



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.10.2006  
COM(2006) 605 final

2006/0192 (CNS)

Proposal for a

**COUNCIL DIRECTIVE**

**on mutual assistance for the recovery of claims relating to certain levies, duties, taxes  
and other measures**

(Codified version)

(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided<sup>1</sup> to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this<sup>2</sup>, stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures<sup>3</sup>. The new Directive will supersede the various acts incorporated in it<sup>4</sup>; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

---

<sup>1</sup> COM(87) 868 PV.

<sup>2</sup> See Annex 3 to Part A of the Conclusions.

<sup>3</sup> Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

<sup>4</sup> See Annex I, Parts A and B of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 76/308/EEC and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex II to the codified Directive.

Proposal for a

---

↓ 2001/44/EC Art. 1 pt. 1

## COUNCIL DIRECTIVE

### on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures

---

↓ 76/308/EEC (adapted)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 93 and 94 thereof,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy<sup>5</sup>, and in particular Article 42 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>6</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>7</sup>,

Whereas:

---

↓

- (1) Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures<sup>8</sup> has been substantially amended several times<sup>9</sup>. In the interests of clarity and rationality the said Directive should be codified.
- 

↓ 76/308/EEC Recital 2 (adapted)

- (2) The fact that national provisions relating to recovery are applicable only within national territories is in itself an obstacle to the functioning of the internal

---

<sup>5</sup> OJ L 209, 11.8.2005, p. 1. Regulation as amended by Regulation (EC) No 320/2006 (OJ L58, 28.2.2006, p. 42).

<sup>6</sup> OJ C [...], [...], p. [...].

<sup>7</sup> OJ C [...], [...], p. [...].

<sup>8</sup> OJ L 73, 19.3.1976, p. 18. Directive as last amended by the 2003 Act of Accession.

<sup>9</sup> See Annex I, Parts A and B.

market. This situation prevents Community rules from being fully and fairly applied, particularly in the area of the common agricultural policy, and facilitates fraudulent operations.

---

↓ 2001/44/EC Recital 1 (adapted)

- (3) ☒ It is necessary ☒ to meet the threat to the financial interests of the Community and the Member States and to the internal market posed by the development of fraud.
- 

↓ 2001/44/EC Recital 2 (adapted)

- (4) ☒ Community and national financial interests, which are increasingly threatened by fraud, must therefore be protected so as to safeguard better the competitiveness and fiscal neutrality of the internal market. ☒
- 

↓ 76/308/EEC Recital 3

- (5) It is therefore necessary to adopt common rules on mutual assistance for recovery.
- 

↓ 76/308/EEC Recital 4 (adapted)

- (6) These rules must apply to the recovery of claims resulting from the various measures which form part of the system of total or partial financing of the European Agricultural Guidance and Guarantee Fund, to the recovery of agricultural levies and customs duties ☒, valued added tax and harmonised excise duties (manufactured tobacco, alcohol and alcoholic beverages and mineral oils), as well as of taxes on income, on capital and on insurance premiums ☒. They should also apply to the recovery of interest ☒, administrative penalties and fines ☒ and costs incidental to such claims.
- 

↓ 76/308/EEC Recital 5

- (7) Mutual assistance must consist of the following: the requested authority must on the one hand supply the applicant authority with the information which the latter needs in order to recover claims arising in the Member State in which it is situated and notify the debtor of all instruments relating to such claims emanating from that Member State, and on the other hand it must recover, at the request of the applicant authority, the claims arising in the Member State in which the latter is situated.
- 

↓ 76/308/EEC Recital 6

- (8) These different forms of assistance must be afforded by the requested authority in compliance with the laws, regulations and administrative provisions governing such matters in the Member State in which it is situated.
- 

↓ 76/308/EEC Recital 7

- (9) It is necessary to lay down the conditions in accordance with which requests for assistance must be drawn up by the applicant authority and to give a limitative

definition of the particular circumstances in which the requested authority may refuse assistance in any given case.

