

## MEIOR GUIDELINES

These guidelines are the product—and the result of the findings—of the MEIOR project. The MEIOR project investigates the concepts and structures of judicial scrutiny in the context of the European Investigation Order (EIO) to identify common minimum denominators and to address existing and potential future problems. The project combines systematic research on the law and practice of judicial scrutiny of investigative measures in EIO proceedings at both national and European level with the production of practice-oriented training materials and tools that offer a comparative view on the coordinates of the relevant forms of such scrutiny. It thus responds to the demand for increased knowledge on the instrument but also for improved, more uniform and more inclusive training for all legal professionals, mindful that this can only be achieved where there is sufficient understanding of procedural structures in other Member States.

The guidelines proffered herein are meant to improve the working of the EIO instrument in light of the findings of the legal and empirical study conducted and further consultation with relevant stakeholders. These guidelines are also intended as basis for training modules, where the suggestions here made are combined with case scenarios and discussed with the stakeholders. The MEIOR research shows that stakeholders seem on certain points to have different views depending on their role: while this circumstance is *per se* normal, it is important to make sure that the different views are shared and the different perspectives (and sensitivities) find moments of confrontation. This would suggest that some common moments of trainings are organized with stakeholders covering different functions (judges, prosecutors, lawyers, police officers).

The legal and empirical studies in the different countries show that the European investigation order experience is overall positive, in that the instrument has undoubtedly improved the level of cooperation, particularly when compared against the earlier cooperation frameworks. Nonetheless the study has brought to light a number of problematic issues, that should be addressed in order to improve even further the working of the instrument.

The choice was made to focus on a restricted number of guidelines, hence selecting the issues that have appeared to be most relevant in light of the practical working of the EIO instrument. It seems appropriate to focalize the attention on some more pressing issues, instead than tackling all possible small problems and improvements concerning the instrument. So that the attention is properly prioritized over some most relevant issues.

Moreover, it should be considered that a number of valuable suggestions over further points have already been made in earlier study [add reference], and it seems appropriate to avoid overlapping with those already existing reports and documents.

## **LIST OF GUIDELINES**

- **G1: Improve indications in order to identify competent authorities in other Member States (MSs).**

The EIO is a judicial order which can be issued by a judicial authority. The concept of judicial authority is different from that of the European Arrest Warrant (EAW), in that the request for cooperation is considered to be less sensitive for rights. For the EAW the European Court of Justice made clear that the issuing of the EAW requires a double layer system – internal decision and European warrant (ECJ, 1 June 2016, C-2421/15, N.A. Bob-Dogi, ECLI:EU:C:2016:385) – and that also the European warrant must be issued and forwarded by an authority that possesses a minimum degree of independence from the executive (ECJ, 27 May 2019, C-508/18 e C-82/19 PPU, OG and PI). The same level of independence is not required for the issuing of an EIO, as the same European Court has clarified that the concepts of ‘judicial authority’ and ‘issuing authority’, “include the public prosecutor of a Member State or, more generally, the public prosecutor’s office of a Member State, regardless of any relationship of legal subordination that might exist between that public prosecutor or public prosecutor’s office and the executive of that Member State and of the exposure of that public prosecutor or public prosecutor’s office to the risk of being directly or indirectly subject to orders or individual instructions from the executive when adopting a European investigation order” (ECJ, 8 December 2020, C-584/19, A and Others, Staatsanwaltschaft Wien).

An important point concerns the need to increase the reciprocal knowledge of the authorities involved, starting from competent authorities and national contact points. Still today judicial authorities have sometimes difficulties in finding the right counterpart. Also, it is not infrequent that communicating authorities have doubts as to what kind of authority has contacted them (public prosecutor or judge). It appears therefore important to increase the reciprocal knowledge and the transparency on this point. This could be done, for instance, by increasing even more the visibility of the EJM website and of the judicial atlas (<https://www.ejm-crimjust.europa.eu/ejm2021/AtlasChooseCountry/EN>) and *fiches belges* (<https://www.ejm-crimjust.europa.eu/ejm2021/FichesBelges/EN>) there included. At the same time, it is necessary that those digital instruments – and particularly the *fiches belges* – be filled out (as not all countries) and that they be kept updated.

Also, it would be useful if the forms A and B contained direct reference to the EJM – or other relevant institutional – website, where particularly the issuing authority can find more information on the counterpart. An example of how the new form A could look like can be found here annexed (see annexed Form A). This guideline must then be tied with the following guideline G4.

- **G2: Proportionality check should be streamlined.**

One of the issues that has arisen is the control on the proportionality. This control is to be done by the issuing authority (article 6 Dir. 2014/41) and it should not be second-guessed by executing authorities. During the empirical study a number of executing authorities have stated that they are not totally indifferent to the control carried out by the issuing state,

meaning the following: although they would not refuse to execute an EIO on lack of proportionality, they would still consider if it is truly proportionate, and in some cases they might contact the issuing authorities to ask for clarifications.

