EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of the additional Protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The present proposal aims to obtain from the Council of the European Union ('the Council') the authorisation for the European Commission ('the Commission') to sign the additional Protocol ('the Protocol') to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) ('Warsaw Convention' or 'Convention') on behalf of the European Union.

The Commission also intends to submit a proposal for a Council Decision authorising the Commission to conclude the Protocol on behalf of the European Union as well as a proposal for a Council Decision authorising the Commission to conclude the Warsaw Convention on behalf of the European Union at a later date.

The Protocol is of particular importance due to the threat that money laundering and terrorist financing – and more generally speaking financial crime – pose to economic security within the European Union and beyond. It can be noted that revenue obtained through illicit activities is often used to infiltrate the legal economy or is used for other criminal activities. This has far-reaching and destabilising consequences for financial systems, for society, for the rule of law and for trust in public authorities. A major feature of money laundering and terrorist financing is that it is effectuated internationally. Effective international cooperation to fight financial crime is thus essential.

The Protocol is fully compatible with EU law in general, and with the relevant Union acquis in particular. This includes Directive (EU) 2024/1640[1] on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AMLD6). Until its entry into application on 10 July 2027, Directive (EU) 2015/849[2], as amended by Directive (EU) 2018/843[3] remains, however, applicable.

The Protocol also contains provisions on asset recovery and judicial cooperation in the area of asset recovery and is, as such, also fully compatible with the relevant Union acquis.

The Protocol – and its application – will strengthen anti-money laundering frameworks globally (tackling both Financial Intelligence Units and Asset Recovery Offices) among other Council of Europe members and key international partners that can become Party to the Protocol.

Background

The Warsaw Convention, adopted on 16 May 2005, covers multiple aspects of the prevention and the combatting of money laundering and the financing of terrorism. It builds on the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (CETS No. 141) ('Strasbourg Convention'). The EU signed the Warsaw Convention' on 2 April 2009 but has not ratified it yet. As of 18 December 2023, 25 Member States have signed the Convention, 23 of which have ratified it.

Since the adoption of the Warsaw Convention in 2005, the money laundering landscape, and more broadly the financial crime landscape has been evolving rapidly. This has induced legal frameworks and international standards to also be developed further. Studies and

[1] OJ L, 2024/1640, 19.6.2024.
[2] OJ L 141, 5.5.2015, pp. 73-117.
[3] OJ L 156, 19.6.2018, pp. 43-74.

consultations, particularly by the Committee of Experts on the Operation of European Conventions on Cooperation in Criminal Matters (PC-OC) and the Convention's Conference of Parties, highlighted the need for a new binding instrument.

In parallel, developments at EU level, notably new legislation on anti-money laundering and counter-terrorist financing, as well as on asset recovery, reinforced the need to address these topics in a broader pan-European context. As a result, the Council of Europe established the Committee of Experts on Criminal Asset Recovery (PC-RAC) in 2023 to negotiate and draft an Additional Protocol to the Convention.

On 13 June 2024, the Council authorised the Commission to participate, on behalf of the European Union, in the negotiations on the additional Protocol to the Warsaw Convention. The Commission participated in line with the Council Decision and was guided by negotiating directives set out therein. The Commission consulted the Council's special committee for the negotiations regarding the position to take and ensured the Protocol's compatibility with the EU acquis.

The negotiation sessions took place in dedicated meetings of the PC-RAC. There were seven negotiation sessions between May 2024 and December 2025. On 25 November 2025 the Committee on Crime Problems (CDPC) approved the draft Protocol and the accompanying draft explanatory report, for which last changes were required. On 23 April 2026, the Council of Europe Parliamentary Assembly adopted its opinion on the draft Protocol. On 15 May 2026 at their 135th meeting, the Committee of Ministers adopted the Protocol, took note of its explanatory report and agreed to open the Protocol for signature on 14 October 2026.

This Protocol will enter into force on the first day of the month following the expiration of a period of three months after the date on which five signatories, including at least three member States of the Council of Europe, have expressed their consent to be bound by the Protocol, pursuant to its Article 38(1).

The EU can sign the Protocol as signatory to the Warsaw Convention, pursuant to Article 37 of the Protocol.

