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JAI 257  
DROIPEN 30  
COPEN 80  
CT 22  
IA 47  
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**NOTE**

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From: Presidency

To: Council

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Subject: **Combatting financial crime and terrorist financing**

a) Proposal for a Directive of the European Parliament and of the Council on countering money laundering by criminal law (**First reading**)

b) Proposal for a Regulation of the European Parliament and of the Council on mutual recognition of freezing and confiscation orders (**First reading**)

= Progress report

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The European Agenda on Security of 28 April 2015 (COM (2015)185 final) called for additional measures in the area of terrorist financing and money laundering. In its communication on an "Action Plan to strengthen the fight against terrorist financing", of 2 February 2016 (COM (2016)50 final), the Commission highlighted the need to counter money laundering by means of criminal law and the need to ensure that criminals who fund terrorism are deprived of their assets. In this respect, on 21 December 2016, the Commission submitted two legislative proposals.

The **proposal for a Directive on countering money laundering by criminal law**<sup>1</sup> supplements the 4th Anti-Money Laundering Directive. It aims to implement the international standards on the criminalisation of money laundering, including the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 2005, ("the Warsaw Convention"), as well as the relevant recommendations from the Financial Action Task Force (FATF).

Work on the proposal is progressing very well in the Working Party on Substantive Criminal Law (DROIPEN). Three meetings of the group were held since January 2017. A full examination of the Commission's proposal was carried out during the first meeting. In addition, two complete rounds of discussion on the basis of a revised Presidency text were concluded, including compromise proposals on the definition of criminal activity, self-laundering and penalties. Work at expert level will continue with a view to submitting a compromise text to the Council for obtaining a general approach in June 2017.

The **proposal for a Regulation on the mutual recognition of freezing and confiscation orders**<sup>2</sup> builds on existing EU legislation (Framework Decision 2003/577/JHA and Framework Decision 2006/783/JHA) and addresses the fact that Member States have developed new forms of freezing and confiscation of criminal assets. The proposal also takes into account developments at EU level, including the minimum standards for freezing and confiscation orders set out in Directive 2014/42/EU. The proposed Regulation will cover mutual recognition of all types of freezing and confiscation orders issued in the framework of criminal proceedings, including extended confiscation, third-party confiscation and non-conviction based confiscation orders, but excluding civil and administrative proceedings where it is shown that the property is the proceeds of criminal conduct. Together, the said Directive and the proposed Regulation should contribute to effective asset recovery in the European Union.

The proposed Regulation is being examined in the Working Party on Cooperation in Criminal Matters (COPEN). Two meetings of the group, encompassing three working days, were held since January 2017. Apart from the nature of the proposed instrument (Regulation), the issues that were discussed so far included the scope, time-limits and grounds for non-recognition.

**Council is invited to take note of the above progress report.**

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<sup>1</sup> doc. 15782/16

<sup>2</sup> doc. 15816/16 + ADD 1 + ADD 2 + ADD 3