---

↓ 2001/44/EC Recital 4

- (10) In order to permit more efficient and effective recovery of claims in respect of which a request for recovery has been made, the instrument permitting enforcement of the claim should, in principle, be treated as an instrument of the Member State in which the requested authority is situated.
- 

↓ 76/308/EEC Recital 8

- (11) When the requested authority is required to act on behalf of the applicant authority to recover a claim, it must be able, if the provisions in force in the Member State in which it is situated so permit and with the agreement of the applicant authority, to allow the debtor time to pay or authorise payment by instalment. Any interest charged on such payment facilities must also be remitted to the Member State in which the applicant authority is situated.
- 

↓ 76/308/EEC Recital 9 (adapted)

- (12) Upon a reasoned request from the applicant authority, the requested authority must also be able, in so far as the provisions in force in the Member State in which it is situated so permit, to take precautionary measures to guarantee the recovery of claims arising in the applicant Member State. Such claims  should not necessarily benefit from the privileges accorded to similar claims arising  in the Member State in which the requested authority is situated.
- 

↓ 76/308/EEC Recital 10  
(adapted)

- (13)  During  the recovery procedure in the Member State in which the requested authority is situated the claim or the instrument authorising its enforcement issued in the Member State in which the applicant authority is situated may be contested by the person concerned. It should be laid down in such cases that the person concerned must bring the action contesting the claim before the competent body of the Member State in which the applicant authority is situated and that the requested authority must suspend any enforcement proceedings which it has begun until a decision is taken by the aforementioned body.
- 

↓ 76/308/EEC Recital 11

- (14) It should be laid down that documents and information communicated in the course of mutual assistance for recovery may not be used for other purposes.
- 

↓ 2001/44/EC Recital 5

- (15) The use of mutual assistance for recovery cannot, save in exceptional circumstances, be based on financial benefits or an interest in the results obtained, but Member States

should be able to agree the reimbursement arrangements when recovery poses a specific problem.

---

↓ 76/308/EEC Recital 12

- (16) This Directive should not curtail mutual assistance between particular Member States under bilateral or multilateral agreements or arrangements.
- 

↓

- (17) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>10</sup>.
- (18) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part C,
- 

↓ 76/308/EEC

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

This Directive lays down the rules to be incorporated into the laws, regulations and administrative provisions of the Member States to ensure the recovery in each Member State of the claims referred to in Article 2 which arise in another Member State.

---

↓ 2001/44/EC Art. 1 pt. 2

#### *Article 2*

This Directive shall apply to all claims relating to:

- (a) refunds, interventions and other measures forming part of the system of total or partial financing of the European Agricultural Guidance and Guarantee Fund (EAGGF), including sums to be collected in connection with these actions;
- (b) levies and other duties provided for under the common organisation of the market for the sugar sector;
- (c) import duties;
- (d) export duties;

---

<sup>10</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (e) value added tax;
  - (f) excise duties on:
- 

↓ 2001/44/EC Art. 1 pt. 2  
(adapted)

- (i)  manufactured tobacco,
  - (ii)  alcohol and alcoholic beverages,
  - (iii)  mineral oils;
- 

↓ 2001/44/EC Art. 1 pt. 2

- (g) taxes on income and capital;
  - (h) taxes on insurance premiums;
  - (i) interest, administrative penalties and fines, and costs incidental to the claims referred to in points (a) to (h), with the exclusion of any sanction of a criminal nature as determined by the laws in force in the Member State in which the requested authority is situated.
- 

↓ 2001/44/EC Art. 1 pt. 3  
(adapted)

It shall also apply to claims relating to taxes which are identical or analogous to the taxes on insurance premiums referred to in  Article 3(6) which supplement or replace them . The competent authorities of the Member States shall communicate to each other and to the Commission the dates of entry into force of such taxes.

---

↓ 76/308/EEC (adapted)

### Article 3

For the purposes of this Directive:

- (1)  “applicant authority” means the competent authority of a Member State which makes a request for assistance concerning a claim referred to in Article 2;
  - (2)  “requested authority” means the competent authority of a Member State to which a request for assistance is made;
- 

↓ 2001/44/EC Art. 1 pt. 3  
(adapted)

- (3)  “import duties” means customs duties and charges having equivalent effect on imports, and import charges laid down within the framework of the common agricultural

policy or in that of specific arrangements applicable to certain goods resulting from the processing of agricultural products;

⊗ (4) ⊗ “export duties” means customs duties and charges having equivalent effect on exports, and export charges laid down within the framework of the common agricultural policy or in that of specific arrangements applicable to certain goods resulting from the processing of agricultural products;

