

Applying the European Investigation Order (EIO)

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Practicalities

- ▶ **Greece implemented the EIO on 21 September 2017 (Law 4489/2017)**
- ▶ **The relevant provisions can be found in Greek and English at the EJM website**

The Greek experience so far

- ▶ **Greece as issuing Member State**
- ▶ **Greece as executing Member State**



Greece as issuing MS *-who issues ?*

- (i) A judge, a court, an investigative judge or a public prosecutor competent in the case

- (ii) Any other competent authority acting as an investigating authority in criminal proceedings with competence to order the gathering of evidence (e.g. police, customs), only if ratified by the Prosecutor of First Instance in charge

Greece as issuing MS

-when to issue ?

- (i) During the main court proceedings, if the court adjourns hearing in order for stronger evidence to be produced - the court issues the EIO
- (ii) During the main investigation - the investigative judge issues the EIO
- (iii) During preliminary investigation, after criminal prosecution has initiated - the magistrate, peace judge, Prosecutor at the First Instance or any other investigative officer issues the EIO

Greece as issuing MS -when to issue ?

(iv) During preliminary investigation, before the initiation of criminal proceedings - the magistrate, police e.t.c. issues the EIO

EIO not issued for summoning, service of legal documents and criminal decisions or orders

Greece as issuing MS -transmission?

- ▶ Direct transmission to the executing MS
- ▶ The issuing authorities can now act with autonomy with no involvement of the PPO at the Court of Appeal
- ▶ EJM Atlas is always used to identify the competent executing authority and establish direct communication



Greece as executing MS

- ▶ The territorially competent Public Prosecutor at the Court of Appeal shall receive and decide on the recognition/execution of the EIO
- ▶ There are 19 PPOs at the Court of Appeal in Greece
- ▶ If the EIO is dully recognized, the PPO will order an investigative judge to proceed to its execution within the applicable time limits

Greece as executing MS

- ▶ EJN always used to establish direct communication and solve any problems with the issuing MS
- ▶ Greece has not denied execution of an EIO on proportionality considerations (same approach as with the EAW)
- ▶ Legal remedies may be filled - shall not suspend execution of the EIO, unless explicitly provided in the Greek law (no experience so far)



Novelties

- ▶ Greece under the EIO provisions can arrange a hearing by videoconference or other audiovisual transmission
- ▶ Not a possible investigative measure before (MLA 2000 not implemented)
- ▶ Temporary transfers of persons held in custody for EIO purposes has become easier



Problematic Areas

- ▶ Difficulties in gathering of evidence in real time
- ▶ Not the appropriate infrastructure in Greece and other MS
- ▶ E-evidence still a “grey” area - the proposed regulation/directive might solve some problems

So far...so good?

- ▶ EAW 10 years ago vs today
- ▶ EIO in 10 years time?



Thank you for your patience!!

