions of Framework Decision 2003/577/JHA have already been replaced by Directive 2014/41/EU²⁷ as regards freezing of</p>	<p>(37) Provisions of Framework Decision 2003/577/JHA have already been replaced by Directive 2014/41/EU of the European</p>	<p>The GA text has been suggested by the legal-linguists; it seems preferable to keep it.</p>

²⁶ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1).

²⁷ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1).

evidence. Provisions of Framework Decision 2003/577/JHA should be replaced by this Regulation between Member States bound by it as regards freezing in view of subsequent confiscation of property . Provisions for freezing of evidence and in view of subsequent confiscation should be aligned. This Regulation should also replace Framework Decision 2006/783/JHA between Member States bound by it.	evidence. Provisions of Framework Decision 2003/577/JHA should be replaced by this Regulation between Member States bound by it as regards freezing in view of subsequent confiscation of property . Provisions for freezing of evidence and in view of subsequent confiscation should be aligned. This Regulation should also replace Framework Decision 2006/783/JHA between Member States bound by it.	Parliament and of the Council ²⁸ as regards the freezing of evidence. Provisions of Framework Decision 2003/577/JHA should be replaced by this Regulation between Member States bound by it as regards freezing with a view to the subsequent confiscation of property. Provisions <i>that relate to</i> freezing of evidence and those that relate to freezing with a view to subsequent confiscation should be aligned. This Regulation should also replace Framework Decision 2006/783/JHA as between Member States bound by it.	However, in the light of the discussions on the position of DK/IE (see note with questions), this recital may need to be refined/clarified.
		<i>(37a) The legal form of this instrument should not constitute a precedent for future legislative instruments of the Union in the field of mutual recognition of judgments and judicial decisions in criminal matters. The choice of the legal form for future instruments should be carefully assessed on a case-by-case basis taking into account amongst others the effectiveness of the instrument and the principles of proportionality and subsidiarity.</i>	Keep text GA (important for Council; see also comments under recital 11)
(38) In accordance with Article 3 of the Protocol on the position of the	(38) In accordance with Article 3 of the Protocol on the position of the	(38) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the	Keep text GA

²⁸ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1).

United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, <i>[the United Kingdom /Ireland has notified its wish to take part in the adoption and application of this Regulation] or [and without prejudice to Article 4 of that Protocol, the United Kingdom/Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]</i>	United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, <i>[the United Kingdom /Ireland has notified its wish to take part in the adoption and application of this Regulation] or [and without prejudice to Article 4 of that Protocol, the United Kingdom/Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]</i>	position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, <i>the United Kingdom has notified its wish to take part in the adoption and application of this Regulation.</i>	
		<i>(38a) In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</i>	Keep text GA
(39) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in	(39) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in	(39) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not	Texts identical.

the adoption of this Regulation, and is therefore not bound by it or subject to its application,	the adoption of this Regulation, and is therefore not bound by it or subject to its application,	taking part in the adoption of this Regulation and is not bound by it or subject to its application.	
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CHAPTER I

SUBJECT-MATTER, DEFINITIONS AND SCOPE

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
ARTICLE 1 - Subject-matter			
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.	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 proceedings <i>in criminal matters</i> . [AM 44]	1. This Regulation lays down the rules under which a Member State shall recognise and execute in its territory a freezing <i>order</i> or a confiscation order issued by another Member State within the framework of proceedings <i>in criminal matters</i> .	EP and Council are on the same line. Amendment regarding ‘criminal matters’ acceptable.
2. This Regulation shall not have the effect of amending the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 TEU.	2. This Regulation shall not have the effect of amending the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 TEU <i>and in the Charter, in particular the right of defence, the right to a fair trial and the right to property</i> . [AM 45]	2. This Regulation shall not have the effect of modifying the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 TEU.	Art. 6 TEU already refers to the Charter. Therefore the addition suggested by EP does not appear to be useful. See also recital 16.
	<i>2a. The issuing authority shall ensure, when issuing a freezing or confiscation order, that the principles of necessity and proportionality are respected.</i> [AM 46]		Proportionality - see note with questions. A large majority of MS did not want to have this provision at the time of negotiating the GA. Suggestion not to accept the amendment.
		3. <i>This Regulation does not apply</i>	Keep text GA.

		<i>to freezing orders and confiscation orders issued within the framework of proceedings in civil or administrative matters.</i>	
ARTICLE 2 – Definitions			
For the purpose of this Regulation, the following definitions apply:	For the purpose of this Regulation, the following definitions apply:	For the purpose of this Regulation, the following definitions apply:	Texts identical.
(1) ‘confiscation order’ means a <i>final penalty or</i> 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;	(1) ‘confiscation order’ means a 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; <i>[AM 47]</i>	(2) ‘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;	The text as proposed by COM / as it stands in the GA figures also in FD 2006/783/JHA. Suggestion therefore to keep that text, including " <i>final penalty</i> ".
(2) ‘freezing order’ means a <i>judicial</i> decision issued or validated by an authority referred to in point (8) <i>in respect of a freezing order in the issuing State</i> in order to <i>provisionally</i> prevent the destruction, transformation, moving, transfer or disposal of property with a view to <i>possible subsequent</i> confiscation;	(2) ‘freezing order’ means a judicial decision issued or validated by an authority referred to in point (8) in respect of a freezing order in the issuing State in order to provisionally prevent the destruction, transformation, moving, transfer or disposal of property with a view to possible subsequent confiscation;	(1) ‘freezing order’ means a decision issued or validated by an issuing authority referred to in point (8) in order to prevent the destruction, transformation, removal, transfer or disposal of property with a view to <i>the</i> confiscation thereof;	Keep text GA. Freezing order should not necessarily be a judicial decision.
(3) ‘property’ means property of any description, whether corporeal or incorporeal, movable or immovable, and legal documents or instruments evidencing title or interest in such property, which the issuing authority considers to be :	(3) ‘property’ means <i>money or assets</i> of any <i>kind</i> , whether corporeal or incorporeal, movable or immovable, <i>as well as limited property rights</i> and legal documents or instruments evidencing title or interest in such <i>assets</i> , which the issuing authority considers to be: <i>[AM 48]</i>	(3) ‘property’ means property of any description, whether corporeal or incorporeal, movable or immovable, <i>as well as</i> legal documents or instruments evidencing title or interest in such property, which the issuing authority considers to be:	Keep text GA. Reference to "criminal offence" is important for several MS.

<p>(a) the proceeds of an offence, or its equivalent, to either the full value or part of the value of such proceeds,</p> <p>(b) the instrumentalities of such an offence, or the value of such instrumentalities,</p> <p>(c) liable to confiscation resulting from the application in the issuing State of any of the powers of confiscation provided for in Directive 2014/42/EU, or</p> <p>(d) liable to confiscation under any other provisions relating to powers of confiscation under the law of the issuing State;</p>	<p>(a) the proceeds of an offence, or its equivalent, to either the full value or part of the value of such proceeds,</p> <p>(b) the instrumentalities of such an offence, or the value of such instrumentalities,</p> <p>(c) liable to confiscation resulting from the application in the issuing State of any of the powers of confiscation provided for in Directive 2014/42/EU, or</p> <p>(d) liable to confiscation under any other provisions relating to powers of confiscation under the law of the issuing State;</p>	<p>(a) the proceeds of a criminal offence, or its equivalent, whether the full amount of the value or only part of the value of such proceeds,</p> <p>(b) the instrumentalities of such an offence, or the value of such instrumentalities,</p> <p>(c) subject to confiscation through the application in the issuing State of any of the powers of confiscation provided for in Directive 2014/42/EU, or</p> <p>(d) subject to confiscation under any other provisions relating to powers of confiscation without a final conviction under the law of the issuing State following proceedings in relation to a criminal offence;</p>	
<p>(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;</p>	<p>(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;</p>	<p>(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;</p>	<p>Texts identical.</p>
<p>(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 ;</p>	<p>(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 ;</p>	<p>(5) 'instrumentalities' means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence;</p>	<p>Keep text GA. One criminal offence is enough. But not a red line.</p>

(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued <i>within the framework of criminal proceedings</i> ;	(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued within the framework of proceedings <i>in criminal matters</i> ; [AM 49]	(6) 'issuing State' means the Member State in which a freezing order or a confiscation order is issued;	Keep text GA. It is not necessary to refer to criminal matters, that is already mentioned in the scope.
(7) 'executing State' means the Member State to which a freezing order or a confiscation order is transmitted for the purpose of recognition and execution;	(7) 'executing State' means the Member State to which a freezing order or a confiscation order is transmitted for the purpose of recognition and execution;	(7) 'executing State' means the Member State to which a freezing order or a confiscation order is transmitted for the purpose of recognition and execution;	Texts identical.
<p>(8) 'issuing authority' means:</p> <p>(a) in respect of a freezing order:</p> <p>(1) a judge, a court, <i>an investigating judge</i> or a public prosecutor competent in the case concerned; or</p> <p>(2) any other competent authority as defined by the issuing State which has competence in <i>criminal proceedings</i> 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, <i>in particular the conditions set out in Article 13(1)</i>, by a judge, court, <i>investigating judge</i> or a public prosecutor in the issuing State.</p>	<p>(8) 'issuing authority' means:</p> <p>(a) in respect of a freezing order:</p> <p>(1) a judge, a court, an investigating judge or a public prosecutor competent in the case concerned; or</p> <p>(2) any other competent authority as defined by the issuing State which has competence in <i>criminal matters</i> 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</p>	<p>(9) 'issuing authority' means:</p> <p>(a) in respect of a freezing order:</p> <p>(i) a judge, a court, or a public prosecutor competent in the case concerned; or</p> <p>(ii) any other competent authority <i>which is designated as such</i> by the issuing State <i>and</i> which has competence in <i>criminal matters</i> 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 by a judge, court or public prosecutor in the issuing State after examining its conformity with the conditions for issuing such an order under this Regulation. Where the order has been validated by such an</p>	Keep text GA. Texts are quite close. "Judge" can also be an investigating judge. Both texts have "criminal matters", which is good.

<p>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;</p> <p>(b) in respect of a confiscation order, a competent authority <i>as defined</i> by the issuing State which, in criminal proceedings, has competence to enforce a confiscation order issued by a court in accordance with national law;</p>	<p>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; <i>[AM 50]</i></p> <p>(b) in respect of a confiscation order, a competent authority as defined by the issuing State which, in criminal <i>matters</i>, has competence to enforce a confiscation order issued by a court in accordance with national law; <i>[AM 51]</i></p>	<p>authority, that authority may also be regarded as an issuing authority for the purposes of transmitting the order;</p> <p>(b) in respect of a confiscation order, an authority <i>which is designated as such</i> by the issuing State <i>and</i> which is competent in <i>criminal matters</i> to enforce a confiscation order issued by a court in accordance with national law;</p>	
<p>(9) ‘executing authority’ means an authority having competence to recognise a freezing or confiscation order and ensure its execution in accordance with this Regulation and the procedures applicable in a similar domestic case.</p>	<p>(9) ‘executing authority’ means an authority having competence to recognise a freezing or confiscation order and ensure its execution in accordance with this Regulation and the procedures applicable in a similar domestic case.</p>	<p>(9) ‘executing authority’ means an authority <i>that is</i> competent to recognise a freezing <i>order</i> or a confiscation order and to ensure its execution in accordance with this Regulation and the procedures applicable <i>under national law for the freezing and confiscation of property. Such procedures may require that a court registers the order and authorises the execution thereof. In such a case, the executing authority also includes the authority that is competent to request such registration by the court and such court authorisation;</i></p>	<p>Keep text GA. Important for some MS that notion can be enlarged.</p>
	<p>(9a) ‘interested party’ means any natural or legal person, including bona fide third parties, who is affected by this Regulation in accordance with</p>	<p>(10) ‘affected person’ means the person against whom a freezing order or a confiscation order was issued, or the person owning the property that is</p>	<p>Legal remedies - see note with questions.</p> <p>The two definitions are quite close.</p>

	<i>national law of the executing State; [AM 52]</i>	<i>covered by that order, as well as any third parties whose rights in relation to that property are directly prejudiced by that order in accordance with the law of the executing State.</i>	The reference to the law of the executing State, which figures in both definitions, is important.
ARTICLE 3 – Offences			
<p>1. 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 <i>the freezing or confiscation order</i> 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 three years:</p> <ul style="list-style-type: none"> - participation in a criminal organisation, - terrorism, - trafficking in human beings, - sexual exploitation of children and child pornography, - illicit trafficking in narcotic drugs and psychotropic substances, - illicit trafficking in weapons, munitions and explosives, - corruption, - fraud and fraud-related criminal offences as defined in Directive 2017/xxx/EU on the fight against fraud to the Union's financial interests by 	<p>1. 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 offences <i>referred to in Article 2(2) of Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States^{1a}</i>. [AM 53]</p>	<p>1. A freezing order or a confiscation order shall <i>be executed</i> without verification of the double criminality of the acts giving rise to <i>such</i> order, if these acts are punishable in the issuing State by a custodial sentence of a maximum of at least three years and constitute one or more of the following offences under the law of the issuing State:</p> <ul style="list-style-type: none"> (1) participation in a criminal organisation, (2) terrorism, (3) trafficking in human beings, (4) sexual exploitation of children and child pornography, (5) illicit trafficking in narcotic drugs and psychotropic substances, (6) illicit trafficking in weapons, munitions and explosives, (7) corruption, (8) fraud and other criminal offences as defined in Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by 	<p>Keep text GA. It is better for practitioners to spell out the offences in the text of this instrument. List should be identical to the one in the EAW.</p> <p><u>MS are invited to state their position on this amendment.</u></p>

<p>means of criminal law,</p> <ul style="list-style-type: none"> - fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests, - laundering of the proceeds of crime, - counterfeiting currency, including the euro, - computer-related crime, - environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties, - facilitation of unauthorised entry and residence, - murder, grievous bodily injury, - illicit trade in human organs and tissue, - kidnapping, illegal restraint and hostage-taking, - racism and xenophobia, - organised or armed robbery, - illicit trafficking in cultural goods, including antiques and works of art, - swindling, - racketeering and extortion, - counterfeiting and piracy of products, - forgery of administrative documents and trafficking thereof, - fraud and counterfeiting of non-cash means of payment, - illicit trafficking in hormonal substances and other growth 		<p>means of criminal law,</p> <ul style="list-style-type: none"> (9) fraud, including that affecting the financial interests of the European Union within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests, (10) laundering of the proceeds of crime, (11) counterfeiting currency, including the euro, (12) computer-related crime, (13) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties, (14) facilitation of unauthorised entry and residence, (15) murder, or grievous bodily injury, (16) illicit trade in human organs and tissue, (17) kidnapping, illegal restraint or hostage-taking, (18) racism and xenophobia, (19) organised or armed robbery, (20) illicit trafficking in cultural goods, including antiques and works of art, (21) swindling, (22) racketeering and extortion, 	
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<p>promoters, - illicit trafficking in nuclear or radioactive materials, - trafficking in stolen vehicles, - rape, - arson, - crimes within the jurisdiction of the International Criminal Court, - unlawful seizure of aircraft or ships, - sabotage.</p>		<p>(23) counterfeiting and piracy of products, (24) forgery of administrative documents and trafficking therein, (25) fraud and counterfeiting of non-cash means of payment, (26) illicit trafficking in hormonal substances and other growth promoters, (27) illicit trafficking in nuclear or radioactive materials, (28) trafficking in stolen vehicles, (29) rape, (30) arson, (31) crimes within the jurisdiction of the International Criminal Court, (32) unlawful seizure of aircraft or ships, (33) sabotage.</p>	
<p>2. For offences other than those covered by paragraph 1, the executing State may make the recognition and execution of a freezing order or confiscation order subject to the condition that the acts giving rise to the freezing order or confiscation order constitute an offence under the law of the executing State, whatever its constituent elements or however it is described under the law of the issuing State.</p>	<p>2. For offences other than those covered by paragraph 1, the executing State may make the recognition and execution of a freezing order or confiscation order subject to the condition that the acts giving rise to the freezing order or confiscation order constitute an offence under the law of the executing State, whatever its constituent elements or however it is described under the law of the issuing State.</p>	<p>2. For offences other than those referred to in paragraph 1, the executing State may make the recognition and execution of a freezing order or a confiscation order subject to the condition that the acts giving rise to the freezing order or the confiscation order constitute an offence under the law of the executing State, whatever its constituent elements or however it is described under the law of the issuing State.</p>	<p>Texts identical.</p>

