



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 6 May 2004**

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**COVER NOTE**

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from: Secretary-General of the European Commission,  
signed by Ms Patricia BUGNOT, Director

date of receipt: 6 April 2004

to: Mr Javier SOLANA, Secretary-General/High Representative

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Subject: Annex to the report from the Commission based on Article 6 of the Council  
Framework Decision of 26 June 2001 on money laundering, the identification,  
tracing, freezing, seizing and confiscation of instrumentalities and the proceeds  
of crime

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Delegations will find attached Commission document SEC(2004) 383.

Encl.: SEC(2004) 383



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.4.2004  
SEC(2004) 383

**COMMISSION STAFF WORKING PAPER**

**Annex to the**

**REPORT FROM THE COMMISSION**

**based on Article 6 of the Council Framework Decision of 26 June 2001 on money laundering,  
the identification, tracing, freezing, seizing and confiscation of instrumentalities and the  
proceeds of crime**

{COM(2004)230 final}

| Member State   | Article 1 (a)<br>(Reservations to<br>Art.2 of the 1990<br>Convention) | Article 1(b)<br>(Reservations to<br>Art.6 of the 1990<br>Convention) | Article 2<br>(Penalties)                                    | Article 3<br>(Value confiscation)   | Article 4<br>(Processing of requests for<br>mutual assistance)   | Article 7<br>(Territorial<br>application) |
|----------------|---|--|---|---|--|---|
| <b>Austria</b> | No reservation  | No reservation   | Information<br>not provided                                 | Information not provided  | Information not provided   | Not relevant                              |
| <b>Belgium</b> | No reservation  | No reservation   | Art.505 Penal<br>Code                                       | <i>Domestic proceedings:</i> Art.43bis, in<br>relation to Art.42(3) Penal Code<br><i>External requests:</i> Law of May 20 <sup>th</sup> 1997<br>on International Co-operation on the<br>execution of seizure and confiscation   | Law of May 20th 1997 on<br>International co-operation as<br>regards the execution of<br>seizing and confiscation | Not relevant                              |
| <b>Denmark</b> | No reservation  | Reservation<br>withdrawn the<br>6/7/2001                             | Section 290<br>Penal Code                                   | <i>Domestic proceedings:</i> Sections 75,76 and<br>76a Penal Code<br><i>External requests:</i> Sections 4, 5a, 6 and 7<br>Act n° 323 of 4 June 1986 on the<br>International Enforcement of Criminal<br>Law  | Act n°323 of 4 June 1986 on<br>the International<br>enforcement of criminal law                                  | Not relevant                              |
| <b>Finland</b> | No reservation  | No reservation   | Section 6 and<br>7 of Chapter<br>32 of the<br>Criminal Code | <i>Domestic proceedings:</i> Criminal Code<br>Chapter 10 Sections 2,4,5,8<br><i>External requests:</i> Act on International<br>Co-operation N° 21/1987; Act on Nordic<br>Co-operation in criminal matters<br>N°326/1963   | International legal assistance<br>in criminal matters Act<br>N°4/1994  | Not relevant                              |
| <b>France</b>  | No reservation  | No reservation   | Articles.324-1,<br>324-2, 324-4<br>Penal Code               | <i>Domestic proceedings:</i> Art.131-21, 324-7<br>(8°)(12°), 324-9, 131-391Criminal Code<br><i>External requests:</i> Articles 9 to 16 Act<br>n°96-392 13/3/1996 on money laundering,<br>drug trafficking, and International co-<br>operation in seizing and confiscation of the<br>proceeds of crime | Transposing provision not<br>forwarded   | Not relevant                              |
| <b>Germany</b> | No reservation  | Reservation  | Section 261<br>Penal Code                                   | <i>Domestic proceedings:</i> Section 73a<br>Criminal Code<br><i>External requests:</i> Section 48 International<br>Judicial Assistance in Criminal Matters<br>Act   | Sections 16(1) and 22(1)<br>Directives for International<br>Co-operation in criminal<br>matters (not mandatory)  | Not relevant                              |
| <b>Greece</b>  | Reservation   | Reservation  | Transposing<br>provision not<br>forwarded                   | Transposing provision not forwarded   | Transposing provision not<br>forwarded   | Not relevant                              |