- **Consistency with existing policy provisions in the policy area**

The Protocol directly relates to common EU rules on anti-money laundering and counter-terrorism financing, as well as on asset recovery and judicial cooperation in criminal matters. The Protocol contains provisions on Financial Intelligence Units, on their competences regarding the suspension and withholding of consent for transactions, accounts and business relationships, on their cooperation with each other, as well as on the establishment of a Centralised Automated Mechanism at the national level (or similar mechanism containing information on bank accounts, payment accounts, securities accounts, safe-deposit boxes and virtual asset accounts). The rules on anti-money laundering and counter-terrorism financing are in-line and compatible with the EU AML package, and more precisely with Directive (EU) 2024/1640, on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

On the other hand, the rules on confiscation, including on extended confiscation and non-conviction-based confiscation are also compatible with the EU acquis, namely Directive 2014/42/EU[4] and Directive (EU) 2024/1260[5]. Also, the rules on the establishment of asset recovery offices, their access to information as well as the designation of asset management offices and asst management, including asset management planning and pre-confiscation sales

[4] OJ L 127, 29.4.2014, pp. 39–50.
[5] OJ L, 2024/1260, 2.5.2024.

are in line with the Directive (EU) 2024/1260. The Protocol also contains rules on the social reuse of assets, a tool to provide information regarding assets to asset recovery offices, asset management offices and other authorities as well as on resources for training for competent authorities regarding asset recovery in compatibility with Directive (EU) 2024/1260.

Directive (EU) 2024/1260 replaced Directive 2014/42/EU, which remains in force as regards cooperation with Ireland, who do not participate in Directive (EU) 2024/1260. Directive 2014/42/EU partly replaced Council Framework Decision 2005/212/JHA[6], which remains in force as regards cooperation with Denmark, who do not participate in neither Directive (EU) 2024/1260 nor Directive 2014/42/EU.

Regulation (EU) 2018/1805[7] sets out rules on judicial co-operation between Member States for the purpose of the recognition and execution of freezing and confiscation orders. This includes, inter alia, rules on the transmission, recognition and procedure for the execution of freezing and confiscation orders, the management and disposal of frozen and confiscated property in cross-border cases (including interlocutory sales), restitution of property to victims as well as the disposal of confiscated property or money obtained after the sale of property (including with a view to victim compensation and to regulating the sharing of assets between Member States). Moreover, the Regulation contains rules on the bearing and sharing of costs related to the execution of cross-border freezing orders and on procedural rights of affected persons, including as regards notification obligations and legal remedies. These matters are also broadly regulated in Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders[8] and Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence[9] , which remain in force as regards cooperation with Ireland and Denmark, who do not participate in Regulation (EU) 2018/1805.

- **Consistency with other Union policies**

The Protocol is consistent with relevant EU rules and policies in the areas which will be covered by it (as described under Section ‘Consistency with existing policy provisions in the policy area’). In the wider context, the Protocol is consistent with EU legal instruments and policies adopted in the area of freedom, security and justice, under Title V of Part Three of the TFEU, which contribute to EU’s fight against financial crime, including crimes affecting the Union’s financial interests, and illicit financial flows, as well as the Union’s commitments under other relevant multilateral agreements.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Substantive legal basis

The parts of the Protocol concerning anti-money laundering measures, including suspension powers of Financial Intelligence Units and the establishment of a mechanism to obtain bank account information fall under Article 114 TFEU. These components form the basis of this proposal for a Council Decision, differing from the components of the Protocol that focus on asset recovery efforts (including the enhancement of national rules on freezing and confiscation, asset tracing and asset management, safeguards as well as international cooperation between law enforcement and judicial authorities), which will be gathered under

[6] OJ L 68, 15.3.2005, pp. 49–51.
[7] OJ L 303, 28.11.2018, pp. 1–38.
[8] OJ L 328, 24.11.2006, p. 59–78.
[9] OJ L 196, 2.8.2003, p. 45–55.

a separate proposal for a Council Decision. The latter’s substantive legal bases are Articles 82(2), 83(1) and (2) and 87(2) TFEU.

Given the subject matter of the envisaged agreement, it is appropriate for the Commission to submit two proposals to the Council.

Procedural legal basis

Article 218(5) TFEU provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit a proposal to the Council. The Council shall adopt a decision authorising the signing of the agreement.