CHAPTER II

TRANSMISSION, RECOGNITION AND EXECUTION OF CONFISCATION ORDERS

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
ARTICLE 4 (CGA: ART. 17) - Transmission of confiscation orders			
1. A confiscation order, or a certified copy of it, shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority or, where applicable, to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.	1. A confiscation order shall be transmitted together with the certificate provided for in Article 7 by the issuing authority directly to the executing authority and communicated to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions allowing the executing authority to establish its authenticity. <i>[AM 54]</i>	1. A confiscation order shall be transmitted <i>through a confiscation certificate. The issuing authority shall transmit the confiscation certificate provided for in Article 20</i> directly to the executing authority or, where applicable, to the central authority referred to in Article 27(2) by any means capable of producing a written record under conditions that allow the executing authority to establish authenticity.	Keep text GA: a confiscation order should only be transmitted if the executing State has presented a declaration in that respect (see paragraph 2).
		2. <i>Member States may present a declaration stating that when a confiscation certificate is transmitted to them with a view to the recognition and execution of a confiscation order, the issuing authority must transmit, together with the confiscation certificate, the original confiscation order or a certified copy thereof. However, only the confiscation certificate has to be translated, in accordance with Article 20(2).</i>	Keep text GA.
		2a. <i>Member States may present the</i>	Keep text GA

		<i>declaration referred to in paragraph 2 at the moment of adoption of this Regulation, or at a later date. Member States may withdraw a declaration at any time. Member States shall inform the Commission when they present or withdraw a declaration. The Commission shall make the information received available to all Member States and to the EJN.</i>	
2. As regards a confiscation order concerning an amount of money, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that the natural or legal person against whom the order has been issued has property or income.	2. As regards a confiscation order concerning an amount of money, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that the natural or legal person against whom the order has been issued has property or income.	3. As regards a confiscation order concerning an amount of money, <i>the issuing authority shall transmit the confiscation certificate</i> to the Member State where the issuing authority has reasonable grounds to believe that person against whom the order was issued has property or income.	Keep text GA (better to use active sense, indicating who should act).
3. As regards a confiscation order concerning specific items of property, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that property covered by the confiscation order is located.	3. As regards a confiscation order concerning specific items of property, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that property covered by the confiscation order is located.	4. As regards a confiscation order concerning specific items of property, <i>the issuing authority shall transmit the confiscation certificate</i> to the Member State where the issuing authority has reasonable grounds to believe that property covered by the confiscation order is located.	Keep text GA (better to use active sense, indicating who should act).
4. Where there are no reasonable grounds which would allow the issuing authority to determine the Member State to which the confiscation order shall be transmitted, the order shall be transmitted to the Member State where	4. Where there are no reasonable grounds which would allow the issuing authority to determine the Member State to which the confiscation order shall be transmitted, the order shall be transmitted to the Member State where	<i>Deleted</i>	Paragraph 4 seems redundant in the light of paragraphs 2 and 3.

the natural or legal person against whom the order has been issued is habitually resident or has its registered seat respectively.	the natural or legal person against whom the order has been issued is habitually resident or has its registered seat respectively.		
5. Where the competent executing authority is unknown, the issuing authority shall make all necessary inquiries, including through the contact points of the European Judicial Network ²⁹ , in order to obtain the information from the executing State.	5. Where the competent executing authority is unknown, the issuing authority shall make all necessary inquiries, including through the contact points of the European Judicial Network ³⁰ , in order to obtain the information from the executing State.	5. Where, <i>despite the information that is made available in accordance with Article 27(3)</i> , the competent executing authority is unknown, the issuing authority shall make all necessary inquiries, including through the contact points of the EJN, in order to obtain information <i>about which authority is competent for the recognition and execution of the confiscation order.</i>	Keep text GA, which is clearer.
6. Where the authority in the executing State which receives a confiscation order has no competence to recognise it and to take the necessary measures for its execution, it shall immediately transmit the confiscation order to the competent executing authority in its Member State and shall inform the issuing authority accordingly.	6. Where the authority in the executing State which receives a confiscation order has no competence to recognise it and to take the necessary measures for its execution, it shall immediately <i>and at the latest within 2 working days</i> , transmit the confiscation order to the competent executing authority in its Member State and shall inform the issuing authority accordingly. <i>[AM 55]</i>	6. Where the authority in the executing State which receives a confiscation certificate <i>is not competent</i> to recognise it or to take the measures necessary for its execution, the authority shall immediately transmit the confiscation certificate to the competent executing authority in its Member State and shall inform the issuing authority accordingly.	Time-limits : see note with questions. Is it acceptable/useful/practical to specify that "immediately" means within 2 working days? .
ARTICLE 5 (CGA: ART. 18) - Transmission of a confiscation order to one or more executing States			
1. A confiscation order may only	1. <i>In principle</i> , a confiscation	1. A confiscation certificate <i>shall</i>	Keep text GA (clearer).

²⁹ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, OJ L 348, 24.12.2008, p. 130.

³⁰ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, OJ L 348, 24.12.2008, p. 130.

be transmitted pursuant to Article 4 to one executing State at any one time.	order may only be transmitted pursuant to Article 4 to one executing State at any one time. <i>[AM 56]</i>	only be transmitted pursuant to Article 17 to one executing State at any one time <i>unless the conditions of paragraphs 2 or 3 apply.</i>	
<p>2. A confiscation order concerning specific items of property may be transmitted to more than one executing State at the same time where:</p> <p>(a) the issuing authority has reasonable grounds to believe that different items of property covered by the confiscation order are located in different executing States,</p> <p>(b) the confiscation of a specific item of property covered by the confiscation order involves action in more than one executing State, or</p> <p>(c) the issuing authority has reasonable grounds to believe that a specific item of property covered by the confiscation order is located in one of two or more specified executing States.</p>	<p>2. <i>Without prejudice to paragraph 1</i>, a confiscation order concerning specific items of property may be transmitted to more than one executing State at the same time where: <i>[AM 57]</i></p> <p>(a) the issuing authority has reasonable grounds to believe that different items of property covered by the confiscation order are located in different executing States,</p> <p>(b) the confiscation of a specific item of property covered by the confiscation order involves action in more than one executing State, or</p> <p>(c) the issuing authority has reasonable grounds to believe that a specific item of property covered by the confiscation order is located in one of two or more specified executing States.</p>	<p>2. <i>Notwithstanding paragraph 1, where</i> a confiscation order <i>concerns</i> specific items of property, <i>the confiscation certificate</i> may be transmitted to more than one executing State at the same time where:</p> <p>(a) the issuing authority has reasonable grounds to believe that different items of property covered by the confiscation order are located in different executing States, or</p> <p>(b) the confiscation of a specific item of property covered by the confiscation order involves action in more than one executing State.</p> <p><i>Deleted</i></p>	<p>Keep text GA, which is clearer. There seems little difference between "without prejudice" and "notwithstanding". Point c) has been deleted, because there seems to be no added value in the light of points a) and b).</p>
<p>3. A confiscation order concerning an amount of money may be transmitted to more than one executing State at the same time, where the issuing authority deems that there is a specific need to do so, in particular</p>	<p>3. <i>Without prejudice to paragraph 1</i>, a confiscation order concerning an amount of money may be transmitted to more than one executing State at the same time, where the issuing authority deems that there is a specific need to do so, in</p>	<p>3. <i>Notwithstanding paragraph 1, where</i> a confiscation order <i>concerns</i> an amount of money, <i>the confiscation certificate</i> may be transmitted to more than one executing State at the same time, where the issuing authority deems that there is a specific need to</p>	<p>Keep text GA, which is clearer. There seems little difference between "without prejudice" and "notwithstanding".</p>

where: (a) the property concerned has not been frozen under this Regulation, or (b) the value of the property which may be confiscated in the issuing State and any one executing State is not likely to be sufficient for the execution of the full amount covered by the confiscation order.	particular where: <i>[AM 58]</i> (a) the property concerned has not been frozen under this Regulation, or (b) the value of the property which may be confiscated in the issuing State and any one executing State is not likely to be sufficient for the execution of the full amount covered by the confiscation order.	do so, in particular where: (a) the property concerned has not been frozen under this Regulation, or (b) the value of the property which may be confiscated in the issuing State and in any one executing State is not likely to be sufficient for the execution of the full amount covered by the confiscation order.	
ARTICLE 6 (CGA: ART. 19) - Consequences of transmission of confiscation orders			
1. The transmission of a confiscation order to one or more executing States in accordance with Articles 4 and 5 shall not restrict the right of the issuing State to execute the order itself.	1. The transmission of a confiscation order to one or more executing States in accordance with Articles 4 and 5 shall not restrict the right of the issuing State to execute the order itself.	1. The transmission of a confiscation order, <i>through a certificate</i> , to one or more executing States in accordance with Articles <i>17</i> and <i>18</i> shall not restrict the right of the issuing State to execute the order itself.	Keep text GA, which is clearer.
2. Where a confiscation order concerning an amount of money is transmitted to one or more executing States, the total value derived from its execution may not exceed the maximum amount specified in the confiscation order.	2. Where a confiscation order concerning an amount of money is transmitted to one or more executing States, the total value derived from its execution may not exceed the maximum amount specified in the confiscation order. <i>In cases where the confiscation has already been executed in part, such amount shall be deducted in full from the amount confiscated in the executing state. [AM 59]</i>	2. Where a confiscation order concerning an amount of money is transmitted to one or more executing States, the total value derived from its execution <i>shall</i> not exceed the maximum amount specified in the confiscation order.	It is not clear if this amendment addresses a real practical problem. <u>MS are invited to state their position on this amendment.</u>
3. The issuing authority shall immediately inform the executing	3. The issuing authority shall immediately <i>and at the latest within</i>	3. The issuing authority shall immediately inform the executing	Time-limits : see note with questions.

<p>authority by any means capable of producing a written record:</p> <p>(a) if it considers that there is a risk that execution beyond the maximum amount may occur, in particular on the basis of information notified to it by the executing authority pursuant to Article 11(1)(b);</p> <p>(b) if all or a part of the freezing or confiscation order has been executed in the issuing State or in another executing State, specifying the amount for which the freezing or confiscation order has not yet been executed;</p> <p>(c) if, after the transmission of an order in accordance with Article 4, an authority of the issuing State receives any sum of money which the person concerned has paid voluntarily in respect of the order.</p> <p>Where point (b) applies, the issuing authority shall inform the executing authority as soon as possible whether the risk referred to has ceased to exist.</p>	<p>one working day inform the executing authority by any means capable of producing a written record: [AM 60]</p> <p>(a) if it considers that there is a risk that execution beyond the maximum amount may occur, in particular on the basis of information notified to it by the executing authority pursuant to Article 11(1)(b);</p> <p>(b) if all or a part of the confiscation order has been executed in the issuing State or in another executing State, specifying the amount for which the confiscation order has not yet been executed; [AM 61]</p> <p>(c) if, after the transmission of an order in accordance with Article 4, an authority of the issuing State receives any sum of money which the person concerned has paid voluntarily in respect of the order.</p> <p>Where point (b) applies, the issuing authority shall inform the executing authority as soon as possible whether the risk referred to has ceased to exist.</p>	<p>authority by any means capable of producing a written record if:</p> <p>(a) it considers that there is a risk that execution beyond the maximum amount may occur, in particular on the basis of information received from the executing authority pursuant to Article 24(1)(b);</p> <p>(b) all or a part of the confiscation order has been executed in the issuing State or in another executing State, specifying the amount for which the confiscation order has not yet been executed;</p> <p>(c) after the transmission of a confiscation certificate in accordance with Article 17, an authority of the issuing State receives any sum of money which the person concerned has paid in respect of the confiscation order.</p> <p>Where point (a) applies, the issuing authority shall inform the executing authority as soon as possible whether the risk referred to no longer exists.</p>	<p>Is it acceptable/useful/practical to specify that "immediately" means within one day?</p>
<p>4. Where the issuing State has indicated that it wishes to withdraw the order from the executing State for any reason, the executing State shall terminate the execution of the</p>	<p>4. Where the issuing State has indicated that it wishes to withdraw the order from the executing State for any reason, the executing State shall terminate the execution of the confiscation order immediately and at</p>	<p>Deleted.</p>	<p>Time-limits : see note with questions.</p> <p>Is it acceptable/useful/practical to specify that "immediately" means within three days?</p>

confiscation order immediately.	<i>the latest within 3 working days.</i> [AM 62]		
ARTICLE 7 (CGA: ART. 20) - Standard certificate			
	<i>[Title:] Standard certificate for issuing a confiscation order [AM 63]</i>	<i>[Title:] Standard confiscation certificate</i>	Both new titles seem fine.
1. The issuing authority shall complete the certificate set out in Annex I, sign it and certify its content as being accurate and correct.	1. The issuing authority shall complete the certificate set out in Annex I, sign it and certify its content as being accurate and correct.	1. The issuing authority shall complete the confiscation certificate set out in Annex II , shall sign it and shall certify its content as being accurate and correct.	Keep text GA, which is clearer.
2. The issuing authority shall translate the certificate into an official language of the executing State or any other language indicated by that Member State in accordance with paragraph 3.	2. The issuing authority shall translate the certificate into an official language of the executing State or any other language indicated by that Member State in accordance with paragraph 3.	2. The issuing authority shall translate the confiscation certificate into an official language of the executing State or into any other language that the executing State will accept in accordance with paragraph 3.	Keep text GA, which is clearer.
3. Any Member State may, at any time, state in a declaration submitted to the Commission, that it will accept a translation in one or more other official languages of the Union.	3. Any Member State may, at any time, state in a declaration submitted to the Commission, that it will accept a translation in one or more other official languages of the Union.	3. Any Member State may, at any time, state in a declaration submitted to the Commission, that it will accept a translation in one or more other official languages of the Union.	Texts identical.
ARTICLE 8 (CGA: ART. 21) - Recognition and execution of confiscation orders			
1. The executing authority shall without further formalities recognise a confiscation order transmitted in accordance with Article 4 and shall take the necessary measures for its execution in the same way as for a	1. The executing authority shall without further formalities recognise a confiscation order transmitted in accordance with Article 4 and shall take the necessary measures for its execution in the same way as for a	1. The executing authority shall recognise a confiscation order transmitted in accordance with Article 17 and shall take the measures necessary for its execution in the same way as for a confiscation order issued	It is not clear what "further formalities" mean (EP/COM could be asked). Keep text GA.

