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Applying the European Investigation Order (EIO)

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Useful tools and information for the practical application of the European Investigation Order (EIO) Directive

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Status of implementation of

[2014/41/EU: Directive 2014/41/EU of 3 April 2014 regarding the European Investigation Order in criminal matters](#)


For the practical application of this Legal Instrument, check the [EJN Practical tools for judicial cooperation](#)

Last reviewed on **26 February 2018** by EJN Secretariat

Country	Entry into force	Country Notification	Related National legislation	Additional Information
Austria	process ongoing	-	-	The law-making department at the Ministry of Justice is currently drafting the bill of the implementing law. It has been envisaged that the EIO should enter into force by the date of the obligatory implementation in May 2017 but due to the parliamentary proceedings and timeframes that a delay will occur. The bill has not yet been passed over to the Parliament.
Belgium	22 May 2017	-	Law of 22 May 2017 related to the European investigation order in criminal matters.	Legal and Practical Information on the European Investigation Order for EJN Contact Points EIO - Competent authorities and languages = Paper by EJN
Bulgaria	23 Feb 2018	-	-	European Investigation Order Law – Official publication: State Gazette /Държавен вестник/; Number: 16; Publication date: 2018-02-20
Croatia	26 Oct 2017	Notification of the transposition of Directive 2014/41/EU by Croatia Notification of the competent authorities concerning Directive 2014/41/EU by Croatia	-	Legal and Practical Information on the European Investigation Order for EJN Contact Points EIO - Competent authorities and languages = Paper by EJN
Cyprus	15 Dec 2017	-	Law Number 181/2017	-
Czech Republic	process ongoing	-	-	The implementing legislation has already been resubmitted to the new Parliament after the Parliament elections.

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European Judicial Network
The Secretariat

Updated 16 February 2018

Competent authorities and languages accepted for the European Investigation Order in criminal matters

- as notified by the Member States which have transposed the Directive 2014/41/EU or on the grounds of the information provided by the EJN Tool Correspondents or National Correspondents

 BELGIUM	
ISSUING AUTHORITIES	<p>The following Belgian judicial authorities are, in accordance with requirements laid down in the law of 22 May 2017 and the Code of Criminal Procedure, competent to issue an EIO:</p> <ul style="list-style-type: none">- the public prosecutor;- the investigative judge. <p>The General Customs and Excise Administration is competent to issue an EIO concerning offences that fall under its exclusive competence if this administration is competent to order the measure itself in a similar domestic case.</p>
VALIDATING AUTHORITIES	<p>When an EIO is issued by the General Customs and Excise Administration, it needs to be validated by an investigative judge.</p>
RECEIVING AUTHORITIES	<p>The Belgian authority competent to receive an EIO is the public prosecutor locally competent to execute the investigative measure or one of the investigative measures indicated in the EIO.</p> <p>EIOs may also be sent to the Federal Prosecutor, in particular in the following cases:</p> <ul style="list-style-type: none">- urgency;- the location of the investigative measure needs to be determined;- coordination of the execution of the EIO is needed. <p>EIOs concerning offences falling under the exclusive competence of the General Customs and Excise Administration may be</p>

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European Judicial Network (EJN) website

The screenshot shows the EJN website interface. At the top, there is a blue header with the EJN logo and the text "European Judicial Network (EJN) Réseau Judiciaire Européen (RJE)". Below the header, there is a navigation bar with "Home" and "Judicial Library" links. The main content area is titled "Judicial Library" and features a search bar with the text "Search the Library" and a "Search" button. On the left side, there is a sidebar menu with "Categories" and "General Legal Framework" tabs. The "Categories" tab is active, showing a list of legal instruments. The main content area displays the title "2014/41/EU: Directive 2014/41/EU of 3 April 2014 regarding the European Investigation Order in criminal matters" and a "Show all | Hide all" link. Below this, there is a list of links with "Show" buttons: "Full text of the legal instrument", "European Investigation Order - Forms", "Status of implementation", "European Investigation Order - Notifications", "National Legislations", "Related documents", "Other Documents", and "Related Links". At the bottom, there is a note: "Last reviewed on 26 February 2018 by EJN Secretariat".

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Full text of the legal instrument

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Word form of the European Investigation Order – EIO (Annex A)

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Word form of the Confirmation of the receipt of an EIO (Annex B)

Word form of the Notification about interception of telecommunication without technical assistance (Annex C)

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Notifications-countries: [Hide](#)

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◦ Translation of letter - Implementation of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters	
Italy	Show


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Reference number

Name Translation of letter - Implementation of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters

Origin No

Publication Date 26/07/2017

Categories

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Translation of letter

Date: 14 March 2017
From: Dr Ivo Thiemrodt, Permanent Representation of the Federal Republic of Germany to the European Union
To: Directorate-General for Justice and Consumers, European Commission
Subject: **Implementation of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters**
Ref: Pol 350.82/2 (please quote in all correspondence)
Encl.: Federal Law Gazette (BGBl.) I, pp. 31 et seq. (Annex 1),
Implementation report (Annex 2)

In accordance with Article 36(3) of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters ("the EIO Directive"), please find enclosed, as [Annex 1](#) to this letter, the provisions transposing into national law Germany's obligations resulting from the EIO Directive. The Directive was implemented by supplementing and amending the Act on International Legal Assistance in Criminal Matters (*Gesetz über die internationale Rechtshilfe in Strafsachen* — IRG), see excerpt from the Federal Law Gazette (BGBl. I 2017, pp. 31 et seq.) The amendments to the IRG entered into force on 22 May 2017. A supplemental implementation report is attached as [Annex 2](#).