While proportionality does not seem to pose any problems with regard to the execution phase, it remains nonetheless a concept quite difficult to interpret. The empirical research shows that issuing authorities have different ways to understand proportionality and how it should be assessed, and this even within the same jurisdiction. This leads to a certain level of inconsistency in the practical application, which is ultimately often lamented by defence lawyers.

In particular, what surfaced as uncertain and controversial are: a) the concept of proportionality; b) the variables to assess proportionality.

As to the first, it appears that there is at times confusion on whether proportionality of the EIO is the same as the proportionality for investigative measures to be ordered at national level. The question is whether proportionality should be measured only against the investigative/evidence-gathering measure that the authority wants to order, or whether it should also be measured against the issuing of the EIO. In this respect it appears useful to distinguish between an internal proportionality and a cross-border proportionality.

Internal proportionality is the proportionality referred to the adoption of a measure within the national domestic case. It is in other words the assessment of whether a certain investigative measure is truly necessary/useful considering the inherent features of that measure and the investigative needs. Cross-border proportionality refers instead to the need/opportunity to file a request for cooperation to another country, that is the need to have recourse to EIO.

It is suggested here to clarify the difference between internal proportionality (adoption of measure in domestic case) and cross-border proportionality (recourse to EIO). This could be done certainly at European level, although this would require a change in the European instrument. However, this could also be done by means of a spontaneous harmonization at national level, following a soft-law guideline of the European Union.

Also, the clarification of the difference between the different types of proportionality should be accompanied by a clarification - at national and European Union level – of the elements of both, that is of the parameters to take into account when assessing each type of proportionality.

With regard to “internal proportionality” the suggestion is made to take into account the intrusiveness of the measure, measured against the investigative needs, but also against the probability of obtaining a useful investigative result (that is, the probability of collecting useful/relevant information for the investigations). The intrusiveness of the investigations should be pondered clearly considering the rights that are at stake (not losing sight of each of them, and also of the right to protection of personal data).

- **G3: strengthen rules on EIO requested by the defence.**

In many countries it was observed that the defence is put at a disadvantage when requesting to file an EIO compared to the position of prosecution authorities.

In this respect, a possible suggestion could be to establish a defensive right to request an EIO. Such an option might however be perceived as too far reaching in countries, such as Belgium, where the private parties do not have a right to obtain the collection of evidence during the investigations. Moreover, the introduction of a right for the defence to have an EIO issued would lead to bypassing the same assessment of proportionality (see *supra*, G2), at least insofar as the cross-border proportionality is concerned.

Overall it would seem more appropriate to pursue a less far-reaching approach, whereby the position of the defence is strengthened without introducing a full-fledged right to have an EIO issued.

It is therefore advisable that clear duties are established for judicial authorities to refuse request coming from lawyers and clarify for what reasons (see also G2)

- **G4: Issuing authorities should indicate legal remedy in section J but in any case affirm under their responsibility that that domestic remedies against measures existent and effective.**

It is largely known that the *Gavanzov* judgments of the European Court of Justice have sparked large debate and created significant uncertainty over the issue related to the existence of adequate remedies against the measures requested with an EIO.

The logic of the EIO instrument follows the general division of labor of mutual recognition instruments, whereby the challenges for substantive reasons must be brought before the issuing State, whereas the challenges concerning the execution of the measure can be taken before the authorities of the executing authorities. The latter picture makes clear how important is the existence of adequate remedies in the issuing State and it is therefore not surprising that the issue has come to the attention of the Court of Justice.

In *Gavanzov I* (C-324/17) the Court held that *Article 5(1) of the EIO Directive, read in conjunction with Section J of the form set out in Annex A must be interpreted as meaning that the judicial authority of a Member State does not—when issuing an EIO—have to include (within s.J) a description of the legal remedies available against the issuing of a European Investigation Order.*

In *Gavanzov II* (C-852/19) the Court held that (a) *Article 14 of the EIO Directive (as read in conjunction with Article 24(7) of the Directive and Article 47 of the CFREU) must be interpreted as precluding legislation of an issuing Member State which does not provide for any legal remedy against the issuing of an EIO, the purpose of which is the carrying out of searches and seizures and/or the hearing of a witness by videoconference; and (b) Article 6 of the EIO Directive (read in conjunction with Article 47, CFREU and Article 4(3), TEU) must be interpreted as precluding the issuing (by a component authority of a Member State) of an EIO (the purpose*

*of which is the carrying out of searches and seizures and/or the hearing of a witness by videoconference) where the legislation of that Member State does not provide any legal remedy against the issuing of such an order.*

These judgements have raised significant problems, particularly with regard to the type of control that the executing authority should exercise on the justice system of the issuing authority (see also *infra* G8).