confiscation order made by an authority of the executing State, unless that authority decides to invoke one of the grounds for non-recognition and non-execution provided for in Article 9 or one of the grounds for postponement provided for in Article 11.	confiscation order made by an authority of the executing State, unless that authority decides to invoke one of the grounds for non-recognition and non-execution provided for in Article 9 or one of the grounds for postponement provided for in Article 11.	by an authority of the executing State, unless that executing authority invokes one of the grounds for non-recognition and non-execution <i>under</i> Article 22 or one of the grounds for postponement provided for in Article 24.	
2. If a confiscation order concerns a specific item of property, the issuing and executing authorities may, if <i>provided for under</i> the law of the issuing State, agree that confiscation in the executing State may take the form of a requirement to pay a sum of money corresponding to the value of the property.	2. If a confiscation order concerns a specific item of property, the issuing and executing authorities may, if provided for under the law of the issuing State, agree that confiscation in the executing State may take the form of a requirement to pay a sum of money corresponding to the value of the property.	2. If a confiscation order concerns a specific item of property, the issuing authorities and executing authorities may, if the law of the issuing State <i>so provides</i> , agree that confiscation in the executing State can take the form of a requirement to pay a sum of money corresponding to the value of the property otherwise to be confiscated.	Texts are almost identical, but GA text was drafted by legal-linguists, and it is therefore suggested to keep it.
3. If a confiscation order concerns an amount of money, the executing authority shall, if payment is not obtained, execute the confiscation order in accordance with paragraph 1 on any item of property available for that purpose. If necessary, the executing authority shall convert the amount of money to be confiscated into the currency of the executing State at the rate of exchange obtained at the time when the confiscation order was issued.	3. If a confiscation order concerns an amount of money, the executing authority shall, if payment is not obtained, execute the confiscation order in accordance with paragraph 1 on any item of property available for that purpose. If necessary, the executing authority shall convert the amount of money to be confiscated into the currency of the executing State at the rate of exchange obtained at the time when the confiscation order was issued.	3. If a confiscation order concerns an amount of money, the executing authority shall, if payment is not obtained, execute the confiscation order in accordance with paragraph 1 on any item of property available for that purpose. If necessary, the executing authority shall convert the amount of money to be confiscated into the currency of the executing State at the rate of exchange obtained at the time when the confiscation order was issued. <i>Conversion shall be made using the daily euro exchange rate published in the C series of the Official Journal of the European</i>	Keep text GA.

		<i>Union.</i>	
		4. Any part of the amount of money that is recovered pursuant to the confiscation order in any State other than the executing State shall be deducted in full from the amount to be confiscated in the executing State.	Keep text GA.
		5. When the issuing authority has issued a confiscation order, but it has not issued a freezing order, the concrete measures provided for in paragraph 1 may include that the executing authority decides to freeze the property concerned of its own motion, in view of subsequent execution of the confiscation order. In such a case, the executing authority shall inform the issuing authority without delay, if possible prior to freezing the property concerned.	Keep text GA.
4. As soon as the execution of the order has been completed the executing authority shall inform the issuing authority by any means capable of producing a written record.	4. As soon as the execution of the order has been completed the executing authority shall <i>immediately and at the latest within 12 hours notify</i> the issuing authority by any means capable of producing a written record. <i>[AM 64]</i>	6. As soon as the execution of the order has been completed, the executing authority shall inform the issuing authority <i>of the results of the execution</i> by any means capable of producing a written record.	Time-limits: see note with questions. Is it acceptable/useful/practical to state that information should be provided "immediately" and to specify that this means within 12 hours?
ARTICLE 9 (CGA: ART. 22) - Grounds for non-recognition and non-execution of confiscation orders			

	<i>[Title:] Mandatory and optional grounds for non-recognition and non-execution of confiscation orders</i> <i>[AM 65]</i>		Grounds for non recognition: see note with questions. EP suggests making a split between mandatory and optional grounds. Is this acceptable/useful/practical?
1. The executing authority <i>may</i> decide not to recognise and not to execute confiscation orders only if:	1. The executing authority <i>shall not</i> recognise <i>or</i> execute confiscation orders if: <i>[AM 66]</i>	1. The executing authority may decide not to recognise and not to execute confiscation orders only if:	Depends on the possible split of the grounds for non recognition.
(b) the certificate provided for in Article 7 is incomplete, manifestly incorrect <i>or manifestly does not correspond to the confiscation order</i> , and has not been completed following the consultation in accordance with paragraph 2;	<i>Deleted [AM 67] (but see below under optional grounds, point 1a(a))</i>	(c) the confiscation certificate provided for in Article 20 is incomplete or manifestly incorrect, and has not been completed following the consultation in accordance with paragraph 2;	Keep text GA. In the logic of the Council, the confiscation order is not anymore sent automatically with a confiscation certificate. Therefore, " manifestly does not correspond to the confiscation order " does not apply anymore.
(c) the execution of the confiscation order would be contrary to the <i>ne bis in idem</i> principle;	(b) the execution of the confiscation order would be contrary to the <i>ne bis in idem</i> principle;	(a) executing the order would be contrary to the <i>ne bis in idem</i> principle;	Texts identical (subject to legal-linguist suggestion).
(d) there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic confiscation order on the property concerned;	(c) there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic confiscation order on the property concerned;	(b) there is an immunity or privilege under the law of the executing State which would prevent the execution of a domestic confiscation order against the property concerned, or there are rules on the determination or limitation of criminal liability that relate to the freedom of the press and the freedom of expression in other media, which prevent the execution of the order ;	Keep text GA.

(e) the confiscation order is based on a criminal offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State and the conduct in connection with which the confiscation order is issued is not an offence in the executing State;	<i>Deleted [AM 68] (but see below under optional grounds, point 1a(b))</i>	(d) the order is based on a criminal offence committed wholly or partially outside the territory of the issuing State and wholly or partially in the territory of the executing State and the conduct in connection with which the order was issued is not an offence in the executing State;	Texts are almost identical. Keep text GA, which is clearer/more precise.
	<i>new (da) the confiscation order relates to a specific item of property which is not the property of the natural or legal person against whom the confiscation order was made in the issuing Member state or of any other natural or legal person who was a party to the proceedings in the issuing State; [AM 69]</i>		See also recital 26d as proposed by EP (AM 29). It is not clear what the added value of this ground is, compared to ground (e) below. EP could be asked to explain this. <u>MS are invited to state their position on this amendment.</u>
(f) the rights of any bona fide third party make it impossible under the law of the executing State to execute the confiscation order, including where that impossibility is a consequence of the application of legal remedies in accordance with Article 31;	(e) the rights of any bona fide third party make it impossible under the law of the executing State to execute the confiscation order, including where that impossibility is a consequence of the application of legal remedies in accordance with Article 31;	(e) the rights of affected persons would make it impossible under the law of the executing State to execute the order, even where that impossibility is a consequence of the application of legal remedies in accordance with Article 33;	Texts are very close, but depend on use of "affected persons" or similar wording .
(g) 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	<i>Deleted [AM 70] (but see below under optional grounds, point 1a(c))</i>	(f) in a case referred to in Article 3(2), the conduct on which the order is based does not constitute an offence under the law of the executing State; however, in cases involving taxes or duties, or customs and exchange regulations, the execution of the order	Texts are identical.

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 law of the issuing State;		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 and duties or customs and exchange regulations as the law of the issuing State;	
(g) according to the certificate provided for in Article 7, the person did not appear in person at the trial resulting in a confiscation order linked to a final conviction. That ground for non-recognition and non execution shall not apply where the certificate states that <i>the person</i> , in accordance with further procedural requirements defined in the national law of the issuing State:	(g) according to the certificate provided for in Article 7, the person did not appear in person at the trial resulting in a confiscation order linked to a final conviction. That ground for non-recognition and non execution shall not apply where the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:	(g) according to the confiscation certificate provided for in Article 20, the person <i>against whom the confiscation order was issued</i> did not appear in person at the trial resulting in a confiscation order linked to a final conviction. <i>This</i> ground shall not apply where the <i>confiscation</i> certificate states that, in accordance with further procedural requirements defined in the national law of the issuing State, <i>the person</i> :	Keep text GA, which is clearer/more precise.

(1) was summoned in due time in person and thereby informed of the scheduled date and place of the trial which resulted in the confiscation order, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed in due time that such a confiscation order could be handed down if he or she did not appear for the trial;	(1) was summoned in due time in person and thereby informed of the scheduled date and place of the trial which resulted in the confiscation order, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed in due time that such a confiscation order could be handed down if he or she did not appear for the trial;	(i) was summoned in person in due time and was thereby informed of the scheduled date and place of the trial that resulted in the confiscation order, or actually received official information of the scheduled date and place of that trial by other means in such a manner that it was established unequivocally that that person was aware of the scheduled trial, and was informed in due time that such a confiscation order could be handed down if that person did not appear at the trial;	Keep text GA, which is clearer/more precise.
(1) being aware of the scheduled trial, had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial and was indeed defended by that counsellor at the trial; or	(2) being aware of the scheduled trial, had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial and was indeed defended by that counsellor at the trial; or	(ii) being aware of the scheduled trial, had given a mandate to a legal counsel, who was either appointed by the person concerned or by the State, to defend that person at the trial and was indeed defended by that counsel at the trial; or	Keep text GA, which is clearer/more precise.
(2) after being served with the confiscation order and being expressly informed of the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which could lead to the original decision being reversed: - expressly stated that he or she does not contest the confiscation order, or	(3) after being served with the confiscation order and being expressly informed of the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which could lead to the original decision being reversed: - expressly stated that he or she does not contest the confiscation order, or	(iii) after having been served with the confiscation order and having been expressly informed of the right to a retrial or an appeal in which the person would have the right to participate and which would allow the merits of the case, including fresh evidence, to be re-examined, and which could lead to the original decision being reversed: - expressly stated that he or she did not contest the confiscation order, or	Keep text GA, which is clearer/more precise.

- did not request a retrial or appeal within the applicable time frame.	- did not request a retrial or appeal within the applicable time frame.	- did not request a retrial or appeal within the applicable time limits.	
	<i>(ga) there are substantial grounds for believing that executing the confiscation order would be incompatible with the obligations of the executing State in accordance with Article 6 TEU and the Charter. Deleted [AM 71]</i>		Issue of fundamental rights. See note with questions.
	<p><i>1a. The executing authority may decide not to recognise and not to execute confiscation orders if:</i></p> <p><i>(a) the certificate provided for in Article 7 is incomplete, manifestly incorrect or manifestly does not correspond to the confiscation order, and has not been completed following the consultation in accordance with paragraph 2 or if the conditions laid down in Article 7(2) are not respected;</i></p> <p><i>(b) the confiscation order is based on a criminal offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State and the conduct in connection with which the confiscation order is issued is not an offence in the executing State;</i></p> <p><i>(c) if, in a case referred to in</i></p>		These optional grounds for non recognition are basically identical with texts in GA.

	<i>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 the law of the issuing State. [AM 72]</i>		
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.	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.	2. In the cases referred to in paragraph 1, before deciding not to recognise and execute the confiscation order, whether 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.	Texts almost identical, subject to small legal-linguist improvement.
3. Any decision not to recognise and to execute shall be taken without delay and notified immediately to the issuing authority by any means capable of producing a written record.	3. Any decision not to recognise and to execute shall be taken without delay and notified immediately to the issuing authority by any means capable of producing a written record.	3. Any decision not to recognise and to execute the confiscation order shall be taken without delay and notified immediately to the issuing authority by any means capable of producing a written record.	Texts almost identical, subject to small legal-linguist improvement.
ARTICLE 10 (CGA: ART. 23) - Time limits for recognition and execution of confiscation orders			

1. The decision on the recognition and execution of the confiscation order shall be taken and the confiscation be carried out with the same celerity and priority as for a similar domestic case and, in any case, within the time limits provided for in this Article.	1. The decision on the recognition and execution of the confiscation order shall be taken and the confiscation be carried out with the same celerity and priority as for a similar domestic case and, in any case, within the time limits provided for in this Article.	<i>Deleted (but see para. 3 below)</i>	Almost same texts, but different order.
	<i>1a. Where the issuing authority has legitimate grounds to believe that the property in question will imminently be moved or destroyed and that immediate confiscation is necessary, it shall indicate in the confiscation order that the measure has to be carried out on a specific date. The executing authority shall take full account of this requirement and execute the confiscation order by the specified deadline. [AM 73]</i>		Is this necessary for confiscation orders? Normally the property concerned will have been frozen, so there seems no need for this. <u>MS are invited to state their position on this amendment.</u>
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.	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 10 working days after the executing authority has received the confiscation order. [AM 74]	1. The executing authority shall take the decision on the recognition and execution of the confiscation order without delay and, without prejudice to paragraph 4, no later than 60 days after the executing authority has received the confiscation certificate.	Time-limits: see note with questions. COM proposed 30 days, EP requests 10 days, Council suggested 60 days, ...
	<i>2a. If the executing authority consults the issuing authority in accordance with Article 9(2), the executing authority shall take the decision on the recognition and</i>		Is it acceptable/useful/appropriate to set another deadline for cases when there has been consultation? Or is the generous deadline in the previous

	<i>execution of the confiscation order without delay and at the latest 48 hours following the consultation. [AM 75]</i>		paragraph (GA text) enough? <u>MS are invited to state their position on this amendment.</u>
3. The executing authority shall communicate the decision on a confiscation order to the issuing authority without delay by any means capable of producing a written record.	3. The executing authority shall communicate the decision on a confiscation order to the issuing authority <i>immediately and at the latest within 12 hours</i> by any means capable of producing a written record. <i>[AM 76]</i>	2. The executing authority shall communicate the decision <i>on the recognition and execution</i> of the confiscation order to the issuing authority without delay by any means capable of producing a written record.	Time-limits: see note with questions. Is it acceptable/useful/practical to state that the decision on the recognition/execution should be communicated "immediately" and that this means within 12 hours?
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.	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 <i>10 working days</i> following the taking of the decision referred to in paragraph 2 of this Article. <i>[AM 77]</i>	3. Unless grounds for postponement under Article <i>24</i> exist, the executing authority shall <i>take the concrete measures necessary to execute</i> the confiscation order <i>without delay and at least with the same speed and priority as a comparable domestic confiscation order.</i>	Is it acceptable/useful/practical to put a time-limit of 10 days?
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, <i>without delay</i> , 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. <i>In such a case, the time limit laid down in paragraphs 2 or 4, may be extended by a maximum of 30 days.</i>	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 <i>and at the latest within 2 working days</i> , inform the issuing authority by any means, <i>capable of producing a written record</i> 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	4. Where it is not possible in a specific case to meet the time limit set out in paragraph <i>1</i> , the executing authority shall inform the issuing authority <i>without delay</i> , giving the reasons for the delay and shall consult with the issuing authority on the appropriate <i>schedule for recognising and executing the confiscation order.</i>	Time-limits: see note with questions. Is it acceptable/useful/practical to put delays of 2 and 20 working days?