In addition, we would like to notify the following in accordance with Articles 33(1), 33(2) and 34(4) of the EIO Directive:

Article 33(1)(a) and (b) of the EIO Directive:

1. In Germany, the issuing or executing authority may be **any judicial authority** (the Federal Prosecutor-General of the Federal Court of Justice, the public prosecutors, the

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The Atlas allows the identification of the locally competent authority that can receive your request for judicial cooperation and provides a fast and efficient channel for the direct transmission of requests according with the selected measure.

Select country to where your request is to be sent to, clicking on the map:

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Or selecting from the list of countries:

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The Atlas allows the identification of the locally competent authority that can receive your request for judicial cooperation and provides a fast and efficient channel for the direct transmission of requests according with the selected measure.

Search Competent Authorities:

Country: Poland (PL)

Please be aware that the Atlas information for Poland is currently being updated and might not be accurate. You are advised to verify the search result by contacting an EJN Contact Point for the country.



[\(Select another country\)](#)

Choose measure:

- 101. Interception, recording and transcription of telecommunications
- 102. Tracing of telecommunications
- 103. Interception and recording of other forms of communication
- 104. Interception of mail
- 105. Observation
- 106. Interception of telecommunication - Art. 18 (2) (b) of the MLA Convention
- 107. Interception of telecommunication without the technical assistance of another Member State
- 201. Infiltration by undercover agents of the requested State
- 202. Infiltration by agents of the requesting State in the territory of the requested State
- 203. Infiltration by an informer of the requested State
- 204. Handling of informers
- 301. Superficial body search
- 302. Invasive body search
- 303. Psychiatric medical examination



Prior to searching for the competent authority for your request, please consult the [Status of Implementation of Framework Decisions](#) page to make sure the specific measure you seek assistance for is supported by the Member State you are seeking this assistance from.

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Country: Poland (PL) 

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Choose measure: **7. Witnesses, victims, suspects - Summoning and hearing**

- 701. Summoning witnesses
- 702. Hearing witnesses: standard procedure
- 703. Hearing witnesses: by video conference
- 704. Hearing witnesses: by telephone
- 705. Hearing children
- 706. Hearing persons collaborating with the inquiry
- 707. Hearing victims/plaintiffs
- 708. Hearing experts
- 709. Summoning suspects/persons accused
- 710. Hearing suspects/persons accused: standard procedure
- 711. Hearing suspects/persons accused: by video conference
- 712. Hearing suspects/persons accused: by telephone
- 713. Confrontation

Prior to searching for the competent authority for your request, please consult the [Status of Implementation of Framework Decisions](#) page to make sure the specific measure you seek assistance for is supported by the Member State you are seeking this assistance from.

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Search Competent Authorities:

Country: Poland (PL)  [\(Select another country\)](#)

Measure: Witnesses, victims, suspects - Summoning and hearing [\(Select another measure\)](#)
Hearing witnesses: standard procedure (702)


Select stage of the proceedings? Pre-trial stage
 Judicial proceedings

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


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Search Competent Authorities:

Country: Poland (PL)  [\(Select another country\)](#)

Measure: Witnesses, victims, suspects - Summoning and hearing
Hearing witnesses: standard procedure (702) [\(Select another measure\)](#)

Select stage of the proceedings?: Pre-trial stage [\(Select another option\)](#)

Unknown place or many places? Known
 Unknown

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Measure: Witnesses, victims, suspects - Summoning and hearing
Hearing witnesses: standard procedure (702)

[\(Select another measure\)](#)

Select stage of the proceedings?: Pre-trial stage

[\(Select another option\)](#)

Unknown place or many places?: Known

[\(Select another option\)](#)

- Select legal instrument
- [Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union](#) *(Ratification details)*
 - [Directive 2014/41/EU regarding the European Investigation Order in criminal matters](#) * *(Status of Implementation)*

** The EIO Directive is replacing the above mentioned legal framework for EU Member States which are bound by this directive and which have transposed it in their national legislations. Please check the status of implementation of the EIO Directive for your Member State before deciding which legal instrument you select.*

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Select stage of the proceedings?: Pre-trial stage [\(Select another option\)](#)

Unknown place or many places?: Known [\(Select another option\)](#)

Legal instrument: [Directive 2014/41/EU regarding the European Investigation Order in criminal matters](#) [\(Status of Implementation\)](#) [\(Select another instrument\)](#)

Authority Type: CPO - Poland (Regional)

Search Authorities:

Search by locality involved in the measure

City/PC:

Search by competent authority


Name:

Address:

P. Code: -

City:

Area: Kraków



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Search Competent Authorities:

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Measure: Witnesses, victims, suspects - Summoning and hearing
Hearing witnesses: standard procedure (702)

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Select stage of the proceedings?: Pre-trial stage

[\(Select another option\)](#)

Unknown place or many places?: Known

[\(Select another option\)](#)

Legal instrument: [Directive 2014/41/EU regarding the European Investigation Order in criminal matters](#) *(Status of Implementation)*

