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Summary Interview Greece
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The President of the AML authority in Greece could freeze assets suspected to be proceeds of crime. Hybrid between criminal and administrative possibility. There was a constitutional issue if the President has the possibility to impose a freezing order even after the criminal authorities have taken over the case. The legal theory answers in the negative (extreme powers given to the President is problematic) but the supreme court accepted such a power from the President, to issue a freezing order at any stage even after the initiation of the criminal proceedings. Conviction based confiscation as a penalty, value based confiscation, third parties confiscation and the possibility to impose a monetary fine instead of confiscation are provided in Art. 68 of the Greek penal code. Confiscation as a safety measure is provided in Art. 76 of the Greek penal code, limited to instrumentalities deemed to be dangerous for the public order. AML Law 4557/2018 also includes provisions on conviction based confiscation but also on NCBC. Art. 40 for cases of death and statute of limitations and used also in practice, which goes beyond Art. 4 (2) of the Directive 2014 covering all eventualities when criminal proceedings are terminated. In absentia trial is possible in Greece. Art. 41 for extended civil forfeiture, implemented Art. 5 of the Directive 2014 but is not applied ever in the practice. The legal nature of these confiscation measures is still debatable in Greek legal theory and practice. It cannot be seen as a criminal penalty, but the tendency is to see it either an administrative penalty or as a compensation of the state. Further special laws such as customs code including confiscation provisions. As a conclusion all confiscation forms are ruled in criminal proceedings except of the extended one of Art. 41 of the AML Law of 2018 for which the civil courts are the competent authorities. Legal remedies provisions are provided either before the President of the AML authority asking for a freezing order to be limited or lifted or seek an appeal before the judicial council in order to achieve the same result. Freezing time limit is 5 years.

No statistical data are given but probably the Ministry of Justice is responsible to send such data to the Commission according to Art. 35 of the Regulation. EFN tools are probably used by the prosecutors. National Law providing for clarifications on the application of the Regulation 2018 is still on a draft stage and expected for 2024 to pass through the Greek Parliament. The competent authorities have been changed. For the moment application finds the Law 4478/2017, transposing also the previous framework decisions on the issue and the Directive 2014. No problems with language or declarations asking for the original freezing/confiscation orders were known.

The Greek code of criminal procedure is not clear on the issue of third parties rights in confiscation cases and there is room for improvement. More safeguards and less interventionism in the field is requested from the EU legislator. The confiscation models already in the Directive 2014 were not consolidated in the legal practice in order to pass to a new proposal for a Directive. An interesting remark is that for example the illicit enrichment of the UNCAC was implemented just from third countries and not from EU member states. So we see how difficult would be to implement such new confiscation models as they stand in the new proposal for a Directive from 2022. In Greece unexplained wealth was introduced as a crime but soon got deleted from the law because of constitutional issues. There is no clarity why the EU needs new legislation in this field. Also from Greece there is an underrepresentation to the Council when such issues are discussed, the Greek Ministry of justice involvement is limited, which also contributes to "EU COM proposals which lack in substance and quality". Critic is also made in the vague statistics from the Europol reports. EU is running too fast for the Greek legal tradition in this field.