

The application of the Regulation (EU) 2018/1805 in Croatia

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International seminar

RECOVER – Mutual recognition of freezing and confiscation orders between efficiency and the rule of law
– Regulation (EU) 2018/1805 – Grant Agreement No. 101091375.

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Briefly about:

- forms of confiscation
- legal regulation of confiscation and freezing orders
- available data



Confiscation

Regular confiscation

- Article 77 of the Croatian Criminal Code: Proceeds of crime shall be confiscated on the basis of a court decision establishing the commission of an unlawful act. Proceeds of crime shall also be confiscated from the person to whom it was transferred if it was not acquired in good faith. If the injured party has been awarded a material claim which by its nature and contents corresponds to the acquired proceeds of crime, the part of proceeds of crime exceeding the awarded material claim shall be confiscated. The confiscated proceeds of crime shall not be reduced by the value of resources invested in the criminal activity.

Extended confiscation

- Article 78 of the Croatian Criminal Code: If the perpetrator of a criminal offence under jurisdiction of the Office for the Suppression of Corruption and Organised Crime, as well as criminal offences of sexual abuse and sexual exploitation of children (Title XVII) and criminal offences against computer systems, programmes and data (Title XXV) owns or owned property that is disproportionate with his or her legitimate income and unless he or she makes it probable that the property is of legitimate origin, it is presumed that such property constitutes a proceeds of crime.



Confiscation

conviction-
based
confiscation

non-conviction-
based
confiscation

confiscation
from the third
party

Procedure for confiscation of objects and proceeds of crime

- Croatian Penal Procedure Act; special procedures, XXVIII.
- temporary confiscation (Art. 556.a)
- freezing orders (temporary measures of confiscation insurance, Art. 557.a- 557.h)
- confiscation procedure and guaranties (Art. 558-563)

Procedure for confiscation of objects and proceeds of crime

- Act on Judicial Cooperation in Criminal Matters with MS of the EU (implementation of the Regulation in November 2020):
 - freezing orders (Art. 44-49.a)
 - confiscation orders (Art. 63-76.a)



What about data?

- Annual report of the General State Attorney
2022

Year	The number of request	Value in Euro	The number of Freezing orders	Value in Euro	The number of confiscation	Value in Euro
2018	14	2.966.666,6	14	2.966.666,6	138	11.923.062
2019	48	5.137.842,4	48	5.137.842,4	121	2.755.069
2020	41	6.875.997,0	41	6.875.997,0	81	10.260.205
2021	28	6.195.080,0	28	6.195.080,0	140	11.754.143
2022	20	115.629.168,9	20	115.629.168,9	155	8.508.313



- in 2022:
- 48,08% of the total confiscated proceeds is related to criminal acts of corruption, while 51,92% is related to organized crime (*abuse of position and authority, unauthorized production and trafficking of drugs, tax or customs evasion*)
- 99.99% of the total freezing orders were related to organized crime, while 0,01% was related to corruption (*abuse of trust in business operations: 109.651.685,12 Euro or 95,26%*)



Problem detected:

- freezing orders are issued at the time of initiation of investigation; in more complex cases investigations last for 18 months, so the minor number of indictments are confirmed (from 2022 from the filing of indictments) in the term of two years from the date of issuing freezing orders; had to be terminated (canceled) according to Art. 557.e PPA



Judicial Cooperation in Criminal matters

	2019		2020		2021		2022	
	Croatia as the country of issuance	Croatia as the country of execution	Croatia as the country of issuance	Croatia as the country of execution	Croatia as the country of issuance	Croatia as the country of execution	Croatia as the country of issuance	Croatia as the country of execution
European Arrest Order	51	154	43	114	101	105	88	155
European Investigation Order	222	361	216	432	270	411	286	472
The rest	9	15	11	107	0	151	8	102
TOTAL	282	530	270	653	371	667	382	729



Judicial Cooperation in Criminal matters

- Germany, Austria, Slovenia, Hungary, Italy
- the largest extent to criminal offences committed within the framework of a criminal association, criminal offences of drug abuse, money laundering, tax or customs evasion, abuse of trust in business operations, forgery of documents, criminal offences against property, cybercrime and illegal investment, movement and residence in the Republic of Croatia.