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Authority Type: CPO - Poland (Regional)

Resultant Competent Authority: **Prokuratura Okregowa w Krakowie**

General data

Videoconference

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Name: Prokuratura Okregowa w Krakowie

Address: ul. Mosieznicza 2

Department
(Division):

City: Kraków

Postal code: 30 - 965

Phone number: 00 48 12 619 60 97

Mobile phone:

Fax number: 00 48 12 411 87 99

Email Address: sekretariat@krakow.po.gov.pl

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[Import authority details into Compendium](#)

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EU Presidency


European Investigation Order

Useful tools and information for the practical application of the European Investigation Order (EIO) Directive

This area on the EJN website has been created as a quick access point to the most relevant information and tools for the practical application of the EIO Directive. We took into account the suggestions of the Contact Points during the 48th plenary meeting of the EJN, as well as other practical needs. It will be regularly updated and enriched.

- » [Status of transposition of the EIO Directive](#)
- » [Competent authorities and languages accepted](#)
- » [EIO Conclusions - 48th and 49th EJN Plenary meetings 2017 in Malta and Tallinn](#)

Draft a European Investigation Order

- » [Direct access to Compendium](#)
- » [Access to the EIO forms in word versions:](#)
 - » [Judicial Atlas](#)
 - » [Fiches belges](#)
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Other useful documents which are not meant to be shared with a wider public regarding the EIO Directive can still be found in the EJN restricted access area.

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► Find concise and practical legal information on the following judicial cooperation measure

CHOOSE MEASURE



for

CHOOSE COUNTRY



Compare the above information with

CHOOSE COUNTRY



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Fiches Belges

Find concise and practical legal information on the following judicial cooperation measure

6. Places - Visit and search for Germany

Compare the above information with Poland

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Select a measure by clicking on the hyperlink

6. Places - Visit and search

[Visit to and search of homes \(601\)](#)

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Visit to and search of homes (601) ▾

Fiches Belges: Germany & Poland

Visit to and search of homes (601)

1. MEASURE IMPLEMENTATION

Germany	Poland
Is this measure possible in your Member State under International Judicial Cooperation?	
Yes. A search of the dwellings and other rooms of a person suspected of being a perpetrator of or participant in a criminal offence can be made both for the purpose of apprehending as well as in cases where it may be assumed that evidence could be found. For other persons, searches are only permissible for the purpose of apprehending a suspect or of pursuing traces of a criminal offence or of seizing certain objects and only if it can be expected that the person or the evidence is within the premises to be searched.	Yes; On the grounds of Article 219 § 1 of the Code of Criminal Procedure, in order to detect or detain, or to ensure the compulsory appearance of a suspected person, as well as to find objects that might serve as evidence for the case or are liable to sequestration in criminal proceedings, it is possible to search premises and other places, if there exist justified grounds to assume that suspected persons or mentioned objects are located there. A search may cover premises, means of transportation, open places, a person, his/her clothes and personal objects.

2. LEGAL FRAMEWORK

Germany	Poland
International legal framework applicable for this measure in your Member State	
Directive regarding the European Investigation Order in criminal matters in relation to Member States which have implemented the Directive For the Member States which have not implemented the afore mentioned Directive and for measures not covered by the EIO: European Convention on mutual assistance in criminal matters of 20th April 1959 (art. 3 ff.) and its additional Protocol of 17th March 1978	1. CoE 1959 Convention on Mutual Legal Assistance , 2. EU 2000 Convention on Mutual Legal Assistance

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3. COMPETENT AUTHORITY TO:

<i>Germany</i>	<i>Poland</i>
* receive the request/decision for judicial cooperation	
public prosecution office	1. Ministry of Justice in Warsaw; Declaration contained in a letter from the Minister of Foreign Affairs of Poland, handed over to the Secretary General at the time of deposit of the instrument of ratification, on 19 March 1996 - Or. Pol./Engl. For the purposes of the Convention, the public prosecutor's offices shall be also deemed to be "judicial authorities" (art.24 CoE 1959) ;Declaration contained in a letter from the Minister of Foreign Affairs of Poland, handed over to the Secretary General at the time of deposit of the instrument of ratification, on 19 March 1996 - Or. Pol./Engl. When the letters rogatory are addressed directly to the judicial authorities, a copy of these letters rogatory shall be transmitted to the Ministry of Justice.[Note by the Secretariat: See also the declaration made by Poland to Article 4 of the Second Additional Protocol to the Convention (ETS No. 182), on 9 October 2003.] 2. District or Appellate Prosecutor's Offices - during the pre-trial stage , District Courts -during the judicial stage
* execute/recognise the measure (if other than the receiving authority)	
N/A	courts and prosecutor's offices competent depending on both stage of the criminal proceeding and geographical location of the house/other place to be search ,

4. ACCEPTED LANGUAGES

<i>Germany</i>	<i>Poland</i>
Accepted languages for the request/decision	
In the respective language with a German translation (required), unless a bilateral waiver of translation has been agreed upon	1. article 16 CoE Convention on Mutual Legal Assistance - Declaration contained in a letter from the Minister of Foreign Affairs of Poland, handed over to the Secretary General at the time of deposit of the instrument of ratification, on 19 March 1996 - Or. Pol./Engl. The requests and other documents being transmitted shall be accompanied by a translation into the Polish language or into an official language of the Council of Europe;