⊗ (5) ⊗ “taxes on income and capital” means those enumerated in Article 1(3) of ⊗ Council ⊗ Directive ⊗ [77/799/EEC] ⊗<sup>11</sup>, read in conjunction with Article 1(4) of that Directive;

⊗ (6) ⊗ “taxes on insurance premiums” means

- |         |             |       |  |
|---------|-------------|-------|--|
| ⊗ (a) ⊗ | in Belgium: | (i)   | Taxe annuelle sur les contrats d'assurance   |
|         |             | (ii)  | Jaarlijkse taks op de verzekeringcontracten  |
| ⊗ (b) ⊗ | in Denmark: | (i)   | Afgift af lystfartøjsforsikringer  |
|         |             | (ii)  | Afgift af ansvarsforsikringer for motorkøretøjer m.v.  |
|         |             | (iii) | Stempelafgift af forsikringspræmier  |
| ⊗ (c) ⊗ | in Germany: | (i)   | Versicherungssteuer  |
|         |             | (ii)  | Feuerschutzsteuer  |
| ⊗ (d) ⊗ | in Greece:  | (i)   | Φόρος κύκλου εργασιών (Φ.Κ.Ε)  |
|         |             | (ii)  | Τέλη Χαρτοσήμου  |
| ⊗ (e) ⊗ | in Spain:   |       | Impuesto sobre la prima de seguros   |
| ⊗ (f) ⊗ | in France:  |       | Taxe sur les conventions d'assurances  |
| ⊗ (g) ⊗ | in Ireland: |       | Levy on insurance premiums   |
| ⊗ (h) ⊗ | in Italy:   |       | Imposte sulle assicurazioni private ed i contratti vitalizi di cui alla legge 29.10.1967 No 1216 |

---

<sup>11</sup> OJ L 336, 27.12.1977, p. 15.

- ⊗ (i) ⊗ in Luxembourg: (i) Impôt sur les assurances  
(ii) Impôt dans l'interêt du service d'incendie
- 

↓ 2003 Act of Accession, Art. 20 and Annex II (adapted)

- ⊗ (j) ⊗ in Malta: Taxxa fuq Dokumenti u Trasferimenti
- 

↓ 2001/44/EC Art. 1 pt. 3 (adapted)

- ⊗ (k) ⊗ in the Netherlands: Assurantiebelasting

- ⊗ (l) ⊗ in Austria: (i) Versicherungssteuer  
(ii) Feuerschutzsteuer

- ⊗ (m) ⊗ in Portugal: Imposto de selo sobre os prémios de seguros
- 

↓ 2003 Act of Accession, Art. 20 and Annex II (adapted)

- ⊗ (n) ⊗ in Slovenia: (i) davek od promenta zavarovalnih poslov  
(ii) požarna taksa
- 

↓ 2001/44/EC Art. 1 pt. 3 (adapted)

- ⊗ (o) ⊗ in Finland: (i) Eräistä vakuutusmaksuista suoritettava vero/skatt på vissa försäkringspremier  
(ii) Palosuojelumaksu/brandskyddsavgift

- ⊗ (p) ⊗ in the United Kingdom: Insurance premium tax (IPT).

---

↓ 76/308/EEC (adapted) → <sub>1</sub> 2001/44/EC Art. 1 pt. 4 (adapted)
---

#### Article 4

1. At the request of the applicant authority, the requested authority shall provide any information which would be useful to the applicant authority in the recovery of its claim.

In order to obtain this information, the requested authority shall make use of the powers provided under the laws, regulations or administrative provisions applying to the recovery of similar claims arising in the Member State where that authority is situated.

2. The request for information shall indicate →<sub>1</sub> the name ☒ and ☒ address ☒ of the person to whom the information to be provided relates ☒ and any other relevant information relating to the identification to which the applicant authority normally has access ← and the nature and amount of the claim in respect of which the request is made.

3. The requested authority shall not be obliged to supply information:

- (a) which it would not be able to obtain for the purpose of recovering similar claims arising in the Member State in which it is situated;
- (b) which would disclose any commercial, industrial or professional secrets; or
- (c) the disclosure of which would be liable to prejudice the security of or be contrary to the public policy of the State.