The Commission proposes to authorise the signing of the Protocol, subject to its conclusion at a later date.

Thus, **the procedural legal basis** for the proposed decision to authorise the signing of the envisaged agreement is Article 218(5) TFEU.

Union competence

The nature of international agreements (‘EU Only’ or ‘mixed’) is contingent upon the specific subject matter's compatibility with the Union competences.

Article 3(2) of the TFEU provides that the Union has exclusive competence ‘for the conclusion of an international agreement (...) in so far as its conclusion may affect common rules or alter their scope.’ In particular, the European Court of Justice has clarified that a “finding that there is such a risk [of affectation or alteration of EU rules by international commitments] does not presuppose that the areas covered by the international commitments and those covered by the EU rules coincide fully” but that “the scope of common EU rules may be affected or altered by such commitments also where those commitments fall within an area which is already largely covered by such rules”.([1]) This rationale is based on a Court’s opinion stating that “(...) where the test of an area which is already covered to a large extent by Community rules is to be applied, the assessment must be based not only on the scope of the rules in question but also on their nature and content. It is also necessary to take into account not only the current state of Community law in the area in question but also its future development, insofar as that is foreseeable at the time of that analysis” (see, to that effect, Opinion 2/91, paragraph 25 and 26).[2]

Whereas the Member States remain competent for some parts of the Additional Protocol, and particularly for provisions on national measures for the establishment of centralised automated mechanisms and for suspension powers of their FIUs, the EU has competence for a considerable part of the provisions of the Convention and should therefore sign the Convention alongside Member States.

The Treaties, and, in particular, Articles 26 and 114 of the TFEU, confer upon the EU competence in the field of the Internal Market, which partly covers the matters regulated by the Additional Protocol to Convention No. 198.

The EU **has already adopted legislative measures** in the different areas covered by the Additional Protocol to Convention No. 198:

Provisions falling under the legal basis of Article 114 TFEU:

- Articles 2 (regarding the definitions of virtual assets and virtual asset service providers), Articles 9 (requirement for the establishment of mechanisms for retrieving bank account information) and Articles 10 and 28 (suspension or withholding of consent for suspicious transactions, accounts and business relationships and connected FIU to FIU cooperation) fall within the scope of Directive (EU) 2024/1640 of the European Parliament and of the Council on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AMLD6), and Regulation (EU) 2023/1114 on markets in crypto assets.

Provisions falling under the legal bases of Articles 82(1) and (2), 83(1) and (2) and 87(2) TFEU:

- Article 2(2) (definition of financing of terrorism) is covered by Directive (EU) 2017/541 on combating terrorism[10];
- Articles 3 to 5 of the Protocol (extended, non-conviction-based and third party confiscation, Article 6 (provisional measures), Article 8 (financial investigations), Article 11 and 12 (establishment of asset recovery offices and their access to information), Articles 13 to 15 (asset management, establishment of asset management offices, pre-confiscation sales), Article 16 (use of frozen and confiscated property), Article 17 (access to information on frozen and confiscated property) as well as Article 29 (international cooperation between asset recovery offices), Article 33 and 34 (security measures, resources and training) are covered by Directive (EU) 2024/1260 of the European Parliament and the Council on asset recovery and confiscation[11] .
- Article 9(2) (The access to bank account information for law enforcement authorities, including asset recovery offices) is covered by Directive (EU) 2019/1153 of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences[12];
- Articles 18 (general principles of cooperation), 24 and 25 (standard forms), 26 (return of property) and 27 (sharing of property) fall within the scope of Regulation (EU) 2018/1805 of the European Parliament and the Council on the mutual recognition of freezing orders and confiscation orders[13];
- Article 19 concerning the transfer of personal data interlinks with the EU data protection acquis, in particular Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data[14].
- Articles 20, 21 and 22 on requests for information concerning accounts with and transactions carried out by financial institutions and virtual asset service providers as well as the monitoring thereof fall within the scope of the Directive (EU)

[10] OJ L 88, 31.3.2017, pp. 6–21.
[11] OJ L, 2024/1260, 2.5.2024.
[12] OJ L 186, 11.7.2019, p. 122–137.
[13] OJ L 303, 28.11.2018, pp. 1–38.
[14] OJ L 119, 4.5.2016, pp. 89–131.