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Pol./Engl. The requests and other documents being transmitted shall be accompanied by a translation into the Polish language or into an official language of the Council of Europe;

5. EXECUTION DEADLINE

<i>Germany</i>	<i>Poland</i>
Deadlines for the execution of the request/decision (where applicable)	
None	N/A

6. CONCISE LEGAL PRACTICAL INFORMATION

<i>Germany</i>	<i>Poland</i>
a. Special requirements	
The competent body to authorize the measure is the judge. A search warrant of the summary judge is normally absolutely required. Only in cases of risk that further delay would lead to loss the evidence, the public prosecution office or police officers are authorized to order the search.	1. article 5 of the CoE 1959 Convention on Mutual Legal Assistance in Criminal Matters- Reservation contained in a letter from the Minister of Foreign Affairs of Poland, handed over to the Secretary General at the time of deposit of the instrument of ratification, on 19 March 1996 - Or. Pol./Engl. The Republic of Poland reserves the right to make the execution of letters rogatory for search or seizure of property dependent on the conditions mentioned in Article 5, paragraph 1 (a) (b) (c) of the Convention.
b. Other useful information	
N/A	Assistance or participation of agents of the requesting State in the execution of the measure is possible under the condition of filing a request to the central authority of the requested State for legal assistance in a criminal matter and for the authorisation of the participation of competent agents in the action in connection with legal proceedings, and of obtaining such an authorisation. They may participate in the operation in the character of observers. The observers cannot be marked as "POLICE" or in other way, cannot have or use guns or other type of weapon

Article 34 EIO Directive

(Relation to other legal instruments, agreements and arrangements)

European Convention on Mutual Assistance in Criminal Matters of the Council of Europe of 20 April 1959 + its two additional protocols + bilateral agreements concluded pursuant to Article 26 thereof

Convention implementing the Schengen Agreement

Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 + its protocol

Framework Decision 2008/978/JHA on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters

Framework Decision 2003/577/JHA (as regard freezing of evidence) on the execution in the European Union of orders freezing property or evidence

Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters
(with respect to the scope of the EIO Directive see also Article 3 and 34 paragraph 3 EIO Directive)

Article 36 paragraph 1 EIO Directive (Transposition):
„Member States shall take the necessary measures to comply with this Directive by 22 May 2017“

Conditions for Issuing an EIO

- **Article 1 of the EIO Directive**

- **Article 5 of the EIO Directive**

- **Article 4 of the EIO Directive**

- **Article 6 of the EIO Directive (Conditions for issuing and transmitting an EIO)**

1. The issuing authority may only issue an EIO where the following conditions have been met:

(a) the issuing of the EIO is necessary and proportionate for the purpose of the proceedings referred to in Article 4 taking into account the rights of the suspected or accused person; and

(b) the investigative measure(s) indicated in the EIO could have been ordered under the same conditions in a similar domestic case.

2. The conditions referred to in paragraph 1 shall be assessed by the issuing authority in each case.

3. Where the executing authority has reason to believe that the conditions referred to in paragraph 1 have not been met, it may consult the issuing authority on the importance of executing the EIO. After that consultation the issuing authority may decide to withdraw the EIO.

Conditions for recognition and execution of an EIO

Article 9 (Recognition and execution)

1. The executing authority shall recognise an EIO, transmitted in accordance with this Directive, without any further formality being required, and ensure its execution in the same way and under the same modalities as if the investigative measure concerned had been ordered by an authority of the executing State, unless that authority decides to invoke one of the grounds for non-recognition or non-execution or one of the grounds for postponement provided for in this Directive.
2. The executing authority shall comply with the formalities and procedures expressly indicated by the issuing authority unless otherwise provided in this Directive and provided that such formalities and procedures are not contrary to the fundamental principles of law of the executing State.
3. Where an executing authority receives an EIO which has not been issued by an issuing authority as specified in Article 2(c), the executing authority shall return the EIO to the issuing State.
4. The issuing authority may request that one or more authorities of the issuing State assist in the execution of the EIO in support to the competent authorities of the executing State to the extent that the designated authorities of the issuing State would be able to assist in the execution of the investigative measures indicated in the EIO in a similar domestic case. The executing authority shall comply with this request provided that such assistance is not contrary to the fundamental principles of law of the executing State or does not harm its essential national security interests.
5. The authorities of the issuing State present in the executing State shall be bound by the law of the executing State during the execution of the EIO. They shall not have any law enforcement powers in the territory of the executing State, unless the execution of such powers in the territory of the executing State is in accordance with the law of the executing State and to the extent agreed between the issuing authority and the executing authority.
6. The issuing authority and executing authority may consult each other, by any appropriate means, with a view to facilitating the efficient application of this Article.