4. The requested authority shall inform the applicant authority of the grounds for refusing a request for information.

---

↓ 76/308/EEC (adapted) → <sub>1</sub> 2001/44/EC Art. 1 pt. 5 (adapted)
---

#### Article 5

1. The requested authority shall, at the request of the applicant authority, and in accordance with the rules of law in force for the notification of similar instruments or decisions in the Member State in which the requested authority is situated, notify to the addressee all instruments and decisions, including those of a judicial nature, which emanate from the Member State in which the applicant authority is situated and which relate to a claim and/or to its recovery.

2. The request for notification shall indicate →<sub>1</sub> the name ☒ and ☒ address ☒ of the addressee concerned ☒ and any other relevant information relating to the identification to which the applicant authority normally has access ←, the nature and the subject of the instrument or decision to be notified, if necessary →<sub>1</sub> the name, ☒ and ☒ address ☒ of the debtor ☒ and any other relevant information relating to the identification to which the

applicant authority normally has access ← and the claim to which the instrument or decision relates, and any other useful information.

3. The requested authority shall promptly inform the applicant authority of the action taken on its request for notification and, more especially, of the date on which the instrument or decision was forwarded to the addressee.

---

↓ 76/308/EEC (adapted)

#### *Article 6*

At the request of the applicant authority, the requested authority shall, in accordance with the laws, regulations or administrative provisions applying to the recovery of similar claims arising in the Member State in which the requested authority is situated, recover claims which are the subject of an instrument permitting their enforcement.

For this purpose any claim in respect of which a request for recovery has been made shall be treated as a claim of the Member State in which the requested authority is situated, except where Article 12 applies.

---

↓ 2001/44/EC Art. 1 pt. 6  
(adapted)

#### *Article 7*

1. The request for recovery of a claim which the applicant authority addresses to the requested authority must be accompanied by an official or certified copy of the instrument permitting its enforcement, issued in the Member State in which the applicant authority is situated and, if appropriate, by the original or a certified copy of other documents necessary for recovery.

2. The applicant authority may not make a request for recovery unless:

- (a) the claim and/or the instrument permitting its enforcement are not contested in the Member State in which it is situated, except in cases where the second subparagraph of Article 12(2) ☒ applies ☒ ;
- (b) it has, in the Member State in which it is situated, applied appropriate recovery procedures available to it on the basis of the instrument referred to in paragraph 1, and the measures taken will not result in the payment in full of the claim.

3. The request for recovery shall indicate:

- (a) the name, address and any other relevant information relating to the identification of the person concerned and/or to the third party holding his or her assets;
- (b) the name, address and any other relevant information relating to the identification of the applicant authority;
- (c) a reference to the instrument permitting its enforcement issued in the Member State in which the applicant authority is situated;

- (d) the nature and the amount of the claim, including the principal, the interest, and any other penalties, fines and costs due indicated in the currencies of the Member States in which both authorities are situated;
- (e) the date of notification of the instrument to the addressee by the applicant authority and/or by the requested authority;
- (f) the date from which and the period during which enforcement is possible under the laws in force in the Member State in which the applicant authority is situated;
- (g) any other relevant information.

The request for recovery shall also contain a declaration by the applicant authority confirming that the conditions set out in paragraph 2 have been fulfilled.

4.  As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority it shall forward it to the requested authority.

#### *Article 8*

The instrument permitting enforcement of the claim shall be directly recognised and automatically treated as an instrument permitting enforcement of a claim of the Member State in which the requested authority is situated.

Notwithstanding the first paragraph, the instrument permitting enforcement of the claim may, where appropriate and in accordance with the provisions in force in the Member State in which the requested authority is situated, be accepted as, recognised as, supplemented with, or replaced by an instrument authorising enforcement in the territory of that Member State.

Within three months of the date of receipt of the request for recovery, Member States shall endeavour to complete such acceptance, recognition, supplementing or replacement, except in cases  referred to in  the fourth paragraph.  These formalities  may not be refused if the instrument permitting enforcement is properly drawn up. The requested authority shall inform the applicant authority of the grounds for exceeding the period of three months.

If any of these formalities should give rise to contestation in connection with the claim or the instrument permitting enforcement issued by the applicant authority, Article 12 shall apply.

#### *Article 9*

1. Claims shall be recovered in the currency of the Member State in which the requested authority is situated. The entire amount of the claim that is recovered by the requested authority shall be remitted by the requested authority to the applicant authority.