2014/41/EU of the European Parliament and the Council regarding the European Investigation Order in criminal matters[15];

- Article 23 provides a legal basis for the setting up of Joint Investigation Teams (JITs) for the recovery of property liable to confiscation. Under EU law, legal bases for setting up JITs are established in the Convention on Mutual Assistance in Criminal Matters adopted in May 2000 and Council Framework Decision 2002/465/JHA on joint investigation teams
- As regards Articles 31 and 32 (safeguard, remedies and notification obligations), to the extent that measures of judicial cooperation for the purpose of asset freezing and confiscation provided for in the Convention and its Protocol are concerned, they fall within the scope of the abovementioned Regulation (EU) 2018/1805. To the extent that measures of judicial cooperation for the purpose of gathering evidence are concerned, Articles 31 and 32 fall within the scope of Directive 2014/41/EU. To the extent that measures of cooperation between asset recovery offices are concerned, Articles 31 and 32 fall within the scope of Directive (EU) 2024/1260. To the extent that national measures are concerned, Articles 31 and 32 fall within the scope of the abovementioned Directive (EU) 2024/1260. To a large extent, the rights and safeguards enshrined in Articles 31 and 32 are also covered more generally by the EU procedural rights directives for suspects and accused persons in criminal proceedings, in particular Directive 2010/64/EU on the right to interpretation and translation, Directive 2012/13/EU on the right to information, Directive 2013/48 on the right of access to a lawyer, Directive (EU) 2016/343 on the presumption of innocence and the right to be present at trial and Directive (EU) 2016/1919 on legal aid.

The majority of obligations stemming from the Additional Protocol to the Council of Europe Convention 198 are therefore covered by EU law.

- **Subsidiarity (for non-exclusive competence)**

Not applicable.

- **Proportionality**

This initiative does not go beyond what is necessary to achieve the policy objectives at stake and therefore, is in accordance with the principle of proportionality, as set out in Article 5(4) TEU. The Union is best placed to act as the Union has already exercised internal competence in this area through the adoption of various legal instruments in the area of judicial and law enforcement cooperation in criminal matters, in particular for the purpose of facilitating criminal asset recovery, including in cross-border cases.

- **Choice of the instrument**

This proposal for a Council decision is submitted in accordance with Article 218(5) TFEU, which envisages the adoption by the Council of a decision authorising the signing and the provisional application of the agreement. There exists no other legal instrument that could be used in order to achieve the objective expressed in this proposal.

[15] OJ L 130, 1.5.2014, p. 1-36.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

The European Commission has not carried out specific stakeholder consultation on this proposal.

The elaboration of the Convention was a collaborative effort of the Council of Europe Committee of Experts on Criminal Asset Recovery, involving the member states of the Council of Europe, as well as observer states, the Financial Action Task Force, UNODC and legal experts.

- **Collection and use of expertise**

The Union's negotiation positions for the Convention have been prepared in consultations with the Council Working Party on Judicial Cooperation in Criminal Matters (COPEN).

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The signature of the Protocol by the European Union sets common minimum standards for the protection of fundamental rights in relation to the measures provided for in the Protocol.

Certain fundamental rights and freedoms enshrined in the Charter of Fundamental Rights of the European Union ('the Charter') are of particular relevance. This includes the right to property (Article 17), the right to a fair trial and an effective remedy (Article 47), the presumption of innocence and right to defence (Article 48) as well as the right to the protection of personal data (Article 8).

Concerning interferences with the right to property, Article 31, paragraph 1, anchors the Protocol in the principles of necessity and proportionality, which are fundamental to ensuring the lawfulness of interferences with fundamental rights. Paragraphs 3 and 4 additionally establish important safeguards to ensure that no irreparable interference with the right to property occurs without the affected person having had the opportunity to be heard. Limitations to the use of measures of confiscation, in particular extended and non-conviction based confiscation, as well as to the use of new provisional measures introduced by this Protocol (see i.a. reservation options provided for in Articles 3, 4 and 5) have furthermore been directly introduced in the relevant provisions providing for such measures to ensure compliance with the principles of necessity and proportionality. As elaborated in the Explanatory Report to the Convention[16], the recognition of a request may be refused where the measure or measures that could not have been ordered or taken by the competent national authorities in the requested Party, in general or in a similar case, because it/they would be contrary to the fundamental principles of domestic law of that Party. Fundamental principles of domestic law may include, for instance, fair trial standards, the presumption of innocence, as well as the principles of necessity and proportionality. The limitation these principles set

[16] See, in particular, paragraphs 140 and 141.

can be expressed by Parties, inter alia, by virtue of making use of the reservation options provided for in Articles 3, 4 and 5 of the Protocol.