Grounds for non-recognition or non-execution

Article 11 EIO Directive (Grounds for non-recognition or non-execution)

1. Without prejudice to Article 1(4), recognition or execution of an EIO may be refused in the executing State where:
 - (a) there is an immunity or a privilege under the law of the executing State which makes it impossible to execute the EIO or there are rules on determination and limitation of criminal liability relating to freedom of the press and freedom of expression in other media, which make it impossible to execute the EIO;
 - (b) in a specific case the execution of the EIO would harm essential national security interests, jeopardise the source of the information or involve the use of classified information relating to specific intelligence activities;
 - (c) the EIO has been issued in proceedings referred to in Article 4(b) and (c) and the investigative measure would not be authorised under the law of the executing State in a similar domestic case;
 - (d) the execution of the EIO would be contrary to the principle of ne bis in idem;
 - (e) the EIO relates to a criminal offence which is alleged to have been committed outside the territory of the issuing State and wholly or partially on the territory of the executing State, and the conduct in connection with which the EIO is issued is not an offence in the executing State;
 - (f) there are substantial grounds to believe that the execution of the investigative measure indicated in the EIO would be incompatible with the executing State's obligations in accordance with Article 6 TEU and the Charter;
 - (g) the conduct for which the EIO has been issued does not constitute an offence under the law of the executing State, unless it concerns an offence listed within the categories of offences set out in Annex D, as indicated by the issuing authority in the EIO, if it is punishable in the issuing State by a custodial sentence or a detention order for a maximum period of at least three years; or
 - (h) the use of the investigative measure indicated in the EIO is restricted under the law of the executing State to a list or category of offences or to offences punishable by a certain threshold, which does not include the offence covered by the EIO.
2. Paragraphs 1(g) and 1(h) do not apply to investigative measures referred to in Article 10(2).
3. authority shall not refuse recognition or execution on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain a tax, duty, customs and exchange regulation of the same kind as the law of the issuing State.
4. In the cases referred to in points (a), (b), (d), (e) and (f) of paragraph 1 before deciding not to recognise or not to execute an EIO, either in whole or in part the executing authority shall consult the issuing authority, by any appropriate means, and shall, where appropriate, request the issuing authority to supply any necessary information without delay.
5. In the case referred to in paragraph 1(a) and where power to waive the privilege or immunity lies with an authority of the executing State, the executing authority shall request it to exercise that power forthwith. Where power to waive the privilege or immunity lies with an authority of another State or international organisation, it shall be for the issuing authority to request the authority concerned to exercise that power.“

Proportionality

Recital 11 EIO Directive:

“The EIO should be chosen where the execution of an investigative measure seems proportionate, adequate and applicable to the case in hand. The issuing authority should therefore ascertain whether the evidence sought is necessary and proportionate for the purpose of the proceedings, whether the investigative measure chosen is necessary and proportionate for the gathering of the evidence concerned, and whether, by means of issuing the EIO, another Member State should be involved in the gathering of that evidence. The same assessment should be carried out in the validation procedure, where the validation of an EIO is required under this Directive. The execution of an EIO should not be refused on grounds other than those stated in this Directive. However the executing authority should be entitled to opt for a less intrusive investigative measure than the one indicated in an EIO if it makes it possible to achieve similar results.”

Recital 12 EIO Directive:

„When issuing an EIO the issuing authority should pay particular attention to ensuring full respect for the rights as enshrined in Article 48 of the Charter of Fundamental Rights of the European Union (the Charter). The presumption of innocence and the rights of defence in criminal proceedings are a cornerstone of the fundamental rights recognised in the Charter within the area of criminal justice. Any limitation of such rights by an investigative measure ordered in accordance with this Directive should fully conform to the requirements established in Article 52 of the Charter with regard to the necessity, proportionality and objectives that it should pursue, in particular the protection of the rights and freedoms of others.“

Proportionality

Article 6 EIO Directive (Conditions for issuing and transmitting an EIO):

Article 6 paragraph 1 letter (a) and paragraph 3 EIO Directive:

„1. The issuing authority may only issue an EIO where the following conditions have been met (a) the issuing of an EIO is necessary and proportionate for the purpose of the proceeding referred to in Article 4 taking into account the rights of the suspected or accused person; and [...] 3. Where the executing authority has reason to believe that the conditions referred to in paragraph 1 have not been met, it may consult the issuing authority on the importance of executing the EIO. After that consultation the issuing authority may decide to withdraw the EIO.“

Article 10 EIO Directive (Recourse to a different type of investigative measure):

„[...] 3. The executing authority may also have recourse to an investigative measure other than that indicated in the EIO where the investigative measure selected by the executing authority would achieve the same result by less intrusive means than the investigative measure indicated in the EIO. [...]“

Article 11 EIO Directive (Grounds for non-recognition or non-execution):

„1. Without prejudice to Article 1(4), recognition or execution of an EIO may be refused in the executing State where: [...] (f) there are substantial grounds to believe that the execution of the investigative measure indicated in the EIO would be incompatible with the executing State's obligations in accordance with Article 6 TEU and the Charter; [...] (h) the use of the investigative measure indicated in the EIO is restricted under the law of the executing State to a list or category of offences or to offences punishable by a certain threshold, which does not include the offence covered by the EIO. [...]“

● Extracts from Conclusion of Plenary meeting of the EJC concerning the practical application of the EIO dated 8 December 2017 :

“[...] It was nevertheless acknowledged that execution could be refused in exceptional cases. [...] One reason mentioned for why the executing authority might raise the questions of proportionality and necessity is that the description of the offence sometimes is not detailed enough or the requested investigative measure is too wide and difficult to justify or not concretely described to make proper assessment. Member States stressed that the requested measures has to be relevant and no “phishing expeditions” are allowed. [...]“

Examples of investigative measures covered by the EIO Directive

Article 10 (Recourse to a different type of investigative measure)

1. The executing authority shall have, wherever possible, recourse to an investigative measure other than that provided for in the EIO where:

- (a) the investigative measure indicated in the EIO does not exist under the law of the executing State; or
- (b) the investigative measure indicated in the EIO would not be available in a similar domestic case.