	paragraphs 2 or 4, may be extended by a maximum of 20 working days. <i>[AM 78]</i>		
		5. The expiry of the time limit referred to in paragraph 1 shall not relieve the executing authority of its obligation to adopt a decision on the recognition and execution of the confiscation order and to execute that order without delay.	Keep text GA, which is also in line with the judgment of the CJEU in the Vilkas case (C-640/15)
ARTICLE 11 (CGA: ART. 24) - Postponement of execution of confiscation orders			
1. The executing authority may postpone the execution of a confiscation order transmitted in accordance with Article 4 where:	1. The executing authority may postpone the execution of a confiscation order transmitted in accordance with Article 4 where:	1. The executing authority may postpone the recognition or execution of a confiscation order transmitted in accordance with Article 17 where:	Keep text GA.
(b) its execution might damage an ongoing criminal investigation, until such time as it deems reasonable;	(a) its execution might damage an ongoing criminal investigation, until such time as it deems reasonable;	(a) its execution might damage an ongoing criminal investigation, in which case the execution of the confiscation order may be postponed until such time as the executing authority deems reasonable;	Keep text GA, which is more precise.
(c) as regards a confiscation order concerning an amount of money, it considers that there is a risk that the total value derived from its execution may considerably exceed the amount specified in the confiscation order because of the simultaneous execution of the confiscation order in more than one Member State;	(b) as regards a confiscation order concerning an amount of money, it considers that there is a risk that the total value derived from its execution may considerably exceed the amount specified in the confiscation order because of the simultaneous execution of the confiscation order in more than one Member State;	(b) as regards a confiscation order concerning an amount of money, the executing authority considers that there is a risk that the total value derived from the execution of that confiscation order may considerably exceed the amount specified in the confiscation order because of the simultaneous execution of the	Texts almost identical, but keep text GA, which is more precise.

		confiscation order in more than one Member State;	
(d) where the property is already the subject of confiscation proceedings in the executing State;	(c) where the property is already the subject of confiscation proceedings in the executing State;	(c) where the property is already the subject of ongoing confiscation proceedings in the executing State; or	Texts very close, but keep text GA, which is more precise.
(e) in the cases of legal remedies referred to in Article 33.	(d) in the cases of legal remedies referred to in Article 33.	(d) in cases where the legal remedies referred to in Article 33 apply.	Texts almost identical, but keep text GA, which is more precise.
		2. The competent authority of the executing State shall, for as long as the recognition or execution of a confiscation order is postponed, take all the measures it would take in a similar domestic case to prevent the property from no longer being available for the purpose of execution of the confiscation order.	Keep text GA.
2. The executing authority shall without delay make a report to the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement.	2. The executing authority shall immediately and at the latest within 48 hours make a report to the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. <i>In the event of a postponement under the provisions of point (b) of paragraph 1, the issuing authority shall, in cases of execution of a confiscation order in more than one</i>	3. The executing authority shall report to the issuing authority on the postponement of the execution of the order without delay by any means capable of producing a written record , including the grounds for the postponement and, if possible, the expected duration of the postponement.	Time-limits : see note with questions. Is it acceptable/useful/practical to substitute "without delay" with "immediately" and specify that this means within 48 hours? How about the "new instructions", could this be accepted? <u>MS are invited to state their position on this amendment.</u>

	<i>Member State, issue new instructions as to the exact amount of money subject to confiscation. [AM 79]</i>		
3. As soon as the ground for postponement has ceased to exist, the executing authority shall without delay take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.	3. As soon as the ground for postponement has ceased to exist, the executing authority shall <i>immediately and at the latest within 10 working days</i> take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record. <i>[AM 80]</i>	4. As soon as <i>there is no longer any</i> ground for postponement, the executing authority shall, without delay, take the measures <i>necessary</i> to execute the order and inform the issuing authority thereof by any means capable of producing a written record.	Time-limits : see note with questions. Is it acceptable/useful/practical to state that information should be provided "immediately" and to specify that this means within 10 working days?
ARTICLE 12 (CGA: ART. 25) - Impossibility to execute a confiscation order			
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).	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 <i>immediately and at the latest within 48 hours</i> . Where possible, the order may be executed on other property in accordance with Article 8(2) or (3). <i>[AM 81]</i>	<p>1. Where <i>an executing authority considers that</i> it is impossible to execute <i>a</i> confiscation order, <i>it shall notify</i> the issuing authority thereof without delay.</p> <p>2. <i>Before notifying the issuing authority in accordance with paragraph 1, the executing authority shall, where appropriate, consult with the issuing authority without delay in order to find a solution, taking into account also the possibilities provided for under Article 21(2) or (3).</i></p> <p>3. <i>The non-execution of a confiscation order under this Article can only be justified if the property:</i></p>	Time-limits : see note with questions. Keep text of GA, which is clearer and more precise. Is it acceptable/useful/practical to substitute "without delay" with "immediately" and specify that this means within 48 hours?

		<p>(a) has already been confiscated;</p> <p>(b) has disappeared;</p> <p>(c) has been destroyed;</p> <p>(d) cannot be found in the location indicated on the certificate; or</p> <p>(e) cannot be found because its location has not been indicated in a sufficiently precise manner, <i>despite the consultations referred to in paragraph 2.</i></p> <p>4. As regards the situations referred to in paragraph 3 under (b), (d) and (e), if the executing authority subsequently obtains information allowing it to locate the property, the executing authority may execute the confiscation order without a new certificate having to be transmitted, provided that the executing authority, prior to executing the confiscation order, has verified with the issuing authority that the confiscation order is still valid.</p> <p>5. Notwithstanding paragraph 3, in case the issuing authority has indicated that property of equivalent value could be confiscated, the non-execution of a confiscation order under this Article can be justified if</p>	
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		<i>one of the circumstances set out in paragraph 3 exists and there is no property of equivalent value that can be confiscated.</i>	
	<i>Article 12 a (new)</i>		
	<i>[Title:] Obligation to inform the interested parties</i>		GA has a text for both confiscation and freezing orders in Art. 32a.
	<i>1. Following the execution of the confiscation order and at the latest within 48 hours after its execution, the executing authority shall notify its decision to the person against whom the confiscation order has been issued and to any interested party, including bona fide third parties</i>		Time-limits (48 hours): see note with questions.
	<i>2. The notification shall indicate the reasons for the confiscation order, the authority which issued the order and the existing legal remedies under the national law of the executing State.</i>		
	<i>3. The notification shall contain relevant information, in such a way that the person can lodge effective legal remedies, on the reasons of the confiscation order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State. [AM 82]</i>		

CHAPTER III

TRANSMISSION, RECOGNITION AND EXECUTION OF FREEZING ORDERS

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
ARTICLE 13 (CGA: ART. 4) - Conditions for issuing and transmitting a freezing order			
1. The issuing authority may issue a freezing order provided that the following conditions are met:	1. The issuing authority may issue a freezing order provided that the following conditions are met:	<i>Deleted (entire article)</i>	Proportionality: see note with questions.
(h) the issuing of the order is necessary and proportionate in order to provisionally prevent the destruction, transformation, moving, transfer or disposal of property with a view to possible subsequent confiscation taking into account the rights of the person concerned;	(a) the issuing of the order is necessary and proportionate in order to provisionally prevent the destruction, transformation, moving, transfer or disposal of property with a view to possible subsequent confiscation taking into account the rights of the person concerned <i>and any third party acting in good faith; [AM 83]</i>		
(i) the order could have been ordered under the same conditions in a similar domestic case; and	(b) the order could have been ordered under the same conditions in a similar domestic case; and <i>the reason or reasons for the order are properly indicated. [AM 84]</i>		
(j) the reason or reasons for the order are properly indicated, at least briefly.	<i>Deleted [AM 85]</i>		

2. The conditions referred to in paragraph 1 shall be assessed by the issuing authority in each case.	2. The conditions referred to in paragraph 1 shall be assessed by the issuing authority in each case.		
3. Where the executing authority has reason to believe that the conditions referred to in paragraph 1 have not been met, it may, after executing the order, consult the issuing authority on the importance of continuing the freezing. Such consultation shall not delay the execution of the freezing order. After that consultation the issuing authority may decide to withdraw the order.	3. Where the executing authority has reason to believe that the conditions referred to in paragraph 1 have not been met, it may, after executing the order, consult the issuing authority on the importance of continuing the freezing. Such consultation shall not delay the execution of the freezing order. After that consultation the issuing authority may decide to withdraw the order.		
ARTICLE 14 (CGA: ART. 5) - Transmission of freezing orders			
1. A freezing order shall be transmitted in the form referred to in Article 16 by the issuing authority directly to the executing authority, or where applicable to the central authority referred to in Article 27(2), by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.	1. A freezing order shall be transmitted in the <i>certificate</i> referred to in Article 16 by the issuing authority directly to the executing authority <i>and communicated</i> to the central authority referred to in Article 27(2), by any means capable of producing a written record under conditions allowing the executing authority to establish <i>its</i> authenticity. <i>[AM 86]</i>	1. A freezing order shall be transmitted <i>through a freezing certificate</i> . The issuing authority <i>shall transmit a freezing certificate</i> as referred to in Article 7 directly to the executing authority, or where applicable to the central authority referred to in Article 27(2), by any means capable of producing a written record under conditions allowing the executing authority to establish authenticity.	Keep text GA, which states that in principle only the certificate has to be submitted (and use of active sense is preferable).
		2. <i>Member States may present a declaration stating that when a freezing certificate is transmitted to them with a view to the recognition</i>	Keep text GA (political compromise). Ask if EP can accept this solution with the declaration.

		<i>and execution of a freezing order, the issuing authority must transmit, together with the freezing certificate, the original freezing order or a certified copy thereof. However, only the freezing certificate has to be translated, in accordance with Article 7(2).</i>	
		<i>2a. Member States may present the declaration referred to in paragraph 2 at the moment of adoption of this Regulation, or at a later date. Member States may withdraw a declaration at any time. Member States shall inform the Commission when they present or withdraw a declaration. The Commission shall make the information received available to all Member States and to the European Judicial Network ("EJN") as set out in Council Decision 2008/976/JHA.</i>	Keep text GA (see above, idem).
2. As regards a freezing order concerning an amount of money, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that the natural or legal person against whom the order has been issued has property or income.	2. As regards a freezing order concerning an amount of money, the order shall be transmitted to the Member State in which the issuing authority has reasonable grounds to believe that the natural or legal person against whom the order has been issued has property or income.	3. As regards a freezing order concerning an amount of money, <i>the issuing authority</i> shall transmit the <i>freezing certificate</i> to the Member State <i>where</i> the issuing authority has reasonable grounds to believe that person against whom the order was issued has property or income.	Keep text GA, which is clearer and uses active sense.
3. As regards a freezing order concerning specific items of property, the order shall be transmitted to the	3. As regards a freezing order concerning specific items of property, the order shall be transmitted to the	4. As regards a freezing order concerning specific items of property, <i>the issuing authority shall transmit</i>	Keep text GA, which is clearer and uses active sense.

Member State in which the issuing authority has reasonable grounds to believe that property covered by the freezing order is located.	Member State in which the issuing authority has reasonable grounds to believe that property covered by the freezing order is located.	the <i>freezing certificate</i> to the Member State where the issuing authority has reasonable grounds to believe that property covered by the freezing order is located.	
4. If there are no reasonable grounds which would allow the issuing authority to determine the Member State to which the freezing order shall be transmitted, the order shall be transmitted to the Member State where the natural or legal person against whom the order has been issued is habitually resident or has its registered seat respectively.	4. If there are no reasonable grounds which would allow the issuing authority to determine the Member State to which the freezing order shall be transmitted, the order shall be transmitted to the Member State where the natural or legal person against whom the order has been issued is habitually resident or has its registered seat respectively.	<i>Deleted</i>	This paragraph seems not necessary in the light of paragraphs 2 and 3.
5. The freezing order referred to in paragraph 1:	5. The freezing order referred to in paragraph 1:	5. The freezing <i>certificate</i> referred to in paragraph 1 shall:	Keep text GA.
(a) shall be accompanied by a confiscation order transmitted in accordance with Article 4 , or	(b) shall be accompanied by a confiscation order transmitted in accordance with Article 4 , or	(a) be accompanied by a confiscation <i>certificate</i> transmitted in accordance with Article <i>17</i> , or	Keep text GA.
(c) <i>shall</i> contain an instruction that the property shall remain in the executing State pending the transmission of a confiscation order in accordance with Article 4. The issuing authority shall indicate the estimated date for this transmission in the form referred to in Article 16.	(b) shall contain an instruction that the property shall remain in the executing State pending the transmission of a confiscation order in accordance with Article 4. The issuing authority shall indicate the estimated date for this transmission in the <i>certificate</i> referred to in Article 16. <i>[AM 87]</i>	(b) contain an instruction that the property <i>is to</i> remain frozen in the executing State pending the transmission <i>and execution</i> of the confiscation order in accordance with Article <i>17, in which case</i> the issuing authority shall indicate the estimated date for this transmission in the <i>freezing certificate</i> referred to in Article 7.	Keep text GA, which is more precise.

6. The issuing authority shall inform the executing authority if it is aware of any <i>interested</i> party, <i>including bona fide third parties</i> , that are affected by the freezing order.	6. The issuing authority shall inform the executing authority if it is aware of any interested party, including bona fide third parties, that are affected by the freezing order.	6. The issuing authority shall inform the executing authority if it is aware of any <i>person</i> that is <i>affected</i> by the freezing order. <i>The issuing authority shall, upon request, also inform the executing authority of any information relevant to any claim that such an affected person may have in relation to the property, including any information identifying that person.</i>	Keep text GA, which is more precise.
7. If the competent executing authority is unknown, the issuing authority shall make all necessary inquiries, including through the contact points of the European Judicial Network ³¹ , in order to obtain the information from the executing State.	7. If the competent executing authority is unknown, the issuing authority shall make all necessary inquiries, including through the contact points of the European Judicial Network ³² , in order to obtain the information from the executing State.	7. <i>Where, despite the information that is made available in accordance with Article 27(3), the competent executing authority is unknown, the issuing authority shall make all necessary inquiries, including through the contact points of the EJN, in order to obtain information about which authority is competent for the recognition and execution of the freezing order.</i>	Keep text GA, which is more precise.
8. Where the executing authority which receives a freezing order has no competence to recognise it and take the necessary measures for its execution, it shall immediately transmit the freezing order to the competent executing authority in its Member State and shall inform the issuing authority	8. Where the executing authority which receives a freezing order has no competence to recognise it and take the necessary measures for its execution, it shall immediately <i>and at the latest within 2 working days</i> , transmit the freezing order to the competent executing authority in its Member State and shall inform the issuing	8. Where the authority which receives a freezing order has no competence to recognise it or take the measures necessary for its execution, that authority shall immediately transmit the freezing order to the competent executing authority in its Member State and shall inform the	Time limits - see note with questions. Is it acceptable/useful/practical to specify that "immediately" means within 48 hours?

³¹ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, OJ L 348, 24.12.2008, p. 130.

³² Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network, OJ L 348, 24.12.2008, p. 130.

accordingly.	authority. <i>[AM 88]</i>	issuing authority accordingly.	
ARTICLE 15 (CGA: ART. 6) - Transmission of a freezing order to one or more executing States			
1. A freezing order may only be transmitted pursuant to Article 14 to one executing State at any one time.	1. <i>In principle</i> , a freezing order may only be transmitted pursuant to Article 14 to one executing State at any one time. <i>[AM 89]</i>	1. A freezing <i>certificate</i> shall only be transmitted pursuant to Article 5 to one executing State at any one time, <i>unless the conditions of paragraphs 2 or 3 apply.</i>	Keep text GA, which is more precise.
2. A freezing order concerning specific items of property may be transmitted to more than one executing State at the same time where:	2. <i>Without prejudice to paragraph 1</i> , a freezing order concerning specific items of property may be transmitted to more than one executing State at the same time where: <i>[AM 90]</i>	2. <i>Notwithstanding paragraph 1</i> , where a freezing order <i>concerns</i> specific items of property, the freezing <i>certificate</i> may be transmitted to more than one executing State at the same time <i>if</i> :	Keep text GA, which is clearer. There seems little difference between "without prejudice" and notwithstanding".
(d) the issuing authority has reasonable grounds to believe that different items of property covered by the freezing order are located in different executing States;	(a) the issuing authority has reasonable grounds to believe that different items of property covered by the freezing order are located in different executing States;	(a) the issuing authority has reasonable grounds to believe that different items of property covered by the freezing order are located in different executing States; or	Texts identical.
(e) the freezing of a specific item of property covered by the freezing order involves action in more than one executing State;or	(b) the freezing of a specific item of property covered by the freezing order involves action in more than one executing State;or	(b) the freezing of a specific item of property covered by the freezing order <i>would require</i> action in more than one executing State.	Keep text GA with legal-linguist refinement.
(f) the issuing authority has reasonable grounds to believe that a specific item of property covered by the freezing order is located in one of two or more specified executing States.	(c) the issuing authority has reasonable grounds to believe that a specific item of property covered by the freezing order is located in one of two or more specified executing States.	<i>Deleted.</i>	Point c) has been deleted, because there seems to be no added value in the light of points a) and b).
3. A freezing order concerning an	3. <i>Without prejudice to</i>	3. <i>Notwithstanding paragraph 1</i> ,	Keep text GA, which is clearer. There

amount of money may be transmitted to more than one executing State at the same time, where the issuing authority deems there is a specific need to do so, in particular where the estimated value of the property which may be frozen in the issuing State and in any one executing State is not likely to be sufficient for the execution of the full amount covered by the freezing order.	paragraph 1 , a freezing order concerning an amount of money may be transmitted to more than one executing State at the same time, where the issuing authority deems there is a specific need to do so, in particular where the estimated value of the property which may be frozen in the issuing State and in any one executing State is not likely to be sufficient for the execution of the full amount covered by the freezing order. [AM 91]	where a freezing order concerns an amount of money, the freezing certificate may be transmitted to more than one executing State at the same time, where the issuing authority deems there is a specific need to do so, in particular where the estimated value of the property which may be frozen in the issuing State and in any one executing State is not likely to be sufficient for the freezing of the full amount covered by the freezing order.	seems little difference between "without prejudice" and "notwithstanding".
ARTICLE 16 (CGA: ART. 7) - Form of the freezing order			
	<i>[Title:] Standard certificate for issuing a freezing order [AM 92]</i>	<i>[Title:] Standard freezing certificate</i>	Both titles seem fine.
1. The freezing order shall be issued in the form set out in Annex II.	Deleted [AM 93]	Deleted (but see para 1 below)	
2. The issuing authority shall complete the form, sign it and certify its content as accurate and correct.	2. The issuing authority shall complete the certificate set out in Annex II , sign it and certify its content as accurate and correct. [AM 94]	1. The issuing authority shall complete the freezing certificate set out in Annex I , shall sign it and shall certify its content as being accurate and correct.	Keep GA text, which is more precise.
3. The issuing authority shall translate the freezing order into an official language of the executing State or any other language indicated by that Member State in accordance with paragraph 4.	3. The issuing authority shall translate the freezing order into an official language of the executing State or any other language indicated by that Member State in accordance with paragraph 4.	2. The issuing authority shall translate the freezing certificate into an official language of the executing State or into any other language that the executing State will accept in accordance with paragraph 3.	Keep GA text, which is more precise.

4. Any Member State may, at any time state in a declaration submitted to the Commission, that it will accept a translation in one or more other official languages of the Union.	4. Any Member State may, at any time state in a declaration submitted to the Commission, that it will accept a translation in one or more other official languages of the Union.	3. Any Member State may, at any time, state in a declaration submitted to the Commission, that it will accept a translation in one or more other official languages of the Union.	Texts identical.
ARTICLE 17 (CGA: ART. 8) - Recognition and execution of freezing orders			
The executing authority shall recognise a freezing order transmitted in accordance with Article 14 <i>without further formalities</i> and shall take the necessary measures to execute it unless that authority decides to invoke one of the grounds for non-recognition and non-execution provided for in Article 18 or one of the grounds for postponement provided for in Article 20.	The executing authority shall recognise a freezing order transmitted in accordance with Article 14 <i>without further formalities</i> and shall take the necessary measures to execute it unless that authority decides to invoke one of the grounds for non-recognition and non-execution provided for in Article 18 or one of the grounds for postponement provided for in Article 20.	The executing authority shall recognise a freezing order that has been transmitted in accordance with Article 5 and shall take the measures necessary to execute it <i>with the same speed and priority as for a domestic freezing order</i> , unless that authority invokes one of the grounds for non-recognition and non-execution provided for in Article 9 or one of the grounds for postponement provided for in Article 11.	It is not clear what "further formalities" mean. Keep text GA.
	<i>1a. As soon as the execution of the order has been completed the executing authority shall immediately and at the latest within 12 hours notify to the issuing authority by any means capable of producing a written report. [AM 95]</i>		Time-limits: see note with questions. Comparable with Art. 16 GA (Art. 25 in COM text). Text of EP is more prescriptive, however.
	<i>1b. In addition, the executing authority shall report on the measures taken for the execution of the freezing order and the results thereof, including a description of the property frozen and an estimation of its value,</i>		Idem.

	<i>to the issuing authority within 3 working days of the execution of the order by any means capable of producing a written record. [AM 96]</i>		
ARTICLE 18 (CGA: ART. 9) - Grounds for non-recognition and non-execution of freezing orders			
	<i>[Title:] Mandatory and optional grounds for non-recognition and non-execution of freezing orders [AM 97]</i>		Grounds for non recognition: see note with questions. EP suggests making a split between mandatory and optional grounds. Is this useful/appropriate/practical?
1. The executing authority may decide not to recognise and not to execute the freezing order only if:	1. The executing authority <i>shall not</i> recognise <i>or</i> execute the freezing order if: <i>[AM 98]</i>	1. The executing authority may decide not to recognise and not to execute the freezing order only if:	Depends on split.
(k) the <i>form</i> provided for in Article 16 is incomplete or manifestly incorrect, and has not been completed following the consultation in accordance with paragraph 2;	<i>Deleted [AM 99] (see below under point 1a (a))</i>	(c) the <i>certificate</i> provided for in Article 7 is incomplete or manifestly incorrect, and has not been completed following the consultation in accordance with paragraph 2 <i>of this Article</i> ;	Texts are quite close - position depends on split.
(l) the execution of the order would be contrary to the <i>ne bis in idem</i> principle	(b) the execution of the order would be contrary to the <i>ne bis in idem</i> principle	(a) executing the freezing order would be contrary to the <i>ne bis in idem</i> principle;	Texts identical.
(m) there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic freezing order on the	(c) there is immunity or privilege under the law of the executing State which would prevent the execution of a domestic freezing order on the	(b) there is an immunity or privilege under the law of the executing State that would prevent <i>the freezing of the</i> property concerned <i>or there are rules on the determination or limitation of</i>	Keep text GA (political compromise).

property concerned;	property concerned;	<i>criminal liability that relate to the freedom of the press and the freedom of expression in other media, which prevent the execution of the order;</i>	
(n) the order is based on a criminal offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State, and the conduct in connection with which the freezing order is issued is not an offence in the executing State;	<i>Deleted [AM 100] (see below under point 1a (b))</i>	(d) the order is based on a criminal offence committed <i>wholly or partially</i> outside the territory of the issuing State and wholly or partially in the territory of the executing State and the conduct in connection with which the order was issued is not an offence in the executing State;	Keep text GA, which is more precise.
	<i>(da) the freezing order relates to a specific item of property which is not the property of the natural or legal person against whom the confiscation order was made in the issuing Member State or of any other natural or legal person who was a party to the proceedings in the issuing State; [AM 101]</i>		Is such a ground for non-recognition, which could have a very wide field of application, appropriate in the context of freezing orders? <u>MS are invited to state their position on this amendment.</u>
(o) in a case referred to in Article 3(2), the conduct on which the freezing 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 freezing order shall not be refused on the grounds 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	<i>Deleted [AM 102] (see below under point 1a (c))</i>	(e) in a case falling under Article 3(2), the conduct giving rise to the order does not constitute an offence under the law of the executing State; however, in cases that involve taxes or duties, or customs and exchange regulations, the execution of the freezing order shall not be refused on the grounds that the law of the executing State does not impose the same kind of tax or duty or does not	Texts are identical - position depends on split.

as regards taxes, duties and customs and exchange regulations as the law of the issuing State;		contain the same type of rules as regards taxes and duties or the same type of customs and exchange regulations as the law of the issuing State.	
	<i>(ea) there are substantial grounds for believing that executing the freezing order would be incompatible with the obligations of the executing State in accordance with Article 6 TEU and the Charter. [AM 103]</i>		Fundamental rights: see note with questions.
	<p><i>1a. The executing authority may decide not to recognise and not to execute the freezing orders if:</i></p> <p><i>(a) the certificate provided for in Article 16 is incomplete or manifestly incorrect, and has not been completed following the consultation in accordance with paragraph 2 or if the conditions laid down in Article 16(3) are not respected</i></p> <p><i>(b) the order is based on a criminal offence committed outside the territory of the issuing State and wholly or partially on the territory of the executing State, and the conduct in connection with which the freezing order is issued is not an offence in the executing State;</i></p> <p><i>(c) in a case referred to in Article 3(2), the conduct on which the</i></p>		(see above: texts are very close)

	<i>freezing 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 freezing order shall not be refused on the grounds 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 the law of the issuing State. [AM 104]</i>		
2. In the cases referred to in paragraph 1, before deciding not to recognise or not to execute the freezing 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.	2. In the cases referred to in paragraph 1, before deciding not to recognise or not to execute the freezing 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.	2. In the cases referred to in paragraph 1, before deciding not to recognise or not to execute the freezing order, whether 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.	Texts identical.
3. The executing authority may decide to lift the freezing order if, during the execution, it becomes aware that one of the grounds for non-recognition and non-execution applies.	3. The executing authority may decide to lift the freezing order if, during the execution, it becomes aware that one of the grounds for non-recognition and non-execution applies. <i>The executing authority shall communicate to the issuing authority, by any means capable of producing a written record, the reasons for the decision to revoke the freezing order</i>	3. <i>Where</i> the executing authority <i>has recognised a freezing order</i> , but it becomes aware, <i>during the execution thereof</i> , that one of the grounds for non-recognition or non-execution applies, <i>it shall immediately contact the issuing authority by any appropriate means in order to discuss the appropriate measures to take. On this basis, the issuing authority may</i>	Text GA is preferable, since it favours mutual recognition: after recognition, authorities may not "just" stop the execution, but they should talk with each other to find a solution.

	<i>[AM 105]</i>	<i>decide to withdraw the freezing order. If, following such discussions, no solution has been reached, the executing authority may decide to stop the execution of the freezing order.</i>	
ARTICLE 19 (CGA: ART. 10) - Time limits for recognition and execution of freezing orders			
1. The decision on the recognition and execution of the freezing order shall be taken and the freezing shall be carried out with the same <i>celerity</i> and priority as for a similar domestic case and, in any case, within the time limits provided in this Article.	1. The decision on the recognition and execution of the freezing order shall be taken and the freezing shall be carried out with the same celerity and priority as for a similar domestic case and, in any case, within the time limits provided in this Article.	1. <i>The executing authority shall take a</i> decision on the recognition and execution of the freezing order and execute this decision <i>without delay</i> and the same <i>speed</i> and priority as for a similar domestic case <i>after the executing authority has received the freezing certificate.</i>	Keep text GA, which is more precise.
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.	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 <i>and execute the freezing order by the specified deadline.</i> <i>[AM 106]</i>	2. Where the issuing authority has indicated in the freezing certificate that the freezing measure is to be carried out on a specific date, the executing authority shall take as full account <i>as possible thereof.</i> <i>(see also para 3)</i>	Time-limits: see note with questions. The idea that the issuing authority could "impose" on the executing authority to execute a freezing order by a specific date seems to go rather far.
3. The executing authority shall take the decision on the recognition and execution of the freezing order, or	3. The executing authority shall take the decision on the recognition and execution of the freezing order, or	3. <i>Without prejudice to paragraph 5</i> , where the issuing authority has stated in the freezing	Time-limits: see note with questions. Text GA seems to be rather close to

on consulting the issuing authority in accordance with Article 18(2), as soon as possible and, without prejudice to paragraph 7 of this Article, no later than 24 hours after the executing authority has received the freezing order.	on consulting the issuing authority in accordance with Article 18(2), as soon as possible and, without prejudice to paragraph 7 of this Article, no later than 48 hours after the executing authority has received the freezing order. <i>[AM 107]</i>	certificate that immediate freezing is necessary since there are legitimate grounds to believe that the property in question will imminently be removed or destroyed, the executing authority shall decide on the recognition of the freezing order no later than 48 hours after it has been received by the executing authority. The executing state shall, no later than 48 hours after such decision has been taken, take concrete measures necessary to execute the order.	the other texts, both EP and GA providing 48 hours for recognition of a freezing order.
4. If the executing authority consults the issuing authority in accordance with Article 18(2), the executing authority shall take the decision on the recognition and execution of the freezing order without delay.	4. If the executing authority consults the issuing authority in accordance with Article 18(2), the executing authority shall take the decision on the recognition and execution of the freezing order without delay and at the latest 48 hours following the consultation. <i>[AM 108]</i>	(see para 3)	GA text in para 3 is clearer.
5. The executing authority shall communicate the decision on a freezing order to the issuing authority without delay by any means capable of producing a written record.	5. The executing authority shall communicate the decision on a freezing order to the issuing authority immediately and at the latest within 12 hours by any means capable of producing a written record. <i>[AM 109]</i>	4. The executing authority shall communicate the decision on the recognition and execution of a freezing order to the issuing authority without delay by any means capable of producing a written record.	Time-limits: see note with questions AM 109 uses "immediately" instead of "without delay" and specifies further what this "immediately" should entail. Is it necessary/appropriate/useful to provide such detail?
6. Unless grounds for postponement pursuant to Article 20 exist, the executing authority shall carry out the freezing without delay	6. Unless grounds for postponement pursuant to Article 20 exist, the executing authority shall carry out the freezing without delay	(see para 3)	