Article 31, paragraph 2, generally requires Parties to ensure that all persons affected by measures concerning asset tracing, provisional measures for the seizing or freezing of property, measures of confiscation as well as pre-confiscation sales can claim the right to a fair trial and to an effective legal remedy as also required by EU law. In addition, Parties are required to guarantee the rights of defence. This provision builds on and expands the obligations established in Article 8 of the Convention concerning legal remedies, both for persons affected by measures pursuant to the Convention and the Protocol. The more detailed and extensive wording of Article 31 of this Protocol aims to reflect the development of European standards concerning procedural rights and safeguards, including with a view to the right to an effective remedy, in the context of criminal asset recovery since the adoption of the Convention, in particular the rising use of non-conviction-based confiscation measures. The scope of Article 31 is extended to persons affected by measures pursuant to the Convention to ensure that persons affected by such measures also enjoy the same rights and level of protection as persons affected by measures under the Protocol. In addition, as elaborated in the Explanatory Report to the Protocol, co-operation may be refused in accordance with Article 28 of the Convention where a foreign request does not meet the standards set by fundamental principles of domestic law of the requested State.

The Protocol ensures compliance with EU standards for the protection of personal data by guaranteeing the application of adequate data protection safeguards to the processing of personal data (Articles 9, 12 and 17) as well as providing for appropriate conditions for the exchange of such data with other Parties (Art. 29).

It is also to be noted that within the (“mother”) Convention, article 46(6) establishes that “An FIU may refuse to divulge information which could lead to impairment of a criminal investigation being conducted in the requested Party or, in exceptional circumstances, where divulging the information would be clearly disproportionate to the legitimate interests of a natural or legal person or the Party concerned or would otherwise not be in accordance with fundamental principles of national law of the requested Party. Any such refusal shall be appropriately explained to the FIU requesting the information”.

4. BUDGETARY IMPLICATIONS

It is the Commission’s view that, from a legal perspective, in principle, no budgetary implications necessarily arise from the signature and conclusion of this Protocol.

It should be noted that neither this Protocol not its Mother Convention (CETS 198) contain a clause establishing a requirement for the Union to make a financial contribution to their funding should it become a Party.

However, the Committee of Ministers’ has adopted a Resolution CM/Res(2022)6 concerning financial arrangements for the participation of the European Union and non-member States in the follow-up mechanisms of Council of Europe conventions, which provides that where the Union is invited and becomes a Party to a Council of Europe convention not containing a clause on financial participation in its follow-up mechanism after the date of option of the Resolution, it must contribute to the financing of said convention’s functioning in keeping with the modalities laid down in the resolution. While the Commission considers that such a unilateral Resolution cannot bind the Union, this has led to discussions before which have resulted in a compromise whereby the Union declared its intention to voluntarily make a financial contribution. Whether a similar arrangement will (have to) be found in the case of the present Convention and Protocol remains to be seen.

Should this be the case, a financial statement outlining the particulars of the budgetary implications will be provided alongside the proposal for a decision on the conclusion of the Convention itself, once the legal ambiguities regarding a possible contribution have been resolved.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

The Protocol sets out that the provisions regulating the monitoring of the implementation of the Warsaw Convention (article 48 of the Convention) apply mutatis mutandis to the Protocol. The Conference of the Parties established under the Convention (COP) will perform the functions set out in Article 48 of the Convention for the purposes of this Protocol, meeting in a composition restricted to the Parties to this Protocol, where appropriate.

Rule 19 of the Rules of Procedure of the Convention sets out the rules for the conduct of monitoring activities. However, at the 9th Plenary the COP decided to suspend the procedure under Rule 19 and to apply a transversal thematic monitoring approach in line with the newly adopted Rule 19bis for an initial period of two years with a further stocktaking discussion on the matter at its 11th Plenary in 2019. At its 16th Plenary (2024), the COP decided to renew the suspension of Rule 19 for another five years (i.e. until 2029) and continue with the transversal thematic monitoring under Rule 19bis during that period.