2. **Without prejudice to Article 11, paragraph (1) does not apply to the following investigative measures, which always have to be available under the law of the executing State:**

- (a) the obtaining of information or evidence which is already in the possession of the executing authority and the information or evidence could have been obtained, in accordance with the law of the executing State, in the framework of criminal proceedings or for the purposes of the EIO;
- (b) the obtaining of information contained in databases held by police or judicial authorities and directly accessible by the executing authority in the framework of criminal proceedings;
- (c) the hearing of a witness, expert, victim, suspected or accused person or third party in the territory of the executing State;
- (d) any non-coercive investigative measure as defined under the law of the executing State;
- (e) the identification of persons holding a subscription of a specified phone number or IP address.

3. The executing authority may also have recourse to an investigative measure other than that indicated in the EIO where the investigative measure selected by the executing authority would achieve the same result by less intrusive means than the investigative measure indicated in the EIO.

4. When the executing authority decides to avail itself of the possibility referred to in paragraphs 1 and 3, it shall first inform the issuing authority, which may decide to withdraw or supplement the EIO.

5. Where, in accordance with paragraph 1, the investigative measure indicated in the EIO does not exist under the law of the executing State or it would not be available in a similar domestic case and where there is no other investigative measure which would have the same result as the investigative measure requested, the executing authority shall notify the issuing authority that it has not been possible to provide the assistance requested.

Examples of investigative measures covered by the EIO Directive

Article 22 (Temporary transfer to the issuing State of persons held in custody for the purpose of carrying out an investigative measure)

1. An EIO may be issued for the temporary transfer of a person in custody in the executing State for the purpose of carrying out an investigative measure with a view to gathering evidence for which the presence of that person on the territory of the issuing State is required, provided that he shall be sent back within the period stipulated by the executing State.

2. In addition to the grounds for non-recognition or non-execution referred to in Article 11 the execution of the EIO may also be refused if:

(a) the person in custody does not consent; or

(b) the transfer is liable to prolong the detention of the person in custody.

3. Without prejudice to paragraph 2(a), where the executing State considers it necessary in view of the person's age or physical or mental condition, the opportunity to state the opinion on the temporary transfer shall be given to the legal representative of the person in custody. 1.5.2014 L 130/15 Official Journal of the European Union EN (1) Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008, p. 60).

4. – 10. [...]

Article 23 (Temporary transfer to the executing State of persons held in custody for the purpose of carrying out an investigative measure)

1. An EIO may be issued for the temporary transfer of a person held in custody in the issuing State for the purpose of carrying out an investigative measure with a view to gathering evidence for which his presence on the territory of the executing State is required.

2. Paragraph 2(a) and paragraphs 3 to 9 of Article 22 are applicable mutatis mutandis to the temporary transfer under this Article.

3. Costs resulting from the application of this Article shall be borne in accordance with Article 21, except for the costs arising from the transfer of the person concerned to and from the executing State which shall be borne by the issuing State.

Examples of investigative measures covered by the EIO Directive

Article 24 (Hearing by videoconference or other audiovisual transmission)

1. Where a person is in the territory of the executing State and has to be heard as a witness or expert by the competent authorities of the issuing State, the issuing authority may issue an EIO in order to hear the witness or expert by videoconference or other audiovisual transmission in accordance with paragraphs 5 to 7. The issuing authority may also issue an EIO for the purpose of hearing a suspected or accused person by videoconference or other audiovisual transmission.
2. **In addition to the grounds for non-recognition or non-execution referred to in Article 11, execution of an EIO may be refused if either:**
 - (a) the suspected or accused person does not consent; or**
 - (b) the execution of such an investigative measure in a particular case would be contrary to the fundamental principles of the law of the executing State.**
3. – 7. [...]

Article 25 (Hearing by telephone conference)

1. If a person is in the territory of one Member State and has to be heard as a witness or expert by competent authorities of another Member State, the issuing authority of the latter Member State may, where it is not appropriate or possible for the person to be heard to appear in its territory in person, and after having examined other suitable means, issue an EIO in order to hear a witness or expert by telephone conference as provided for in paragraph 2.
2. Unless otherwise agreed, Article 24(3), (5), (6) and (7) shall apply mutatis mutandis to hearings by telephone conference.