and without prejudice to paragraph 7 of this Article, not later than 24 hours after taking the decision referred to in paragraph 3 of this Article.	and without prejudice to paragraph 7 of this Article, not later than 24 hours after taking the decision referred to in paragraph 3 of this Article.		
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.	7. Where it is not possible in a specific case to meet the time limits set out in paragraphs 3, 4, 5 or 6, the executing authority shall immediately and at the latest within 2 working days inform the issuing authority by any means capable of producing a written report , giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the freezing. <i>[AM 110]</i>	5. Where it is not possible in a specific case to meet the time limits set out in paragraph 3, 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 schedule to execute the freezing order. The expiry of the time limits shall not relieve the executing authority of its obligation to adopt a decision on the recognition and execution of the freezing order and to execute that order without delay.	Time-limits: see note with questions Keep text GA, which is also in line with the judgment of the CJEU in the Vilkas case (C-640/15)
ARTICLE 20 (CGA: ART 11) - Postponement of execution of freezing orders			
1. The executing authority may postpone the execution of a freezing order transmitted in accordance with Article 14 where :	1. The executing authority may postpone the execution of a freezing order transmitted in accordance with Article 14 where :	1. The executing authority may postpone the execution of a freezing order transmitted in accordance with Article 5 where:	Texts identical.
(1) its execution might damage an ongoing criminal investigation, until such time as it deems reasonable;	(1) its execution might damage an ongoing criminal investigation, until such time as it deems reasonable;	(a) its execution might damage an ongoing criminal investigation, in which case the execution of the freezing order may be postponed until such time as the executing authority deems reasonable;	Keep GA, which is clearer/more precise.
(2) the property is already the	(2) the property is already the	(b) the property is already the	

subject of a freezing order and until such orders are lifted; or	subject of a freezing order and until such orders are lifted; or	subject of an existing freezing order, <i>in which case the execution of the freezing order may be postponed until such existing orders are withdrawn;</i> or	
(3) the property is already subject to an order issued in the course of other proceedings in the executing State and until that order is lifted.	(3) the property is already subject to an order issued in the course of other proceedings in the executing State and until that order is lifted.	(c) the property is already subject to an existing order issued in the course of other proceedings in the executing State, <i>in which case the execution of the freezing order may be postponed until that such existing order is withdrawn. However, this point shall only apply where such existing order would have priority over subsequent national freezing orders under national law.</i>	Keep GA, which is clearer /more precise.
(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.	(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.	<i>Deleted (integrated in point (c) above).</i>	Texts identical, but put in different place.
2. The executing authority shall immediately report to the issuing authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. As soon as the ground for postponement has ceased to exist, the executing authority shall immediately	2. The executing authority shall immediately <i>and at the latest within 48 hours</i> report to the <i>issuing</i> authority by any means capable of producing a written record on the postponement of the execution of the order, including the grounds for the postponement and, if possible, the expected duration of the postponement. <i>[AM III]</i>	2. The executing authority shall immediately report to the issuing authority on the postponement of the execution of the order, by any means capable of producing a written record, including the grounds for the postponement and, if possible, the expected duration of the postponement. As soon as the ground for postponement has ceased to exist, the executing authority shall immediately	Time-limits: see note with questions EP suggests clarifying that immediately means <i>at the latest within 48 hours</i> . Is this acceptable/useful/necessary?

take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record.		take the measures necessary to execute the order and shall inform the issuing authority thereof by any means capable of producing a written record.	
	<i>2a. As soon as the ground for postponement has ceased to exist, the executing authority shall immediately take the necessary measures for the execution of the order and inform the issuing authority thereof by any means capable of producing a written record. [AM 112]</i>	See paragraph 2.	Texts identical, but put in different place.
ARTICLE 21 (CGA: ART 32a) - Obligation to inform the interested parties			
1. Without prejudice to Article 22, following the execution, the executing authority shall notify its decision to the person against whom the freezing order has been issued and to any interested party including bona fide third parties of which the executing authority has been informed in accordance with Article 14(6).	1. The executing authority shall notify its decision to the person against whom the freezing order has been issued and to any interested party including bona fide third parties of which the executing authority has been informed in accordance with Article 14(6). <i>[AM 113]</i>	1. Without prejudice to Article 12, following the execution of a freezing order and following the decision to recognise and execute a confiscation order, the executing authority shall, in accordance with procedures under its national law and in so far as possible, inform the affected persons known to it of such execution and of such decision without delay.	Texts are actually quite close. GA text seems more precise and provides the necessary flexibility - suggests to keep it.
2. The notification shall contain information, at least briefly, on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the	2. The notification shall <i>indicate</i> the reasons of the freezing order, the authority who issued the order and the existing legal remedies under the national law of the executing State.	2. The information to be provided in accordance with paragraph 1 shall state the authority who issued the order and the legal remedies available under the national	GA makes a distinction between the information that should be provided to the person against whom a freezing order or confiscation order was issued, or the person whose property has been

national law of the executing State.	[AM 114]	law of the executing State.	the subject of that order (see paragraph 2 and 3) and the other affected persons (only paragraph 2). This seems a useful distinction; EP could be asked if it can accept this solution.
	<i>2a. The notification shall contain relevant information, in such a way that the person can lodge effective legal remedies, on the reasons of the freezing order, on the authority who issued the order and on the existing legal remedies under the national law of the executing State. [AM 115]</i>	3. Where the information referred to in paragraph 1 is to be provided to the person against whom a freezing order or confiscation order was issued, or the person whose property has been the subject of that order, it shall also state, at least in a brief manner, the reasons for this order.	See above.
ARTICLE 22 (CGA: ART. 12) - Confidentiality			
1. In the execution of a freezing order the issuing authority and the executing authority shall take due account of the confidentiality of the investigation.	1. In the execution of a freezing order the issuing authority and the executing authority shall take due account of the confidentiality of the investigation.	1. During the execution of a freezing order the issuing authority and the executing authority shall take due account of the confidentiality of the investigation.	Texts very close. GA text was recommended by legal-linguists, and seems therefore preferable.
2. The executing authority shall, in accordance with its national law, guarantee the confidentiality of the facts and the substance of the freezing order, except to the extent necessary to execute it. <i>If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority immediately.</i>	2. <i>Without prejudice to the right to information of any person concerned,</i> the executing authority shall, in accordance with <i>Union law</i> and its national law, guarantee the confidentiality of the facts and the substance of the freezing order, except to the extent necessary to execute it. If the executing authority cannot comply	2. Except to the extent necessary to execute <i>the order</i> , the executing authority shall guarantee the confidentiality of the facts and substance of the freezing order in accordance with its national law.	What is "the right to information of any person"? This amendment seems to be very broad. EP could be asked what this text means. Time-limits: see note with questions Additional time-limit inserted in the text (3 working days). Is it

	with the requirement of confidentiality, it shall notify the issuing authority immediately <i>and at the latest within 3 working days and indicate the reasons for this by any means capable of producing a written record. [AM 116]</i>	(see para 4)	useful/acceptable?
3. For the purpose of safeguarding ongoing investigations, the issuing authority may request the executing authority to keep the execution of the freezing order confidential for a limited period of time.	3. For the purpose of safeguarding ongoing investigations, the issuing authority may request the executing authority to keep the execution of the freezing order confidential for a limited period of time, <i>which may not extend beyond the execution date of the freezing order. [AM 117]</i>	3. To protect ongoing investigations, the issuing authority may request the executing authority to keep the execution of the freezing order confidential.	AM 117 could possibly be an improvement of the text. Suggested refined text: 3. To protect ongoing investigations, the issuing authority may request the executing authority to keep the execution of the freezing order confidential, <i>at the latest until the moment when the freezing order has been executed.</i> <u>MS are invited to indicate if they could accept the amendment in its modified form.</u>
		4. If the executing authority cannot comply with the confidentiality obligations set out in this Article, it shall notify the issuing authority immediately, and, where possible, prior to the execution of the freezing order.	Keep GA text.
ARTICLE 23 (CGA: ART. 14) - Duration of freezing orders			
1. The property shall remain frozen in the executing State until the competent authority of that State has	1. The property shall remain frozen in the executing State until the competent authority of that State has	1. The property shall remain frozen in the executing State until the competent authority of that State has	Texts identical.

responded definitively to a confiscation order transmitted in accordance with Article 4 or the issuing authority has informed the executing authority of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn, in accordance with Article 30(1).	responded definitively to a confiscation order transmitted in accordance with Article 4 or the issuing authority has informed the executing authority of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn, in accordance with Article 30(1).	responded definitively to a confiscation order transmitted in accordance with Article 17, or until the issuing authority has informed the executing authority of any decision or measure that causes the order to be unenforceable or to be withdrawn in accordance with Article 30(1).	
2. <i>After consulting the issuing authority</i> , the executing authority, taking into account the circumstances of the case, may make a reasoned request to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof, stating its reasons. If the issuing authority does not do so within six weeks of receiving the request, <i>the executing authority may lift the freezing order.</i>	2. After consulting the issuing authority, the executing authority, taking into account the circumstances of the case, may make a reasoned request <i>including any relevant supporting evidence, by any means capable of producing a written record,</i> to the issuing authority to limit the period for which the property shall be frozen. If the issuing authority does not agree to such a limitation, it shall inform the executing authority thereof, stating its reasons. If the issuing authority does not do so within <i>four</i> weeks of receiving the request, the executing authority may lift the freezing order. <i>[AM 118]</i>	2. The executing authority may, taking into account the circumstances of the case, make a reasoned request to the issuing authority to limit the period for which the property shall be frozen. <i>When examining such a request, the issuing authority shall take all interests into account, including those of the executing authority. The issuing authority shall react to the request as soon as possible.</i> If the issuing authority does not agree to the limitation, it shall inform the executing authority of its reasons. <i>In such case, the property shall remain frozen in accordance with paragraph 1.</i> If the issuing authority does not react within six weeks of receiving the request, <i>the executing authority is no longer obliged to execute the freezing order.</i>	GA text seems preferable, since it is clearer and indicates more precisely what could be the consequences of non-action. EP suggestion to add <i>"including any relevant supporting evidence, by any means capable of producing a written record"</i> could be considered. Time-limits: see note with questions. EP requests putting 4 instead of 6 weeks. Would that be acceptable/useful/practical?
ARTICLE 24 (CGA: ART: 15) - Impossibility to execute a freezing order			
Where it is impossible to execute the freezing order because the property to	Where it is impossible to execute the freezing order because the property to	1. Where <i>an executing authority considers that</i> it is impossible to	Keep text GA, which is clearer and more precise.

<p>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.</p>	<p>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</p>	<p>execute a freezing order, <i>it shall notify</i> the issuing authority thereof without delay.</p> <p><i>2. Before notifying the issuing authority in accordance with paragraph 1, the executing authority shall, where appropriate, consult with the issuing authority without delay in order to find a solution.</i></p> <p><i>3. The non-execution of a freezing order under this Article can only be justified if the property:</i></p> <ul style="list-style-type: none"> (a) has already been confiscated; (b) has disappeared; (c) has been destroyed; (d) cannot be found in the location indicated on the <i>freezing</i> certificate; <i>(e) cannot be found because its location has not been indicated in a sufficiently precise manner, despite the consultations referred to in paragraph 2.</i> <p><i>4. As regards the situations referred to in paragraph 3 under (b), (d) and (e), if the executing authority subsequently obtains information allowing it to locate the property, the executing authority shall execute the</i></p>	
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ARTICLE 25 (CGA: ART. 16) - Reporting			
<p>The executing authority shall report on the measures taken for the execution of the freezing order and the results thereof, including a description of the property frozen and an estimation of its value, to the issuing authority within three days of the execution of the order by any means capable of producing a written record.</p>	<p><i>Deleted [AM 119]</i> (but see art. 19, 1a and 1b)</p>	<p>The executing authority shall report to the issuing authority on the execution of the freezing order, including a description of the property frozen and, <i>where available</i>, an estimation of its value. <i>Such reporting shall be carried out</i> by any means capable of producing a written record, <i>without undue delay following the moment when the executing authority has been informed that the freezing order has been executed.</i></p>	<p>Keep text GA. Invite EP to explain why it wants the Article to be deleted / put into Article 18.</p>

CHAPTER IV
GENERAL PROVISIONS

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
ARTICLE 26 - Law governing execution			
1. The execution of the freezing or confiscation order shall be governed by the law of the executing State and its authorities shall be solely competent to decide on the procedures for execution and to determine all the measures relating thereto.	1. The execution of the freezing or confiscation order shall be governed by the law of the executing State and its authorities shall be solely competent to decide on the procedures for execution and to determine all the measures relating thereto.	1. The execution of the freezing order or the confiscation order shall be governed by the law of the executing State and its authorities shall be solely competent to decide on the procedures for the execution thereof and to determine all the measures relating thereto.	Texts almost identical.
2. A freezing or confiscation order issued against a legal person shall be executed even if the executing State does not recognise the principle of criminal liability of legal persons.	2. A freezing or confiscation order issued against a legal person shall be executed even if the executing State does not recognise the principle of criminal liability of legal persons	2. A freezing order or a confiscation order issued against a legal person shall be executed even if the executing State does not recognise the principle of criminal liability of legal persons.	Texts almost identical.
3. Notwithstanding Article 8 (2) and (3), the executing State may not impose measures as an alternative to the freezing or confiscation order as a result of a transmission pursuant to Articles 4, and 14, unless the issuing State has given its consent.	3. Notwithstanding Article 8 (2) and (3), the executing State may not impose measures as an alternative to the freezing or confiscation order as a result of a transmission pursuant to Articles 4, and 14, unless the issuing State has given its consent.	3. Notwithstanding Article 21(2) and (3), the executing State may not impose measures alternative to the freezing order or the confiscation order transmitted pursuant to Articles 5 and 17 , without the consent of the issuing State.	Texts almost identical.
		Article 26a (new)	Keep text GA.

		<p><i>Cooperation between Asset Recovery Offices</i></p> <p><i>Member States shall ensure that their Asset Recovery Offices cooperate with each other for the purposes of the facilitation of the tracing and identification of proceeds of crime and other crime related property which may become the object of a freezing order or a confiscation order, in accordance with Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.</i></p>	
ARTICLE 27 - Notification on the competent authorities			
1. By [date of application of this Regulation], each Member State shall inform the Commission which authority or authorities as defined in Article 2 (8) and (9) are competent under its national law, when that Member State is:	1. By [date of application of this Regulation], each Member State shall inform the Commission which authority or authorities as defined in Article 2 (8) and (9) are competent under its national law, when that Member State is:	By ... [date of application of this Regulation], each Member State shall inform the Commission of the authority or authorities as defined in Article 2(8) and (9) that are competent under its national law <i>in the cases</i> that Member State is <i>respectively</i> :	Texts almost identical.
(a) the issuing State, or	(a) the issuing State, or	(a) the issuing State, or	
(b) the executing State.	(b) the executing State	(b) the executing State.	
2. Each Member State may designate, if it is necessary as a result	2. Each Member State <i>shall</i> designate, <i>one</i> central <i>authority</i>	2. <i>If it is necessary because of the structure of its internal legal system,</i>	EP suggests making it obligatory for Member States to have a central

of the organisation of its internal system, one or more central authorities responsible for the administrative transmission and reception of the freezing or confiscation orders and to assist the competent authorities. The Member States shall inform the Commission thereof.	responsible for <i>assisting the competent authorities with</i> the administrative transmission and reception <i>and the logging</i> of the freezing or confiscation orders. The Member States shall inform the Commission thereof. [AM 120]	each Member State may designate one or more central authorities <i>to be</i> responsible for the administrative transmission and reception of certificates relating to freezing orders and confiscation orders and for <i>assisting</i> its competent authorities. The Member States shall inform the Commission of those authorities.	authority (see also recital 20b). Although MS who have such authority often find that useful, it is not sure whether this should be made obligatory. <u>MS are invited to state their position on this amendment.</u>
3. The Commission shall make the information received available to all Member States.	3. The Commission shall make the information received available to all Member States.	3. The Commission shall make the information received available to all Member States.	Texts identical.
ARTICLE 28 - Communication			
1. Where necessary, the issuing authority and the executing authority shall consult each other, by any appropriate means, in order to ensure the efficient application of this Regulation.	1. Where necessary, the issuing authority and the executing authority shall <i>rapidly</i> consult each other, by any appropriate means, in order to ensure the efficient application of this Regulation. [AM 121]	1. Where necessary, the issuing authority and the executing authority shall consult each other to ensure the efficient application of this Regulation, <i>using any</i> appropriate means <i>of communication</i> .	Time limits - see note with questions. Is it acceptable to put "rapidly"? What would that mean in practice? Ask question to EP. See also note with questions.
2. All communications, including those intended to deal with difficulties concerning the transmission or authenticity of any document needed for the execution of the freezing or confiscation order, shall be made by direct contact between the issuing State and the executing authority <i>involved or</i> , where the Member State has designated a central authority in accordance with Article 27(2), with the involvement of that central authority.	2. All communications, including those intended to deal with difficulties concerning the transmission or authenticity of any document needed for the execution of the freezing or confiscation order, shall be made by direct contact between the issuing State and the executing authority involved, <i>with the assistance of the</i> central authority in accordance with Article 27(2). [AM 122]	2. All communications, including those intended to deal with difficulties concerning the transmission or authentication of any document needed for the execution of the freezing order or the confiscation order, shall be made directly between the issuing <i>authority</i> and the executing authority, <i>and</i> where the Member State has designated a central authority in accordance with Article 27(2), <i>shall be made</i> with the involvement of that central authority.	Texts quite close. Keep GA.