Rule 19bis sets out rules for horizontal monitoring regarding selected articles of the Convention. Each State party will be subject to monitoring in accordance with the rules set out in article 19bis.

A special clause was included in the Rules of Procedure regarding the European Union's involvement in the monitoring of the implementation of the Convention. Rule 19, paragraph 33 provides that new rules for the monitoring of the implementation of the Convention will be set out after ratification of the Convention by the European Community. No specific clause is foreseen in Rule 19bis.

• Explanatory documents (for directives)

Not applicable.

• Detailed explanation of the specific provisions of the proposal

Article 1 explains the purpose of the Protocol.

Article 2 includes the definitions of financial investigations, virtual assets, virtual asset service providers and the financing of terrorism.

Article 3 provides for extended confiscation.

Article 4 provides for non-conviction-based confiscation.

Article 5 provides for confiscation from third parties.

Article 6 provides for provisional measures and references Article 4 of the Mother Convention as applicable to the Protocol.

Article 7 provides for investigative powers and techniques.

Article 8 provides for financial investigations.

Article 9 provides establishment of a mechanism to enable the identification of any natural and legal person holding bank, payment or security accounts as well as safe-deposit boxes and virtual asset accounts and regulates the access to this information by Financial Intelligence Units and asset recovery offices and other competent authorities.

Article 10 provides for the suspension or withholding of consent for suspicious transactions, accounts and business relationships (not part of this proposal)

Article 11 provides for the establishment of asset recovery offices and their tasks as well as the powers for asset recovery offices to take urgent provisional measures.

Article 12 provides for the access of asset recovery offices to information.

Article 13 provides for the general principles of asset management, including on asset management planning and the set-up of contact points for international cooperation.

Article 14 provides for the designation of asset management offices, their functions and the set-up of contact points for international cooperation.

Article 15 provides for pre-confiscation sales and the obligations to secure the value of the earnings of such sales.

Article 16 provides for the use of frozen, seized and confiscated property.

Article 17 provides for the establishment of a tool to provide information on frozen, seized and confiscated assets.

Article 18 sets out general principles and measures for ensuring efficient and effective international cooperation, including concerning the conduct of domestic investigations prior to recognition of foreign orders and the scope of competent issuing authorities.

Article 19 sets out rules and conditions for the transfer of personal data between Parties.

Article 20 regulates foreign requests for information on accounts held in financial institutions or virtual asset service providers.

Article 21 regulates foreign requests for information on transactions carried out by financial institutions or virtual asset service providers.

Article 22 regulates foreign requests for the monitoring of transactions carried out by financial institutions and virtual asset service providers.

Article 23 provides for the possibility for two or more Parties to establish and operate a Joint Investigation Team for the recovery of property liable to confiscation.

Article 24 provides for the use of standard forms to request the freezing or seizing of property liable to confiscation.

Article 25 provides for the use of standard forms to request the confiscation of property.

Article 26 regulates the return of property to the requesting Party to facilitate its restitution to its prior legitimate owners as well as the compensation of victims of crime.

Article 27 regulates the sharing of confiscated property between the requesting and requested Parties and provides for the possibility to share such property also with other Parties, where appropriate. It also regulates the allocation of the costs of executing requests for cooperation under the Convention that facilitated confiscation.

Article 28 provides for the international cooperation on suspension or withholding of consent for suspicious transactions, accounts and business relationships (not part of this decision)

Article 29 provides for international cooperation between asset recovery offices including the establishment of contact points.

Article 30 provides for the international cooperation regarding the management of property.

Article 31 provides for safeguards and remedies regarding the measures provided for in the Protocol.

Article 32 provides for the notification of decisions on provisional measures and confiscation to affected persons.

Article 33 provides for secure measures to protect data processed by asset recovery office from unauthorised access.

Article 34 requires Parties to provide sufficient resources for asset recovery and asset management offices as well as training for competent authorities involved in asset recovery and related investigations.

Article 35 concerns the monitoring mechanism for the Protocol and the mechanism for the settlement of disputes.