Examples of investigative measures covered by the EIO Directive

Article 26 (Information on bank and other financial accounts)

1. An EIO may be issued in order to determine whether any natural or legal person subject to the criminal proceedings concerned holds or controls one or more accounts, of whatever nature, in any bank located in the territory of the executing State, and if so, to obtain all the details of the identified accounts.
2. Each Member State shall take the measures necessary to enable it to provide the information referred to in paragraph 1 in accordance with the conditions under this Article.
3. The information referred to in paragraph 1 shall also, if requested in the EIO, include accounts for which the person subject to the criminal proceedings concerned has powers of attorney.
4. The obligation set out in this Article shall apply only to the extent that the information is in the possession of the bank keeping the account.
5. In the EIO the issuing authority shall indicate the reasons why it considers that the requested information is likely to be of substantial value for the purpose of the criminal proceedings concerned and on what grounds it presumes that banks in the executing State hold the account and, to the extent available, which banks may be involved. It shall also include in the EIO any information available which may facilitate its execution.
6. An EIO may also be issued to determine whether any natural or legal person subject to the criminal proceedings concerned holds one or more accounts, in any non-bank financial institution located on the territory of the executing State. Paragraphs 3 to 5 shall apply mutatis mutandis. **In such case and in addition to the grounds for non-recognition and non-execution referred to in Article 11, the execution of the EIO may also be refused if the execution of the investigative measure would not be authorised in a similar domestic case.**

Examples of investigative measures covered by the EIO Directive

Article 27 (Information on banking and other financial operations)

An EIO may be issued in order to obtain the details of specified bank accounts and of banking operations which have been carried out during a defined period through one or more accounts specified therein, including the details of any sending or recipient account.

Each Member State shall take the measures necessary to enable it to provide the information referred to in paragraph 1 in accordance with the conditions under this Article.

The obligation set out in this Article shall apply only to the extent that the information is in the possession of the bank in which the account is held. 1.5.2014 L 130/18 Official Journal of the European Union EN

In the EIO the issuing authority shall indicate the reasons why it considers the requested information relevant for the purpose of the criminal proceedings concerned.

An EIO may also be issued with regard to the information provided for in paragraph 1 with reference to the financial operations conducted by non-banking financial institutions. Paragraphs 3 to 4 shall apply mutatis mutandis. Article 27 Information on banking and other financial operations 1. An EIO may be issued in order to obtain the details of specified bank accounts and of banking operations which have been carried out during a defined period through one or more accounts specified therein, including the details of any sending or recipient account. 2. Each Member State shall take the measures necessary to enable it to provide the information referred to in paragraph 1 in accordance with the conditions under this Article. 3. The obligation set out in this Article shall apply only to the extent that the information is in the possession of the bank in which the account is held. 1.5.2014 L 130/18 Official Journal of the European Union EN

4. In the EIO the issuing authority shall indicate the reasons why it considers the requested information relevant for the purpose of the criminal proceedings concerned.

5. An EIO may also be issued with regard to the information provided for in paragraph 1 with reference to the financial operations conducted by non-banking financial institutions. Paragraphs 3 to 4 shall apply mutatis mutandis. **In such case and in addition to the grounds for non-recognition and non-execution referred to in Article 11, the execution of the EIO may also be refused where the execution of the investigative measure would not be authorised in a similar domestic case.**

Examples of investigative measures covered by the EIO Directive

Article 28 (Investigative measures implying the gathering of evidence in real time, continuously and over a certain period of time)

1. When the EIO is issued for the purpose of executing an investigative measure requiring the gathering of evidence in real time, continuously and over a certain period of time, such as:
 - (a) the monitoring of banking or other financial operations that are being carried out through one or more specified accounts;
 - (b) the **controlled deliveries** on the territory of the executing State; **its execution may be refused, in addition to the grounds for non-recognition and non-execution referred to in Article 11, if the execution of the investigative measure concerned would not be authorised in a similar domestic case.**
2. The practical arrangements regarding the investigative measure referred to in paragraph 1(b) and wherever else necessary shall be agreed between the issuing State and the executing State.
3. The issuing authority shall indicate in the EIO why it considers the information requested relevant for the purpose of the criminal proceedings concerned.
4. The right to act, to direct and to control operations related to the execution of an EIO referred to in paragraph 1 shall lie with the competent authorities of the executing State.

Examples of investigative measures covered by the EIO Directive

Article 29 (Covert investigations)

1. An EIO may be issued for the purpose of requesting the executing State to assist the issuing State in the conduct of investigations into crime by officers acting under covert or false identity ('covert investigations').
2. The issuing authority shall indicate in the EIO why it considers that the covert investigation is likely to be relevant for the purpose of the criminal proceedings. The decision on the recognition and execution of an EIO issued under this Article shall be taken in each individual case by the competent authorities of the executing State with due regard to its national law and procedures.
3. **In addition to the grounds for non-recognition and non-execution referred to in Article 11, the executing authority may refuse to execute an EIO referred to in paragraph 1, where:**
 - (a) the execution of the covert investigation would not be authorised in a similar domestic case; or**
 - (b) it was not possible to reach an agreement on the arrangements for the covert investigations under paragraph 4.**
4. Covert investigations shall take place in accordance with the national law and procedures of the Member State on the territory of which the covert investigation takes place. The right to act, to direct and to control the operation related to the covert investigation shall lie solely with the competent authorities of the executing State. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the issuing State and the executing State with due regard to their national laws and procedures.

