

Project RECOVER – Crime doesn't pay (GA no. 101091375)

Proposals for a better draft of the proposal of a new Directive – Humboldt University

The Humboldt University suggests the following proposal for a better draft of the proposal for a new Directive on Confiscation and Asset Recovery:

- Further harmonisation of the last asset recovery stage (disposal) Art. 19 (*Member States shall ensure the efficient management of frozen and confiscated property until its disposal*) no mandatory wording.
- Inclusion in the definitions of Art. 3 of the proposal except from "confiscation" also "non conviction based confiscation".
- More concrete wording for safeguards Art. 23 (e.g. not just overall fairness but concrete also right to silence etc.).
- Clarification standard of proof "satisfied" (civil/criminal/inbetween?) Art. 14 (1) extended confiscation; Art. 15 (2) NCBC; Art. 16 (1) (c) Confiscation of unexplained wealth linked to criminal activities (some times different translation in other languages e.g. german "Überzeugung", french "convaincue", italian "convinta" but in greek for example differentiates between "κρίνει/έχει σχηματίσει τη δικανική πεποίθηση" (considers/established conviction)).