ARTICLE 29 - Multiple orders

1. If the **competent authorities** of the executing State are **processing** two or more freezing or confiscation orders concerning an amount of money which have been issued against the same natural or legal person, and the person concerned does not have sufficient **means** in the executing State to **enable** all the orders to be executed, the decision on which of the orders is or are to be executed shall be taken by the executing authority according to the law of the executing State, **with due consideration of all of the** circumstances.

Those circumstances may include the interest of victims, the involvement of frozen assets, the dates of the respective orders and their dates of transmission and the **relative** seriousness and place of the offence.

1. If the competent authorities of the executing State are processing two or more freezing or confiscation orders concerning an amount of money which have been issued against the same natural or legal person, and the person concerned does not have sufficient **means** in the executing State to enable all the orders to be executed, the decision on which of the orders is or are to be executed shall be taken by the executing authority according to the law of the executing State, with due consideration of all of the circumstances.

Those circumstances may include the interest of victims, the involvement of frozen assets, the dates of the respective orders and their dates of transmission and the relative seriousness and place of the offence

1. If the **executing** authority **receives** two or more freezing or confiscation orders **from different Member States** against the same person, and that person does not have sufficient property in the executing State to satisfy all of the orders, **or if the executing authority receives** two or more freezing orders or confiscation orders in respect of the same specific item of property, **the executing authority shall decide which** of the orders to execute in accordance with the law of the executing State, **without prejudice to the possibility of postponing the execution of a confiscation order in accordance with Article 24.**

2. **In taking its decision, the executing authority shall, where possible, give priority to the interests of victims. It shall also take all other relevant circumstances into account, including the following:**

- (a) **whether the assets are** frozen;
- (b) **the dates of the respective orders and their dates of** transmission;

Keep text of GA, which is more precise.

		<p>(c) the seriousness <i>of the offence concerned; and</i></p> <p>(d) <i>the place where the offence has been committed.</i></p>	
2. Paragraph 1 shall also apply where the competent authorities of the executing State are processing two or more freezing or confiscation orders concerning the same specific item of property.	2. Paragraph 1 shall also apply where the competent authorities of the executing State are processing two or more freezing or confiscation orders concerning the same specific item of property.		
ARTICLE 30 - Termination of execution			
		[Title:] Termination of the execution of a freezing order or a confiscation order	Keep title as in GA, which is more precise.
The issuing authority shall immediately inform the executing authority by any means capable of producing a written record of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn for any other reason.	The issuing authority shall immediately <i>and at the latest within 48 hours</i> inform the executing authority by any means capable of producing a written record of any decision or measure as a result of which the order ceases to be enforceable or shall be withdrawn for any other reason. <i>[AM 123]</i>	<p>1. <i>The issuing authority shall, without delay, withdraw the freezing certificate or confiscation certificate when the freezing order or confiscation order ceases to be enforceable or is no longer valid.</i></p> <p>2. The issuing authority shall immediately inform the executing authority, by any means capable of producing a written record, <i>of the withdrawal of a freezing order or confiscation order, as well as of any decision or measure that causes a freezing order or confiscation order to be withdrawn.</i></p>	Keep text GA, which is more precise.

The executing State shall terminate the execution of the order as soon as it is informed by the issuing authority of that decision or measure.	The executing State shall terminate the execution of the order as soon as it is informed by the issuing authority of that decision or measure <i>and shall immediately notify the termination to the issuing State by any means capable of producing a written record.</i> <i>[AM 124]</i>	3. The executing authority shall terminate the execution of the <i>freezing order or confiscation order</i> as soon as it <i>has</i> been informed by the issuing authority <i>in accordance with paragraph 2, in so far as the execution has not yet been completed.</i>	Keep text GA, which is more precise.
ARTICLE 31 - Management and disposal of frozen and confiscated property			
		1. The management of frozen and confiscated property shall be governed by the law of the executing State.	Management/disposal - see note with questions Invite EP to state if it can accept the GA text of this Article.
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.	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.	2. The executing State shall manage the frozen or confiscated property with a view to preventing its depreciation in value. <i>To that end, the executing State shall have the possibility of selling or transferring frozen property, having regard to Article 10 of Directive 2014/42/EU.</i>	
		3. Frozen property, or money obtained after selling such property in accordance with paragraph 2, shall remain in the executing State until a confiscation order has been submitted and that order has been executed, without prejudice to the possibility of restitution of property as foreseen in Article 31a.	

		<i>4. The executing State shall not be required to sell or return specific items covered by a confiscation order which constitute cultural objects, as defined in Article 2(1) of Directive 2014/60/EU of the European Parliament and the Council. This Regulation shall not affect the obligation to return cultural objects under that Directive.</i>	
2. Unless the confiscation order is accompanied by a decision to compensate the victim, or unless agreed otherwise by the Member States involved, taking also into account the need to provide assistance for the recovery of tax claims in accordance with Directive 2010/24/EU, money which has been obtained from the execution of the confiscation order shall be disposed of by the executing State as follows:	2. Unless the confiscation order is accompanied by a decision to compensate the victim, or unless agreed otherwise by the Member States involved, taking also into account the need to provide assistance for the recovery of tax claims in accordance with Directive 2010/24/EU, money which has been obtained from the execution of the confiscation order shall be disposed of by the executing State as follows:	(see Art. 31b para 7)	
(c) 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;	(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;	(see Art. 31b para 7)	
(d) 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	(b) if the amount obtained from the execution of the confiscation order is more than EUR 10 000, 30% of the amount shall accrue to the executing State and 70% of the amount shall be	(see Art. 31b para 7)	

executing State to the issuing State.	transferred by the executing State to the issuing State. <i>[AM 125]</i>		
3. Where a judicial authority of the issuing State has issued a decision to compensate or restitute the victim, the corresponding sum, in so far as it is does not exceed the confiscated sum, shall accrue to the issuing State for the purposes of compensation or restitution of the victim. Any remaining property is to be disposed of in accordance with paragraph 2.	3. Where a judicial authority of the issuing State has issued a decision to compensate or restitute the victim, the corresponding sum, in so far as it is does not exceed the confiscated sum, shall accrue to the issuing State <i>solely</i> for the purposes of compensation or restitution of the victim. Any remaining property is to be disposed of in accordance with paragraph 2. <i>[AM 126]</i>	(see Art. 31b para 4)	
4. Property other than money, which has been obtained as a result of the execution of the confiscation order, shall be disposed of in accordance with the rules set out in points (a) to (e).	4. Property other than money, which has been obtained as a result of the execution of the confiscation order, shall be disposed of in accordance with the rules set out in points (a) to (e).	(see Art. 31b para 6)	
(e) The property may be sold; in that case, the proceeds of the sale shall be disposed of in accordance with paragraph 2.	(a) The property may be sold; in that case, the proceeds of the sale shall be disposed of in accordance with paragraph 2.	(see Art. 31b para 6)	
(b) The property may be transferred to the issuing State; if the confiscation order covers an amount of money, the property may only be transferred to the issuing State when the issuing authority has given its consent.	(a) The property may be transferred to the issuing State; if the confiscation order covers an amount of money, the property may only be transferred to the issuing State when the issuing authority has given its consent	(see Art. 31b para 6)	
(c) The property may be used for public interest or social purposes in the	(c) The property may be used for public interest or social purposes in the	(see Art. 31b para 6)	

executing State in accordance with its laws, <i>subject to the agreement of the issuing State.</i>	executing State in accordance with its laws. <i>[AM 127]</i>		
(d) When it is not possible to apply point (a) or (b), the property may be disposed of in another way in accordance with the law of the executing State.	(d) When it is not possible to apply point (a) or (b), the property may be disposed of in another way in accordance with the law of the executing State.		
(e) Where a judicial authority of the issuing State has issued a decision to restitute the property to the victim, the executing authority shall take necessary measures to ensure the property is restituted to the victim; where it is not possible to restitute the property to the victim, the value of the property shall accrue to the issuing State for the purposes of restitution to the victim and any remaining property shall be disposed of in accordance with paragraph 2.	(e) Where a judicial authority of the issuing State has issued a decision to restitute the property to the victim, the executing authority shall take necessary measures to ensure the property is restituted to the victim; where it is not possible to restitute the property to the victim, the value of the property shall accrue to the issuing State for the purposes of restitution to the victim and any remaining property shall be disposed of in accordance with paragraph 2		
	<i>4a.new Each Member State shall take the necessary measures to establish a national centralised office responsible for the management of frozen property with a view to possible later confiscation and confiscated assets and properties. Such property shall be earmarked as a matter of priority for law enforcement and organised crime prevention projects and for other projects of public</i>		

	<i>interest and social utility. [AM 128]</i>		
	<i>4b.new Each Member State shall take the necessary measures, including the setting up of a national fund to guarantee appropriate compensation for the families of police officers and public servants killed in the line of duty and police officers and public servants permanently disabled in the line of duty. Each Member State shall earmark a portion of confiscated assets for this purpose. [AM 129]</i>		
	<i>4c. new Frozen property which is not subsequently confiscated shall be returned immediately. The conditions or procedural rules under which such property is returned shall be determined by national law. [AM 130]</i>		
5. The issuing authority shall communicate the decision referred to in paragraph 3 and 4(d) to the executing authority. If a procedure to compensate or restitute the victim is pending in the issuing State, the executing State shall withhold the disposition of the confiscated property until the decision is communicated to the executing authority.	5. The issuing authority shall communicate the decision referred to in paragraph 3 and 4(d) to the executing authority <i>by any means capable of producing a written record.</i> If a procedure to compensate or restitute the victim is pending in the issuing State, the executing State shall withhold the disposition of the confiscated property until the decision is communicated to the executing authority. <i>[AM 131]</i>		

		<p>Article 31a (new)</p> <p>Restitution of frozen property to the victim</p> <p>1. Where the issuing authority or another competent authority of the issuing State has issued a decision, in accordance with its national law, to restitute frozen property to the victim, the issuing authority shall include information on such decision in the freezing certificate, referred to in Article 7, or communicate information on such decision at a later stage to the executing authority.</p> <p>2. Where an executing authority has received information on a decision to restitute frozen property as referred to in paragraph 1, it shall take the necessary measures to ensure that when the property concerned is frozen, such property shall be restituted as soon as possible to the victim, in accordance with rules of procedure of the executing State, where necessary via the issuing State, provided that:</p> <p>(a) the title of the victim to the property is not contested;</p>	<p>Management/disposal - see note with questions.</p> <p>Invite EP to state if it can accept the text of this new Article.</p>

		<p>(b) the property is not required as evidence in criminal proceedings in the executing State;</p> <p>(c) the rights of affected persons are not prejudiced.</p> <p>3. Where an executing authority is not satisfied that the conditions of paragraph 2 have been met, it shall consult with the issuing authority without delay and by any appropriate means in order to find a solution. If no solution can be found, the executing authority may decide not to reconstitute the frozen property to the victim.</p>	
		<p>Article 31b (new)</p> <p>Disposal of confiscated property or money obtained after selling such property</p> <p>1. Where the issuing authority or another competent authority of the issuing State has issued a decision, in accordance with its national law, either to reconstitute confiscated property to the victim or to compensate the victim, the issuing authority shall include information on such decision in the confiscation certificate, referred to in Article 20, or communicate information on such</p>	<p>Management/disposal - see note with questions.</p> <p>Invite EP to state if it can accept the text of this new Article.</p>

		<p>decision at a later stage to the executing authority.</p> <p>2. Where an executing authority has received information on a decision to restitute confiscated property to the victim as referred to in paragraph 1, it shall take the necessary measures to ensure that when the property concerned is confiscated, this property shall be restituted as soon as possible to the victim, where necessary by transferring it to the issuing State.</p> <p>3. Where it is not possible for the executing authority to restitute the property to the victim in accordance with paragraph 2, but money has been obtained as a result of the execution of a confiscation order in relation to that property, the corresponding sum is to be transferred to the victim for the purposes of restitution, where necessary via the issuing State. Any remaining property is to be disposed of in accordance with paragraph 7.</p> <p>4. here an executing authority has received information on a decision to compensate the victim as referred to in paragraph 1, and money has been obtained as a result of the execution of a confiscation order, the corresponding sum, in so</p>	
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		<p>far as it does not exceed the amount indicated in the certificate, is to be transferred to the victim for the purposes of compensation, where necessary via the issuing State. Any remaining property is to be disposed of in accordance with paragraph 7.</p> <p>5. If a procedure to restitute or compensate the victim is pending in the issuing State, the issuing authority shall inform the executing authority accordingly. The executing State shall withhold the disposition of the confiscated property until the information on the decision to restitute or compensate the victim is communicated to the executing authority, even where the confiscation order has already been executed.</p> <p>6. Without prejudice to paragraphs 1-5, property other than money that has been obtained as a result of the execution of the confiscation order, shall be disposed of in accordance with the following rules:</p> <p>(a) the property may be sold, in which case the proceeds of the sale are to be disposed of in accordance with Article 31b, paragraph 7;</p> <p>(b) the property may be</p>	
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		<p>transferred to the issuing State, provided that, if the confiscation order covers an amount of money, the property may only be transferred to the issuing State when the issuing authority has given its consent;</p> <p>(c) if it is not possible to apply point (a) or (b), the property may be disposed of in another way in accordance with the law of the executing State;</p> <p>(d) the property may be used for public interest or social purposes in the executing State in accordance with its laws, subject to the agreement of the issuing State.</p> <p>7. Unless the confiscation order is accompanied by a decision to restitute property to the victim or compensate that person in accordance with paragraphs 1-5, or unless otherwise agreed by the Member States involved, the executing State shall dispose of the money obtained as a result of the execution of a confiscation order as follows:</p> <p>(a) if the amount obtained from the execution of the confiscation order is equal to or less than EUR 10.000, the amount is to accrue to</p>	
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		<p>the executing State;</p> <p>(b) if the amount obtained from the execution of the confiscation order is more than EUR 10.000, 50 % of the amount is to be transferred by the executing State to the issuing State.</p>	
ARTICLE 32 - Costs			
1. Member States may not claim from each other the refund of costs resulting from the application of this Regulation.	1. Member States may not claim from each other the refund of costs resulting from the application of this Regulation.	1. <i>Each Member State shall bear its own</i> costs resulting from the application of this Regulation, <i>without prejudice to the provisions relating to the disposal of confiscated property set out in Article 31.</i>	GA text is preferable, since it is worded more positively.
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 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 <i>and inform the executing authority of its conclusions by any means capable of producing a written record. [AM 132]</i>	<p>2. <i>The executing authority may submit a proposal to the issuing authority that the costs be shared where it appears, either before or after the execution of a freezing order or a confiscation order, that the execution of the order entails large or exceptional costs.</i></p> <p><i>Following such a proposal, which shall be accompanied by a detailed breakdown of the costs by the executing authority, the issuing authority and the executing authority shall consult with each other. Where appropriate, Eurojust can facilitate such consultations.</i></p>	Keep GA text, which is more precise. Ask EP to indicate whether it can accept this text, including the reference to Eurojust.