Examples of investigative measures covered by the EIO Directive

Article 30 (Interception of telecommunications with technical assistance of another Member State)

1. An EIO may be issued for the interception of telecommunications in the Member State from which technical assistance is needed.
2. Where more than one Member State is in a position to provide the complete necessary technical assistance for the same interception of telecommunications, the EIO shall be sent only to one of them. Priority shall always be given to the Member State where the subject of the interception is or will be located.
3. An EIO referred to in paragraph 1 shall also contain the following information:
 - (a) information for the purpose of identifying the subject of the interception;
 - (b) the desired duration of the interception; and
 - (c) sufficient technical data, in particular the target identifier, to ensure that the EIO can be executed.
4. The issuing authority shall indicate in the EIO the reasons why it considers the indicated investigative measure relevant for the purpose of the criminal proceedings concerned.
5. **In addition to the grounds for non-recognition or non-execution referred to in Article 11, the execution of an EIO referred to in paragraph 1 may also be refused where the investigative measure would not have been authorised in a similar domestic case. The executing State may make its consent subject to any conditions which would be observed in a similar domestic case.**
6. An EIO referred to in paragraph 1 may be executed by:
 - (a) transmitting telecommunications immediately to the issuing State; or
 - (b) intercepting, recording and subsequently transmitting the outcome of interception of telecommunications to the issuing State. The issuing authority and the executing authority shall consult each other with a view to agreeing on whether the interception is carried out in accordance with point (a) or (b).
7. When issuing an EIO referred to in paragraph 1 or during the interception, the issuing authority may, where it has a particular reason to do so, also request a transcription, decoding or decrypting of the recording subject to the agreement of the executing authority.
8. Costs resulting from the application of this Article shall be borne in accordance with Article 21, except for the costs arising from the transcription, decoding and decrypting of the intercepted communications which shall be borne by the issuing State.

Examples of investigative measures covered by the EIO Directive

Article 31 (Notification of the Member State where the subject of the interception is located from which no technical assistance is needed)

1. Where, for the purpose of carrying out an investigative measure, the interception of telecommunications is authorised by the competent authority of one Member State (the 'intercepting Member State') and the communication address of the subject of the interception specified in the interception order is being used on the territory of another Member State (the 'notified Member State') from which no technical assistance is needed to carry out the interception, the intercepting Member State shall notify the competent authority of the notified Member State of the interception:
 - (a) prior to the interception in cases where the competent authority of the intercepting Member State knows at the time of ordering the interception that the subject of the interception is or will be on the territory of the notified Member State;
 - (b) during the interception or after the interception has been carried out, immediately after it becomes aware that the subject of the interception is or has been during the interception, on the territory of the notified Member State. 1.5.2014 L 130/20 Official Journal of the European Union EN
2. The notification referred to in paragraph 1 shall be made by using the form set out in **Annex C**.
3. The competent authority of the notified Member States may, in case where the interception would not be authorised in a similar domestic case, notify, without delay and at the latest within 96 hours after the receipt of the notification referred to in paragraph 1, the competent authority of the intercepting Member State:
 - (a) that the interception may not be carried out or shall be terminated; and
 - (b) where necessary, that any material already intercepted while the subject of the interception was on its territory may not be used, or may only be used under conditions which it shall specify. The competent authority of the notified Member State shall inform the competent authority of the intercepting Member State of reasons justifying those conditions.
4. Article 5(2) shall be applicable mutatis mutandis for the notification referred to in paragraph 2.

Examples of investigative measures covered by the EIO Directive

Article 32 (Provisional measures)

1. The issuing authority may issue an EIO in order to take any measure with a view to provisionally preventing the destruction, transformation, removal, transfer or disposal of an item that may be used as evidence.
2. The executing authority shall decide and communicate the decision on the provisional measure as soon as possible and, wherever practicable, within 24 hours of receipt of the EIO.
3. Where a provisional measure referred to in paragraph 1 is requested the issuing authority shall indicate in the EIO whether the evidence is to be transferred to the issuing State or is to remain in the executing State. The executing authority shall recognise and execute the EIO and transfer the evidence in accordance with the procedures laid down in this Directive.
4. Where, in accordance with paragraph 3, an EIO is accompanied by an instruction that the evidence shall remain in the executing State, the issuing authority shall indicate the date of lifting the provisional measure referred to in paragraph 1, or the estimated date for the submission of the request for the evidence to be transferred to the issuing State.
5. After consulting the issuing authority, the executing authority may, in accordance with its national law and practice, lay down appropriate conditions in light of the circumstances of the case to limit the period for which the provisional measure referred to in paragraph 1 is to be maintained. If, in accordance with those conditions, it envisages lifting the provisional measure, the executing authority shall inform the issuing authority, which shall be given the opportunity to submit its comments. The issuing authority shall forthwith notify the executing authority that the provisional measure referred to in paragraph 1 has been lifted.

EIOs for multiple individual and measures

Article 1 paragraph 1 EIO Directive (The European Investigation Order and obligation to execute it):

„1. A European Investigation Order (EIO) is a judicial decision which has been issued or validated by a judicial authority of a Member State ('the issuing State') to have one or several specific investigative measure(s) carried out in another Member State ('the executing State') to obtain evidence in accordance with this Directive. [...]"

Extracts from Conclusion of Plenary meeting of the EJC concerning the practical application of the EIO dated 8 December 2017:

„[...] Participants agreed that it is the responsibility of the Executing Member State to ensure that all relevant national authorities are timely involved in accordance with the law of that State. In principle it was agreed that when multiple measures are requested, practitioners should include all of them in one EIO. It was also clarified that in case of freezing and/or confiscation of instrumentalities and proceeds of crime, practitioners should continue to issue the respective Freezing or Confiscation Order. If other investigative measures falling within the scope of the EIO are necessary, then these will have to be sent in a separate EIO form [...]"

**Thank you very much
for your kind attention!**