2. The requested authority may, where the laws, regulations or administrative provisions in force in the Member State in which it is situated so permit, and after consultations with the applicant authority, allow the debtor time to pay or authorise payment by instalment. Any interest charged by the requested authority in respect of such extra time to pay shall also be remitted to the Member State in which the applicant authority is situated.

From the date on which the instrument permitting enforcement of recovery of the claim has been directly recognised  in accordance with the first paragraph of Article 8  or accepted, recognised, supplemented or replaced in accordance with  the second paragraph of  Article 8, interest will be charged for late payment under the laws, regulations and administrative provisions in force in the Member State in which the requested authority is situated and shall also be remitted to the Member State in which the applicant authority is situated.

---

↓ 2001/44/EC Art. 1 pt. 6  
(adapted)

#### *Article 10*

Notwithstanding  the second paragraph of  Article 6, the claims to be recovered shall not necessarily benefit from the privileges accorded to similar claims arising in the Member State in which the requested authority is situated.

---

↓ 76/308/EEC  
→<sub>1</sub> 2001/44/EC Art. 1 pt. 7(a)

#### *Article 11*

The requested authority shall inform the applicant authority immediately of the action it has taken on the request for recovery.

#### *Article 12*

1. If, in the course of the recovery procedure, the claim and/or the instrument permitting its enforcement issued in the Member State in which the applicant authority is situated are contested by an interested party, the action shall be brought by the latter before the competent body of the Member State in which the applicant authority is situated, in accordance with the laws in force there. This action must be notified by the applicant authority to the requested authority. The party concerned may also notify the requested authority of the action.

2. As soon as the requested authority has received the notification referred to in paragraph 1 either from the applicant authority or from the interested party, it shall suspend the enforcement procedure pending the decision of the body competent in the matter →<sub>1</sub>, unless the applicant authority requests otherwise in accordance with the second subparagraph of this paragraph ← . Should the requested authority deem it necessary, and without prejudice to Article 13, that authority may take precautionary measures to guarantee recovery in so far as the laws or regulations in force in the Member State in which it is situated allow such action for similar claims.

---

↓ 2001/44/EC Art. 1 pt. 7(b)  
(adapted)

The applicant authority may in accordance with the law, regulations and administrative practices in force in the Member State in which it is situated, request the requested authority

to recover a contested claim, in so far as the relevant laws, regulations and administrative practices in force in the Member State in which the requested authority is situated allow such action. If the result of contestation is subsequently favourable to the debtor, the applicant authority shall be liable for the reimbursement of any sums recovered, together with any compensation due, in accordance with the laws in force in the Member State in which the requested authority is situated.

---

↓ 76/308/EEC (adapted)

3. Where it is the enforcement measures taken in the Member State in which the requested authority is situated that are being contested the action shall be brought before the competent body of that Member State in accordance with its laws and regulations.

4. Where the competent body before which the action has been brought in accordance with paragraph 1 is a judicial or administrative tribunal, the decision of that tribunal, in so far as it is favourable to the applicant authority and permits recovery of the claim in the Member State in which the applicant authority is situated shall constitute the «instrument permitting enforcement»  referred to in  Articles 6, 7 and 8 and the recovery of the claim shall proceed on the basis of that decision.

#### Article 13

On a reasoned request by the applicant authority, the requested authority shall take precautionary measures to ensure recovery of a claim in so far as the laws or regulations in force in the Member State in which it is situated so permit.

In order to give effect to the provisions of the first paragraph, Articles 6, 7(1), (3) and (4), 8, 11, 12 and 14 shall apply *mutatis mutandis*.

#### Article 14

---

↓ 2001/44/EC Art. 1 pt. 8

The requested authority shall not be obliged:

- (a) to grant the assistance provided for in Articles 6 to 13 if recovery of the claim would, because of the situation of the debtor, create serious economic or social difficulties in the Member State in which that authority is situated, in so far as the laws, regulations and administrative practices in force in the Member State in which the requested authority is situated allow such action for similar national claims;
- (b) to grant the assistance provided for in Articles 4 to 13, if the initial request under Article 4, 5 or 6 applies to claims more than five years old, dating from the moment the instrument permitting the recovery is established in accordance with the laws, regulations or administrative practices in force in the Member State in which the applicant authority is situated, to the date of the request. However, in cases where the claim or the instrument is contested, the time-limit begins from the moment at which the applicant State establishes that the claim or the instrument permitting recovery may no longer be contested.

