



## EU bibliographies: proceeds of crime

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This Note brings together documents relevant to the proposed “proceeds of crime Directive” and its scrutiny in the UK and EU. It is not an attempt to define policy in this area. For information on domestic policy developments contact Alexander Horne on extn 0251

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# **1 Background to proposal**

## **1.1 Previous legislation**

Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime. In [OJL 182 of 5 July 2001](#).

Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property. In [OJL 68 of 15 March 2005](#).

Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence. In [OJL 196 of 2 August 2003](#).

Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders. In [OJL 328 of 24 November 2006](#).

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. In [OJL 332 of 18 December 2007](#).

## **1.2 Background material**

European Commission [Proceeds of organised crime - Ensuring that 'crime does not pay'](#) 16123/08 COM (2008) 766. 20 November 2008

Council Conclusions on Confiscation and Asset Recovery [7769/3/10](#) 28 May 2010

European Council [The Stockholm Programme — An open and secure Europe serving and protecting citizens](#). In OJC 115 of 4 May 2010.

European Commission [The EU Internal Security Strategy in Action: Five steps towards a more secure Europe](#). 16797/10 COM(2010) 673. 23 November 2010.

[Report from the Commission to the European Parliament and to the Council based on Article 8 of the 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](#). 9037/11 COM(2011)176 5 May 2011.

European Parliament resolution of 25 October 2011 on [organised crime in the European Union](#).

# **2 Proposal on proceeds of crime**

Proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union [7641/12, COM\(2012\) 85](#), was published on 14 March 2012.

The purpose of the draft Directive, as stated in its Explanatory Memorandum, is as follows:

This proposal for a Directive aims to make it easier for Member States' authorities to confiscate and recover the profits that criminals make from cross-border serious and organised crime. It seeks to attack the financial incentive which drives crime, to protect the licit economy against criminal infiltration and corruption, and to return criminal profits to public authorities providing services for citizens. It responds to the

current economic context, where a financial crisis and a slowdown in economic growth creates new opportunities for criminals, increased vulnerabilities in our economy and financial system, and new challenges for public authorities to finance growing needs for social services and assistance.

## **2.1 Treaty base**

This proposal is based on Articles 82(2) and 83(1) of the Treaty of the Functioning of the European Union (TFEU).

## **2.2 Related documents**

Impact assessment accompanying the proposal [SWD\(2012\)31](#)

Executive summary of the impact assessment [SWD\(2012\)32](#)

European Commission Press release [Crime does not pay: cracking down on criminal profits](#)  
12 March 2012

## **3 EU Scrutiny**

The draft Directive is subject to the Ordinary Legislative Procedure (OLP), formerly known as the co-decision procedure. This procedure is outlined in Standard Note SN/IA/2120 [The European Parliament: its role and powers](#). It is also explained with a graphic, on the [Europa website](#).

### **3.1 European Parliament proceedings**

The proposal is currently being considered by the EP Committee on Civil Liberties, Justice and Home Affairs, Shadow Rapporteur: Monica Luisa Macovei MEP (Romania).

## **4 UK Parliament Scrutiny**

For a description of the scrutiny process for EU documents within Parliament see House of Commons Information Sheet L11 [EU Legislation and Scrutiny Procedures](#). For general background to the EU scrutiny see Research Paper 05/85 [The UK Parliament and European Business](#).

This proposal comes under the *Area of Freedom, Security and Justice*. Under Protocol 21 of Lisbon Treaty decisions made under this area will not apply to the UK unless the UK Government chooses to “opt-in”. For more information on this process see Standard Note 6087 [UK Government opt-in decisions in the Area of Freedom, Security and Justice](#).

### **4.1 House of Commons**

(ELC number=33758)

[Explanatory Memorandum](#) issued by the Home Office 26 March 2012.

European Scrutiny Committee, Sixty-Third Report, 18 April 2012, [HC 428-lvii 2010-12](#).

Ministerial correspondence dated [23 May 2012](#) and [8 June 2012](#)

Debated in [HC Deb 12 June 2012 cc268-286](#). Resolved to “take note” of 7641/2012 and support the Government’s intention to not opt-in under Protocol (No. 21) to the European Union Treaties at this stage.

## 4.2 House of Lords

EU Sub-Committee F - Home Affairs, Health and Education, [The United Kingdom opt-in to the draft directive on proceeds of crime](#), 27 April 2012, HL 295 2010-12.

Debate on HL Paper 295 in [HL Deb 22 May 2012 cc765-78](#)