Article 36 regulates the relationship of the Protocol with the Mother Convention.

Article 37 concerns the process of signature and ratification.

Article 38 concerns the entry into force of the Protocol.

Article 39 concerns the accession to the Protocol.

Article 40 sets out the territorial application.

Article 41 regulates the denunciation of the Protocol.

Article 42 explains the relationship of the Protocol to other conventions and agreements.

Article 43 regulates the making and withdrawal of declarations and reservations.

Article 44 regulates notifications to be made by the Secretary General of the Council of Europe to member States of the Council of Europe as well as other concerned States with regards to the Protocol.

The Appendix provides for the addition of cybercrimes to the appendix of the Convention.

- **Signing and the text of the Agreement**

The text of the Agreement is submitted to the Council together with this proposal.

In accordance with the Treaties, it is for the Commission to ensure the signing of the Agreement, subject to its conclusion at a later date.

2026/0194 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of the additional Protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(5), thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) In Decision (EU) 2024/1764[17], the Council authorised the Commission to participate, on behalf of the Union, in the negotiations on an additional Protocol ('the Protocol') to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) (the 'Convention') within the Council of Europe.

(2) The Protocol was adopted by the Committee of Ministers of the Council of Europe on 15 May 2026 and is envisaged to be opened for signature on 14 October 2026.

(3) The Protocol is in conformity with the objective of the European Union as referred to in Article 26(1) of the Treaty on the Functioning of the European Union, to ensure the functioning of the internal market by the adoption of measures.

(4) The Protocol contains, inter alia, provisions on its purpose and scope, on definitions of virtual assets and virtual asset service providers, on the suspension powers of Financial Intelligence Units, on the co-operation amongst Financial Intelligence Units, and on the establishment of a central automated mechanism (or similar mechanism) at national level, containing information on bank accounts, payment accounts, securities accounts, safe-deposit boxes and virtual asset accounts.

(5) The Protocol has the potential to significantly strengthen anti-money laundering frameworks and related cooperation among Council of Europe Member States and other key international partners that may become Parties to it.

(6) The rules laid down in the Protocol overlap, to a large extent, and were indeed inspired by common rules that were established on EU level. Those common rules include in particular Directive (EU) 2024/1640 of the European Parliament and of the Council, Regulation (EU) 2018/1805 of the European Parliament and of the Council and Directive (EU) 2024/1260 of the European Parliament and of the Council. Moreover,

[17] Council Decision (EU) 2024/1764 of 13 June 2024 authorising the Commission to participate, on behalf of the European Union, in negotiations on an additional protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, OJ L, 2024/1764, 24.6.2024, ELI: http://data.europa.eu/eli/dec/2024/1764/oj).

Directive 2014/42/EU of the European Parliament and of the Council, Council Framework Decision 2005/212/JHA as well as Council Framework Decisions 2003/577/JHA and 2006/783/JHA, which, however, remain applicable only in relations with and between Denmark and Ireland. The Union enjoys exclusive external competence for those parts of the agreement that may affect the Union's common rules or alter their scope. Therefore, the Union should sign the Protocol alongside the Member States.

(7) The Commission participated in the negotiations on behalf of the Union and ensured with its participation that the Protocol is compatible with relevant Union law.

(8) Pursuant to Article 37 of the Protocol, it is open for signature by the Union. The Union should become a Party to the Protocol alongside its Member States, since it shares external competence with the Member States for the matters covered by the Protocol. Matters covered by the Protocol that may affect common rules or alter their scope fall under the exclusive external competence of the Union. It is recalled that the scope of common EU rules may be affected or altered by international commitments also where those commitments fall within an area which is already largely covered by such rules, to the extent that such commitments are capable of undermining the uniform and consistent application of the EU rules and the proper functioning of the system which they establish. This Decision is without prejudice to the signature of the Protocol by the Member States, in accordance with their internal procedures.

(9) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council[18] and delivered an opinion on XX XXXXX 2026.

(10) Therefore, the Protocol should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Additional Protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism on behalf of the Union is hereby authorised, subject to the conclusion of that Protocol.

Article 2

This Decision shall enter into force on […].

Done at Brussels,

For the Council
The President

[18] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: http://data.europa.eu/eli/reg/2018/1725/oj).