

Applying the European Investigation Order Riga, 21-22 February 2019

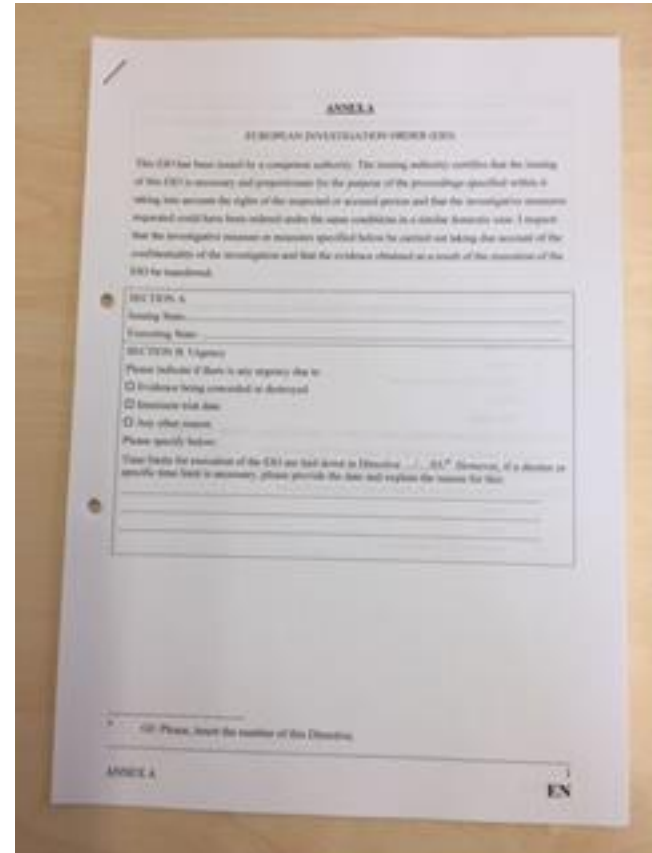
- **Specialties regarding the issuing and executing of EIOs in selected EU Member States**
- ***Austria***



Co-funded by the Justice
Programme of the European
Union 2014-2020

Specialties regarding the issuing and executing of EIOs in selected EU Member States

- EIO Directive
 - entry into force: 1 July 2018
 - trial- and error phase



Specialties regarding the issuing and executing of EIOs in selected EU Member States

- Judicial and administrative authorities under national law and validation
 - issuing authorities: Public Prosecution Services or Courts
 - validating authorities: no validation in case of EIO issued by Public Prosecutors Offices or Courts
 - executing authorities: same as receiving authorities

Specialties regarding the issuing and executing of EIOs in selected EU Member States

- Availability of direct transmission:
 - 17 PPO's / Courts of first instance
 - Central/Specific Authority:
 - serious economic crime and corruption (including misuse of official power)
„**WKSTA**“



Specialties regarding the issuing and executing of EIOs in selected EU Member States



WKStA – Structure – branch office



Specialties regarding the issuing and executing of EIOs in selected EU Member States

- □ Situations where the EIO may inhibit cooperation
 - Principle: MLA only EIO [**investigative measure**]
 - Exception:
 - DK, IE [UK?]
 - Specific measures:
 - JIT
 - Observation: police
 - Delivery of procedural documents
 - » international postal traffic
 - Obtaining criminal record information
 - » ECRIS

Specialties regarding the issuing and executing of EIOs in selected EU Member States

- □ Situations where the EIO may inhibit cooperation:
 - Grounds for non-recognition or non execution:
 - “usual suspects”: ne bis in idem; double criminality,
 - Austrian peculiarities: no telephone hearing of suspects
- □ Proportionality considerations when executing:
- exclusive assessment by requesting State

Specialties regarding the issuing and executing of EIOs in selected EU Member States

- EIOS for multiple individuals and measures
 - local jurisdiction
 - Recommendation: separate requests for multiple measures
- Entitlement to a lawyer
 - mandatory assistance by lawyer:
 - Preliminary proceedings: Detention
 - legal remedies: discretion of the judge