---

↓ 76/308/EEC → <sub>1</sub> 2001/44/EC Art. 1 pt. 9
--

The requested authority shall inform the applicant authority of the grounds for refusing a request for assistance. Such reasoned refusal shall also be communicated to the Commission.

#### *Article 15*

1. Questions concerning periods of limitation shall be governed solely by the laws in force in the Member State in which the applicant authority is situated.

2. Steps taken in the recovery of claims by the requested authority in pursuance of a request for assistance, which, if they had been carried out by the applicant authority, would have had the effect of suspending or interrupting the period of limitation according to the laws in force in the Member State in which the applicant authority is situated, shall be deemed to have been taken in the latter State, in so far as that effect is concerned.

#### *Article 16*

Documents and information sent to the requested authority pursuant to this Directive may only be communicated by the latter to:

- (a) the person mentioned in the request for assistance;
- (b) those persons and authorities responsible for the recovery of the claims, and solely for that purpose;
- (c) the judicial authorities dealing with matters concerning the recovery of the claims.

#### *Article 17*

Requests for assistance →<sub>1</sub> the instrument permitting the enforcement and other relevant documents ← shall be accompanied by a translation in the official language, or one of the official languages of the Member State in which the requested authority is situated, without prejudice to the latter authority's right to waive the translation.

---

↓ 2001/44/EC Art. 1 pt. 10
----------------------------

#### *Article 18*

1. The requested authority shall recover from the person concerned and retain any costs linked to recovery which it incurs, in accordance with the laws and regulations of the Member State in which it is situated that apply to similar claims.

2. Member States shall renounce all claims on each other for the refund of costs resulting from mutual assistance which they grant each other pursuant to this Directive.

3. Where recovery poses a specific problem, concerns a very large amount in costs or relates to the fight against organised crime, the applicant and requested authorities may agree reimbursement arrangements specific to the cases in question.

4. The Member State in which the applicant authority is situated shall remain liable to the Member State in which the requested authority is situated for any costs and any losses incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument issued by the applicant authority are concerned.

---

↓ 76/308/EEC

#### *Article 19*

Member States shall provide each other with a list of authorities authorised to make or receive requests for assistance.

---

↓ 2001/44/EC Art. 1 pt. 11  
(adapted)

#### *Article 20*

1. The Commission shall be assisted by  the  recovery committee (hereinafter referred to as “the Committee”).

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period referred to in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its own rules of procedure.

---

↓ 76/308/EEC

#### *Article 21*

The Committee may examine any matter concerning the application of this Directive raised by its chairman either on his own initiative or at the request of the representative of a Member State.

---

↓ 2001/44/EC Art. 1 pt. 12  
(adapted)

#### *Article 22*

The detailed rules for implementing Articles 4(2) and (4), 5(2) and (3) and Articles 7, 8, 9, 11, 12(1) and (2), 14, 18(3) and  24  and for determining the means by which communications between the authorities may be transmitted, the rules on conversion, transfer

of sums recovered, and the fixing of a minimum amount for claims which may give rise to a request for assistance, shall be adopted in accordance with the procedure  referred to  in Article 20(2).

---

↓ 76/308/EEC

#### *Article 23*

The provisions of this Directive shall not prevent a greater measure of mutual assistance being afforded either now or in the future by particular Member States under any agreements or arrangements, including those for the notification of legal or extra-legal acts.

---

↓ 76/308/EEC Art. 25

#### *Article 24*

Each Member State shall inform the Commission of the measures which it has adopted to implement this Directive.

The Commission shall forward this information to the other Member States.

---

↓ 2001/44/EC Art. 1 pt. 13  
(adapted)

Each Member State shall inform the Commission annually of the number of requests for information, notification and recovery sent and received each year, the amount of the claims involved and the amounts recovered.

The Commission shall report biennially to the European Parliament and the Council on the  application  of these arrangements and on the results achieved.

---

↓

#### *Article 25*

Directive 76/308/EEC, as amended by the acts listed in Annex I, Parts A and B, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part C.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

#### *Article 26*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 27*

This Directive is addressed to the Member States.