	<p>Article 32 a (new)</p> <p>Safeguards</p> <p><i>1. Member States shall take the necessary measures to ensure that the persons affected by the measures provided for under this Regulation have the right to an effective remedy and a fair trial, in order to uphold their rights.</i></p> <p><i>2. Member States shall provide for the effective possibility for the person whose property is affected to challenge the freezing or confiscation order before a court, in accordance with procedures provided for in national law. Such procedures may provide that when the initial freezing or confiscation order has been taken by a competent authority other than a judicial authority, such order shall first be submitted for validation or review to a judicial authority before it can be challenged before a court.</i></p> <p><i>3. Without prejudice to Directive 2012/13/EU and Directive 2013/48/EU, persons whose property is affected by a freezing or a confiscation order shall have the right of access to a lawyer throughout the freezing or confiscation proceedings relating to the determination of the</i></p>		See note with questions.
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	<p><i>proceeds and instrumentalities in order to uphold their rights. The persons concerned shall be informed of that right.</i></p> <p><i>4. Member States shall ensure that the time-limits for seeking a legal remedy shall be the same as those provided for in similar domestic cases and are applied in a way that guarantees the possibility of the effective exercise of these legal remedies for the parties concerned.</i></p> <p><i>5. In proceedings as referred to in paragraph 2, the affected person shall have an effective possibility to challenge the circumstances of the case, including specific facts and available evidence on the basis of which the property concerned is considered to be property that is derived from criminal conduct.</i></p> <p><i>6. Third persons shall have the effective possibility to claim title of ownership or other property rights.</i></p> <p><i>7. Where, as a result of a criminal offence, victims have claims against the person who is subject to a confiscation measure provided for under this Regulation, Member States shall take the necessary measures to ensure that the confiscation measure does not prevent those victims from</i></p>		
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	<p><i>seeking compensation for their claims.</i></p> <p>8. The issuing authority and the executing authority shall inform each other about the legal remedies sought against the issuing, the recognition or the execution of a freezing or confiscation order. [AM 133]</p>		
(see Art. 21 above)	(see Art. 12a and Art. 21 above)	<p>Article 32a (new)</p> <p>Obligation to inform affected persons</p> <p>1. Without prejudice to Article 12, following the execution of a freezing order and following the decision to recognise and execute a confiscation order, the executing authority shall, in accordance with procedures under its national law and in so far as possible, inform the affected persons known to it of such execution and of such decision without delay.</p> <p>2. The information to be provided in accordance with paragraph 1 shall state the authority who issued the order and the legal remedies available under the national law of the executing State.</p> <p>3. Where the information referred to in paragraph 1 is to be</p>	Keep GA text.

		<p>provided to the person against whom a freezing order or confiscation order was issued, or the person whose property has been the subject of that order, it shall also state, at least in a brief manner, the reasons for this order.</p> <p>4. Where appropriate, the executing authority may ask the issuing authority for assistance in carrying out the tasks referred to in paragraph 1.</p>	
ARTICLE 33 - Legal remedies in the executing State against recognition and execution			
		[Title:] Legal remedies in the executing State against the recognition and execution of a freezing order or a confiscation order	Keep new title.
<p>1. Any interested party, <i>including bona fide third parties</i>, shall have legal remedies, <i>including those provided for in Article 8 of Directive 2014/42/EU</i>, against the recognition and execution of an order pursuant to Article 8 and 17, in order to preserve their rights. The legal remedy shall be brought before a court in the executing State in accordance with its national law. The action may have suspensive effect under the law of the executing State.</p>	<p>1. Any interested party, including bona fide third parties, shall have legal remedies, including those provided for in Article 8 of Directive 2014/42/EU, against the recognition and execution of an order pursuant to Article 8 and 17, in order to preserve their rights. The legal remedy <i>against the recognition and the execution of a freezing or confiscation order</i> shall be brought before a court in the executing State in accordance with its national law. The action may have suspensive effect under the law of the executing</p>	<p>1. <i>Affected persons</i> shall have <i>the right</i> to legal remedies <i>in the executing State</i> against <i>the decision on</i> the recognition and execution of orders pursuant to Articles 8 and 21 of this Regulation. The <i>right to a legal remedy</i> shall be exercised before a court in the executing State in accordance with its national law. <i>As regards confiscation orders</i>, the action may have suspensive effect <i>if the law of the executing State so provides</i>.</p>	<p>Texts quite close (subject to solution on affected/interested parties).</p> <p>In GA text only actions against confiscation orders can have suspensive effect. This seems preferable, given the urgent nature of freezing orders.</p>

	State. <i>[AM 134]</i>		
2. The substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State.	2. <i>Without prejudice to the fundamental guarantees and rights in force in the executing Member State,</i> the substantive reasons for issuing the freezing or confiscation order shall not be challenged before a court in the executing State. <i>[AM 135]</i>	2. The substantive reasons for issuing the freezing order or the confiscation order shall be challenged only before a court in the issuing State.	
3. The competent authority of the issuing State shall be informed of any legal remedy filed in accordance with paragraph 1.	3. The competent authority of the issuing State shall be informed of any legal remedy filed in accordance with paragraph 1.	3. The competent authority of the issuing State shall be informed of any legal remedy filed in accordance with paragraph 1.	Texts identical.
ARTICLE 34 - Reimbursement			
1. Where the executing State is responsible under its national law for injury <i>caused to one of the interested parties referred to in Article 33 by</i> the execution of a freezing or confiscation order transmitted to it pursuant to Articles 4 and 14, the issuing State shall reimburse the executing State of <i>any sums paid in</i> damages <i>by virtue of that responsibility to the interested party</i> except if, and to the extent that, the injury or any part of it is exclusively due to the conduct of the executing State.	1. Where the executing State is responsible under its national law for injury caused to one of the interested parties referred to in Article 33 by the execution of a freezing or confiscation order transmitted to it pursuant to Articles 4 and 14, the issuing State shall reimburse the executing State of any sums paid in damages by virtue of that responsibility to the interested party except if, and to the extent that, the injury or any part of it is exclusively due to the conduct of the executing State.	1. Where the executing State is responsible under its national law for injury <i>to an affected person because</i> of the execution of a freezing order or a confiscation order transmitted to it pursuant to Articles 5 and 17 , the issuing State shall reimburse the executing State for any damages paid to the affected person <i>unless the issuing State can demonstrate to the executing State that the injury,</i> or any part of it, was exclusively due to the conduct of the latter State, <i>in which case the issuing and executing States shall agree between them on the amount to be reimbursed.</i>	Depends on solution affected/interested party. Keep text GA.
2. Paragraph 1 is without prejudice	2. Paragraph 1 is without prejudice	2. Paragraph 1 is without prejudice	Texts identical.

to the law of the Member States on claims by natural or legal persons for compensation of damage.	to the law of the Member States on claims by natural or legal persons for compensation of damage	to the law of the Member States on claims by natural or legal persons for compensation for damage.	
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CHAPTER V

FINAL PROVISIONS

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
ARTICLE 35 - Statistics			
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:	Member States shall regularly collect and maintain comprehensive statistics from the relevant authorities <i>and from the central authority referred to in Article 27(2)</i> . 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: [AM 136]	1. Member States shall regularly collect and maintain comprehensive statistics from the relevant authorities, <i>and shall send them to the Commission each year</i> . Those statistics shall include, in addition to the information provided for in Article 11(2) of Directive 2014/42/EU, <i>the number of freezing orders and confiscation orders received by a Member State from other Member States</i>	Keep text GA.
(p) the number of freezing orders and confiscation orders received from another Member State;	(a) the number of freezing orders and confiscation orders received from another Member State;	(see above, chapeau)	
(q) the number of freezing orders and confiscation orders received from another Member State, the recognition and execution of which were refused;	(b) the number of freezing orders and confiscation orders received from another Member State, the recognition and execution of which were refused;	<i>(a) that were recognised and executed;</i> <i>(b) the recognition and execution of which were refused.</i>	Keep text GA.
(r) the number of cases where a victim was compensated or restituted from the property obtained by the execution a confiscation order in	(c) the number of cases where a victim was compensated or restituted from the property obtained by the execution a confiscation order in	(see below, 2a)	

accordance with this Regulation;	accordance with this Regulation;		
(s) the average duration of the execution of freezing and confiscation orders in accordance with this Regulation.	(d) the average duration of the execution of freezing and confiscation orders in accordance with this Regulation.	(see below, 2b)	
(t)		<p>2. Member States shall also send each year the following statistics to the Commission, if they are available at a central level in the Member State concerned:</p> <p>(a) the number of cases where a victim was compensated or granted restitution of the property obtained by the execution of a confiscation order under this Regulation;</p> <p>(b) the average duration of the execution of freezing orders and confiscation orders under this Regulation.</p>	Keep text GA.
ARTICLE 36 - Amendments to the certificate and the form			
The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning any amendment to the certificate and to the form set out in Annexes I and II.	<i>Deleted [AM 138]</i>	The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning any amendment to the certificate[s] [and the form] in Annexes I and II. <i>Such amendments shall be in line with the provisions of this Regulation and shall not affect these provisions.</i>	<p>Slightly refine text GA to delete the reference to "form":</p> <p>The Commission shall be empowered to adopt delegated acts in accordance with Article 37 concerning any amendment to the certificates in Annexes I and II. <i>Such amendments shall be in line with the provisions of this Regulation and shall not affect</i></p>

			<i>these provisions.</i> Invite EP to explain why it wants to delete this Article.
ARTICLE 37 - Exercise of delegation			
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	<i>Deleted (entire article) [AM 139]</i>	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	Keep text GA. Invite EP to explain why it wants to delete this Article.
2. The delegation of power referred to in Article 36 shall be conferred for an indeterminate period of time from the <i>[Date of application of this Regulation]</i> .		2. The delegation of power referred to in Article 36 shall be conferred for an indeterminate period of time from ...[date of application of this Regulation].	Keep text GA.
3. The delegation of powers referred to in Article 36 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.		3. The delegation of powers referred to in Article 36 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	Keep text GA.
		<i>4. Before adopting a delegated act, the Commission shall consult experts designated by each Member</i>	Keep text GA.

		<i>State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.</i>	
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	Keep text GA.
5. A delegated act adopted pursuant to Article 36 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by <i>[2 months]</i> at the initiative of the European Parliament or the Council.		6. A delegated act adopted pursuant to Article 36 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ... [two months] at the initiative of the European Parliament or of the Council.	Keep text GA.
ARTICLE 38 - Review clause			
	<i>[Title] Reporting and review clause [AM 140]</i>		
By <i>[five years from the date of</i>	By [three] years from the date of	By ... [five] years from the date of	Keep text GA (political compromise)

<p><i>application of this Regulation</i>] 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.</p>	<p>application of this Regulation] at the latest, <i>and every three years thereafter</i>, 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. <i>The report shall include, among others, the following elements:</i></p> <p><i>(a) an overview of the statistics provided by Member States under Article 35; and</i></p> <p><i>(b) an assessment of the possible impact of cross-border freezing and confiscation orders on fundamental rights and freedoms and the rule of law.</i></p> <p>If necessary, the report shall be accompanied by proposals for adaptation of this Regulation. <i>[AM 141]</i></p>	<p>application of this Regulation] at the latest, the Commission shall submit a report to the European Parliament, to the Council and to the European Economic and Social Committee on the application of this Regulation, <i>including on</i></p> <p><i>a) the possibility for Member States to present and withdraw declarations under Articles 5(2) and 17(2);</i></p> <p><i>b) the application of Articles 31-31b on the management and disposal of frozen and confiscated property, and on restitution of property to the victim and compensation of the victim.</i></p> <p>If necessary, the report shall be accompanied by proposals for adaptation of this Regulation.</p>	
ARTICLE 39 - Replacement			
<p>This Regulation replaces Framework Decision 2003/577/JHA and Framework Decision 2006/783/JHA between the Member States bound by this Regulation as from <i>[date of application of this Regulation]</i> .</p>		<p>This Regulation replaces Framework Decision 2003/577/JHA and Framework Decision 2006/783/JHA between the Member States bound by this Regulation as from ...<i>[date of application of this Regulation]</i>.</p>	<p>Texts identical. Text may need to be adapted, however, in the light of the discussion on position of DK/IE.</p> <p>See note with questions.</p>
ARTICLE 40 - Entry into force			

<p>This Regulation shall enter into force on the twentieth day following its publication in the <i>Official Journal of the European Union</i>.</p> <p>It shall apply from [<i>date of entry into force of the Regulation plus six months</i>], with the exception of Article 27, which shall apply from [<i>date of entry into force of the Regulation</i>].</p> <p>This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</p>	<p>This Regulation shall enter into force on the twentieth day following its publication in the <i>Official Journal of the European Union</i>.</p> <p>It shall apply from [<i>date of entry into force of the Regulation plus six months</i>], with the exception of Article 27, which shall apply from [<i>date of entry into force of the Regulation</i>].</p> <p>This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</p>	<p>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>.</p> <p>It shall apply from ... [<i>date of entry into force of the Regulation plus 30 months</i>], with the exception of Article 27, which shall apply from ... [<i>date of entry into force of the Regulation</i>].</p> <p>(see below)</p>	<p>First part: texts identical.</p> <p>On date of application: while it is true that a Regulation does not have to be transposed, the Member States may need to adapt legislation around the Regulation. That requires almost as much time as implementing legislation. Hence, 30 months is a reasonable deadline.</p>
		[New] Article 41 - Transitional provisions	
		<p>1. This Regulation shall apply to certificates relating to freezing orders and confiscation orders transmitted on or after ... [<i>date of application of the Regulation</i>].</p>	Keep text GA.
		<p>2. Certificates relating to freezing orders and confiscation orders transmitted before ... [<i>date of application of this Regulation</i>] shall continue to be governed after that date by Framework Decision 2003/577/JHA and Framework Decision 2006/783/JHA, between the Member States bound by this Regulation until the final execution of</p>	Keep text GA.

		<i>the freezing order or the confiscation order.</i>	
		This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	Texts identical (see above)
Certificates (form): COM (2016) 819 final Annexes 1 to 2	AM 142, 143 and 144.	Doc. 15107/17	
