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Mutual recognition of freezing and confiscation orders

-technical examination of the acquis Chapter 24 Justice, Freedom and Security

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Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Justice and Consumers

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Mutual Recognition Instruments for Asset Recovery

In the area of asset recovery, the following two mutual recognition instruments exist:

- FD 2003/577/JHA on freezing of evidence and property
- FD 2006/783/JHA on confiscation orders

Both instruments will be replaced by the new Regulation 2018/1805

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Issues with the current legal framework

(1) Too few criminal assets are frozen and confiscated in cross-border cases:

- too limited scope of FD's;
- patchy and inadequate implementation;
- too complex procedures and certificates.

(2) No provisions on victims' restitution and compensation

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Proposal for a Regulation on mutual recognition of freezing and confiscation orders in 2016

European Agenda on Security - Commission Action Plan for strengthening the fight against terrorist financing:

Need to strengthen the mutual recognition of criminal assets' freezing and confiscation orders; Confiscation of assets is a very efficient tool in the fight against crime!

Freezing and confiscation can disrupt the sources of revenue of terrorist organizations and combat terrorist financing.

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New Regulation in 2018

Regulation (EU) 2018/1805

Main elements:

One single instrument for freezing and confiscation orders; first regulation in the area of EU criminal procedural law; directly applicable

Extended scope compared to current legal framework, covering conviction based confiscation, extended confiscation, third-party confiscation; criminal non-conviction based confiscation;

Limited grounds for refusals;

Clear deadlines; streamlining of procedures;

Enhanced communication between authorities;

Victims' rights to compensation and restitution in cross-border cases.

Adoption in autumn 2018 (14 November 2018); entry into application: 2 years after adoption (19 December 2020)