Done at Brussels, [...]

*For the Council  
The President  
[...]*



## **ANNEX I**

### **Part A**

#### **Repealed Directive with its successive amendments** (referred to in Article 25)

Council Directive 76/308/EEC  
(OJ L 73, 19.3.1976, p. 18)

Council Directive 79/1071/EEC  
(OJ L 331, 27.12.1979, p. 10)

Council Directive 92/12/EEC  
(OJ L 76, 23.3.1992, p. 1)

Only Article 30a

Council Directive 92/108/EEC  
(OJ L 390, 31.12.1992, p. 124)

Only Article 1, point 9

Council Directive 2001/44/EC  
(OJ L 175, 28.6.2001, p. 17)

### **Part B**

#### **Amended acts which are not repealed**

- 1979 Act of Accession
- 1985 Act of Accession
- 1994 Act of Accession
- 2003 Act of Accession

## Part C

### List of time-limits for transposition into national law (referred to in Article 25)

Directive	Time-limit for transposition
76/308/EEC	1 January 1978
79/1071/EEC	31 December 1980
92/12/EEC	1 January 1993 <sup>12</sup>
92/108/EEC	31 December 1992
2001/44/EC	30 June 2002

---

<sup>12</sup> With regard to Article 9(3) the Kingdom of Denmark is authorised to introduce the laws, regulations and administrative provisions required for complying with this provisions by 1 January 1993 at the latest.

## ANNEX II

### CORRELATION TABLE

Directive 76/308/EEC	This Directive
Article 1	Article 1
Article 2, introductory wording, points (a) to (e)	Article 2, first paragraph, points (a) to (e)
Article 2, introductory wording, point (f) first, second and third indents	Article 2, first paragraph, point (f)(i), (ii) and (iii)
Article 2, introductory wording, points (g) to (i)	Article 2, first paragraph, points (g) to (i)
Article 3, first paragraph, first to fifth indents	Article 3, first paragraph, points (1) to (5)
Article 3, sixth indent, first paragraph, point (a)	Article 3(6)(l)
Article 3, sixth indent, first paragraph, point (b)	Article 3(6)(a)
Article 3, sixth indent, first paragraph, point (c)	Article 3(6)(c)
Article 3, sixth indent, first paragraph, point (d)	Article 3(6)(b)
Article 3, sixth indent, first paragraph, point (e)	Article 3(6)(e)
Article 3, sixth indent, first paragraph, point (f)	Article 3(6)(d)
Article 3, sixth indent, first paragraph, point (g)	Article 3(6)(f)
Article 3, sixth indent, first paragraph, point (h)	Article 3(6)(o)
Article 3, sixth indent, first paragraph, point (i)	Article 3(6)(h)
Article 3, first paragraph, sixth indent, first paragraph, point (j)	Article 3(6)(g)
Article 3, sixth indent point (k)	Article 3(6)(i)

Article 3, sixth indent, first paragraph, point (l)	Article 3(6)(k)
Article 3, sixth indent, first paragraph, point (m)	Article 3(6)(m)
Article 3, sixth indent, first paragraph, point (n)	—
Article 3, sixth indent, first paragraph, point (o)	Article 3(6)(p)
Article 3, sixth indent, first paragraph, point (p)	Article 3(6)(j)
Article 3, sixth indent, first paragraph, point (q)	Article 3(6)(n)
Article 3, sixth indent, second paragraph	Article 2, second paragraph
Articles 4 and 5	Articles 4 and 5
Article 6(1)	Article 6 first paragraph
Article 6(2)	Article 6 second paragraph
Article 7(1) and (2)	Article 7(1) and (2)
Article 7(3)	Article 7(3), first subparagraph
Article 7(4)	Article 7(3), second subparagraph
Article 7(5)	Article 7(4)
Article 8(1)	Article 8, first paragraph
Article 8(2), first, second and third paragraphs	Article 8, second, third and fourth paragraphs
Articles 9 to 23	Articles 9 to 23
Article 24	—
Article 25, first paragraph, first and second sentences	Article 24, first and second paragraphs
Article 25, second paragraph, first and second sentences	Article 24, second and third paragraphs

Article 26

—

—

Article 27

Annex I

Annex II

—