

European Investigation Order in the Criminal Procedure Law of Latvia

Maija Andrijauska

International Cooperation Division

Prosecutor's General Office of the Republic of Latvia



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Directive 2014/41/EU regarding the European
Investigation Order in criminal matters of 3
April 2014

Implemented with the amendments made on 30 March
2017 to the Criminal Procedure Law

In force since 26 April 2017

In practical use since 23 May 2017





European Investigation Order

Latvian authorities competent to issue EIO

INVESTIGATING INSTITUTIONS

(VALIDATION BY PROSECUTOR IS NEEDED)

State Police

Corruption Prevention and Combating
Bureau (KNAB)

Tax and Customs Police Department

State Security Service

State Borderguard

Latvian Prison Administration

Internal Security Bureau

Military Police

PROSECUTION
OFFICES

COURTS



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Issuing an EIO in Latvia (1/3)

1. During the investigation stage:

- **investigator completes the EIO form** (before that all necessary procedure actions, e.g. obtaining court orders, etc., should have been carried out)
- **supervising prosecutor within 5 working days validates the EIO**
- **validated and translated EIO should be sent to the competent authority (Prosecutor's General Office, State Police)**
- **competent authority sends EIO to the relevant executing state**



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Issuing an EIO in Latvia (2/3)

2. During the prosecution stage:

- prosecutor completes and validates the EIO by him/herself (before that all necessary procedure actions - obtaining court orders, etc., should be carried out)
- translated EIO should be sent to the Prosecutor General's Office
- Prosecutor General's Office sends EIO to the relevant executing state



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Issuing an EIO in Latvia (3/3)

3. During the trial stage:

- judge (court) completes and validates the EIO by themselves (before that all necessary procedure actions - obtaining court orders, etc., should be carried out)
- using the EJN web-site, judge finds out the competent authority and transmits EIO directly
- if cannot find - sends EIO via Ministry of Justice



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Competent authorities for transmitting

Pre-trial stage:

State Police (*only for the criminal proceedings handled by State Police divisions*)

Prosecutor's General Office

**DIRECT TRANSMISSION OF EIO IS NOT ACCEPTED IN
THE PRE-TRIAL STAGE!**

(direct communication between authorities during the execution is appreciated)

Trial stage:

Court (direct transmission!)

Ministry of Justice



European Investigation Order

Multiple individuals and measures

«Freedom of style»

EIO Directive defines EIO as a judicial decision which has been issued or validated by a judicial authority of a Member State to have one or several specific investigative measure(s) carried out in another Member State to obtain evidence in accordance with this Directive.

Latvian Procedure Law does not regulate this point.

Possible to issue one EIO related to various persons and measures

Up to relevant authority to decide in every particular case whether one or various EIOs would be issued (depends on the addressees, urgency, etc.)



European Investigation Order

Entitlement of a lawyer

Article 1 (3) of EIO Directive

«The issuing of an EIO may be requested by a suspected or accused person, or by a lawyer on his behalf, within the framework of applicable defence rights in conformity with national criminal procedure».

Article 66 (1) 4) of the Criminal Procedure Law

Suspect has the right to submit applications regarding the performance of investigative actions and participation thereof (i.e., to request an action that should be performed abroad, that, subsequently would require an issuing of EIO)

Accused has the same rights (Article 70)

A defence lawyer has all the rights that are held by his or her defendant in the relevant proceedings (Article 86)



European Investigation Order

Recognition and execution

Competent authorities:

Pre-trial stage - State Police and Prosecutor General's Office

Trial stage - Ministry of Justice (receives) and courts (recognize and execute)

Time frames:

recognition - as soon as possible, not later than in 30 days after EIO is received

provisional measures - 24 hours

execution - as soon as possible, no later than 90 days (in case of delay - obligation to inform issuing authority)



European Investigation Order

Proportionality

Latvia as an issuing state

Exclusive competence of competent authority to refuse sending the MLA request (i.a, EIO)

Article 867 (2¹) of the Criminal Procedure Law:

«The proposal [to send a request] may be refused if severity and nature of the criminal offence is not commensurable with expenses associated with sending the request, or it is possible to achieve the objective of criminal proceedings by other means».

Article 12 (1) of the Criminal Procedure Law:

«Criminal proceedings shall be performed in conformity with internationally recognised civil rights and without allowing for the imposition of unjustified criminal procedural duties or excessive intervention in the life of a person»



European Investigation Order

Proportionality

Latvia as an executing state

Article 875³ (2) of the Criminal Procedure Law

«Before taking a decision to recognise and execute a European Investigation Order a competent authority of Latvia shall assess whether the result indicated in the European Investigation Order can be achieved by procedural actions which require less intervention in the life of a person.

The competent authority of Latvia shall inform the competent authority of the European Union Member State regarding all considerations and, where possible, agree regarding performance of other procedural action which requires less intervention in the life of a person».



Crucial changes after EIO

➔ for Latvia as an issuing state:

- two parallel mechanisms for sending MLA requests
- no domestic decisions should be attached

➔ for Latvia as an executing state:

- decision on recognition and execution may be made in a form of resolution
- language issues

Problems to be solved:

- ▶ grounds for coercive measures sometimes are not indicated in the EIO

(2) If information on banking operations or other financial operations is requested, please indicate, for each of them, the reasons why you consider the measure relevant for the purpose of the criminal proceedings:

- information on banking operations
- information on other financial operations

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SECTION H5: Investigative measures implying the gathering of evidence in real time, continuously and over a certain period of time

If such investigative measure is requested please indicate the reasons why you consider the requested information relevant for the purpose of the criminal proceedings:

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Problems to be solved:

- ▶ difficulties to distinguish EIO from Freezing Order Certificate

Depends on purpose:

- ▶ EIO purpose is to obtain evidence →



- ▶ Freezing Order purpose is to arrest assets (money, property, etc.) in order to ensure the subsequent confiscation





Thank you for your patience and attention!