| <b>Member State</b> | <b>Article 1 (a)<br/>(Reservations to<br/>Art.2 of the 1990<br/>Convention)</b> | <b>Article 1(b)<br/>(Reservations to<br/>Art.6 of the 1990<br/>Convention)</b> | <b>Article 2<br/>(Penalties)</b>              | <b>Article 3<br/>(Value confiscation)</b>   | <b>Article 4<br/>(Processing of requests for<br/>mutual assistance)</b> | <b>Article 7<br/>(Territorial<br/>application)</b> |
|---------------------|---|--|---|---|---|--|
| <b>Ireland</b>      | Reservation   | No reservation   | Section 31<br>Criminal<br>Justice Act<br>1994 | <i>Domestic proceedings:</i> Criminal Justice<br>Act 1994 Sections 3, 6, and 9<br><i>External requests:</i> Part VII (International<br>Co-operation) Criminal Justice Act 1994  | Part VII Criminal justice Act<br>1994                                   | Not relevant                                       |
| <b>Italy</b>        | No reservation  | Reservation  | Transposing<br>provision not<br>forwarded     | <i>Domestic proceedings:</i> Art.322-ter<br>Criminal Code.Art.19(2) DL 8 June 2001,<br>n.231 on administrative liability of legal<br>persons.[Draft Bill n.2351/S, 26 June 2003<br>will extend the cases of compulsory and<br>value confiscation]<br><i>External requests:</i> Art.735-bis Code of<br>Criminal Procedure  | Transposing provisions not<br>forwarded                                 | Not relevant                                       |
| <b>Luxembourg</b>   | Reservation   | Reservation  | Art.506-1<br>Penal Code                       | <i>Domestic proceedings:</i> Art.8.2 Law of<br>19/2/1973 on the sale of medicinal<br>substances and the fight against drug-<br>addiction. Article 32-1Penal Code (money<br>laundering). [Provided draft bill N°5019<br>will amend Article 31 of the Penal Code to<br>generalise the possibility of value<br>confiscation.]<br><i>External proceedings:</i> No transposing<br>provisions mentioned. [Draft bill provides<br>for a new Title in the Criminal Procedure<br>Code on Exequatur requests of foreign<br>confiscation decisions.] | Transposing provision not<br>forwarded                                  | Not relevant                                       |
| <b>Netherlands</b>  | Reservation   | Reservation  | Art.420bis<br>Penal Code                      | <i>Domestic proceedings:</i> Art.36e in relation<br>to Arts.33 and 33a Penal Code. Title 3<br>Book 4 Code of Criminal Procedure<br><i>External requests:</i> Arts 2,15,17,18,31,31a<br>and 33 Enforcement of Criminal<br>Judgements Act of 10 September 1986  | Transposing provision not<br>forwarded                                  | Not relevant                                       |
| <b>Portugal</b>     | No reservation  | Reservation  | Information<br>not provided                   | Information not provided  | Information not provided  | Not relevant                                       |
| <b>Spain</b>        | No reservation  | No reservation   | Art.301 Penal<br>Code                         | <i>Domestic proceedings:</i> Provided draft<br>legislation will address this issue by<br>amending Art 127 of the Penal Code   | Transposing provision not<br>forwarded                                  | Not relevant                                       |

| Member State          | Article 1 (a)<br>(Reservations to<br>Art.2 of the 1990<br>Convention) | Article 1(b)<br>(Reservations to<br>Art.6 of the 1990<br>Convention) | Article 2<br>(Penalties)   | Article 3<br>(Value confiscation)  | Article 4<br>(Processing of requests for<br>mutual assistance)  | Article 7<br>(Territorial<br>application) |
|-----------------------|---|--|--|--|---|---|
|                       |   |  |  | <i>External proceedings:</i> Transposing provisions not forwarded  |   |   |
| <b>Sweden</b>         | Reservation   | Reservation withdrawn the 1st July 1999                              | Chapter 9 Sections 6 and 6a Penal Code                                     | <i>Domestic proceedings:</i> Chapter 36 of the Penal Code; Narcotic Drugs Act Section 6, Law on penalties for smuggling section 16, Law on the prohibition of certain doping agents Section 5<br><i>External requests:</i> Act on International Co-operation in the Enforcement of Criminal Judgements (SFS 1972:260)  | Chapter 2, Section 10 Act on international assistance in criminal matters (SFS 2000:562)<br>Act on International co-operation in the enforcement of criminal judgements (SFS 1972:260) (confiscation) | Not relevant                              |
| <b>United Kingdom</b> | Reservation withdrawn the 16/9/99                                     | Reservation withdrawn the 1/9/95                                     | S334(1) in relation to sections 327,328 and 329 Proceeds of Crime Act 2002 | <i>Domestic proceedings:</i> Parts 2 (England and Wales), 3 (Scotland) and 4 (Northern Ireland) Proceeds of crime Act 2002<br><i>External requests:</i> Sections 39-40 Drug Trafficking Act 1994.Sections 96-97 Criminal Justice Act 1988 in relation to Section 13 Statutory Instrument 2003 No.333 (Proceeds of Crime Act 2002 (Commencement No.5 Transitional Provisions, Savings and Amendment) Order 2003) and Section 444 Proceeds of Crime Act 2002 | Sections 4 and 7 Criminal Justice (International Co-operation) Act 1990. (For confiscation cfr. legislation mentioned under Art.3 <i>External requests</i> )  | Transposing provision not forwarded       |