No need for executing authorities to check adequacy of internal systems of redress

- **G4.1 Clarify the concept of adequate domestic remedy against the investigative measure in the issuing State.**

As it will be clarified (*infra*, guideline G8), it should be the duty of the issuing authority to check that the internal system provides for a system of redress (that is, remedies) that is adequate and sufficient (on this, see point above). Nonetheless, such a scrutiny requires that clarity is made on what it entails to have an adequate domestic remedy against the investigative measure.

An important point is that a remedy should be a form of control by a judicial independent authority, which normally is to be understood a judge or a court (although it is not excluded that other authorities are tasked with the control, as long as they possess equivalent features of independence). The ECJ has clarified the concept of independence “entails that the authority entrusted with the prior review, first, must not be involved in the conduct of the criminal investigations in question and, second, has a neutral stance *vis-à-vis* the parties to the criminal proceedings.”(ECJ, 2 March 2021, C-746/18, H.K.).

Another point is instead more controversial, that is whether a remedy is a control *ex post*, or whether the remedy should also be considered a control *ex ante*, as in cases where a judicial authorization is given before the taking of the act. Literally speaking, remedy refers to a control *ex post*. It could however be argued that

As a minimum approach, the legislature should now clarify whether a judicial remedy is only *ex post* or also *ex ante*.

It is here suggested that remedy and *ex ante authorization* – although possibly functional equivalent – cannot be considered as synonyms. Also, it is clear that the existence of a prior judicial authorization can have a significant influence on the feature of a subsequent remedy (particularly in the sense of allowing a lighter/less tight control on the measure).

It is here however suggested that, despite the terminological difference, both controls (judicial authorization *ex ante*, or judicial remedy *ex post*) could be considered sufficient to ensure an adequate form of judicial review, as long as such judicial review is effective and carried out by an effectively independent authority.

With regard to a control *ex post*, it should be clarified whether this control – for it to be in line with the supranational case-law) should take place after the ordering of the measure, or whether it should be after the execution of the measure. In principle, when considering the

case-law of the ECtHR, the latter option would be preferable. However, in the context of the EIO, where the execution of the measure takes place in a different country, the control on the execution is preferably carried out in the executing State (for a confirmation of a similar approach, but in the context of proceedings conducted by the European Public Prosecutor: ECJ, 21 December 2023, C-281/22, G.K. and others). Consequently, it could be a sufficient form of control if the measure in the issuing State is controlled only with regard to the existence of conditions necessary for the taking/ordering of the measure – regardless of whether this control takes place before or after the execution).

- **G5.1: Establish that the expiry of deadlines of directives for reception of order and for sending materials is equivalent to refusal (unless executing authority has requested extension, or at least informed of difficulties)**
- **G5.2: Make communication to Eurojust mandatory also in the above cases.**

Very often it so happens that problems in cooperation within the EIO simply lead to the order not being issued or the follow-up not being pursued.

In this respect it would be very useful to engage the role of a body such as Eurojust. In order to improve efficiency and allow to map bilateral/multilateral problems of cooperation, it is suggested that the failure to respond within deadlines (without any communications being sent/received) should be treated as a refusal. This should be coupled with the possibility to invest Eurojust of the possibility to intervene in order to smoothen the problems. Moreover establishing a duty to communicate refusals to a central body such as Eurojust would allow to have a better understanding of the cases and reasons of failed cooperation.

- **G6: Clarify situation with regard to secrecy of proceedings**

In the almost totality of cases EIOs are filled out during the investigations. Although in all countries investigations are secrets, the regime of secrecy of the investigations differs significantly. Moreover, the differences are even greater when investigative measures are taken during the investigations, which could interfere with the fundamental rights of individuals.

These differences can raise complications at the moment of the request and recognition of EIOs. In particular, the requested authority might be uncertain as to whether it must/can notify concerned people, and maybe even the suspect. In some countries it is the case that the recognition of the EIO entails that the suspect and their lawyer be informed. This can raise significant problem with regard to the protection of confidentiality.

It is therefore here proposed that the issuing authority indicates in the request whether the ongoing proceedings are secret and to what extent they expect the secrecy to be protected. This could also be done by amending the current form A and clarifying the point over confidentiality.

- **G7: Establish ‘light’ but clear control at the moment of recognition**

Although executing authorities are aware that the proportionality controls belong to the issuing authority, it should be further emphasized that executing authorities cannot control proportionality, but they should at best raise doubts as to possible manifest breaches of proportionality, and only with regard to the magnitude of interference with fundamental rights that the requested measure would cause in the executing measure.

Clarify control on “equivalent measure” and establish that control should be carried out lightly – meaning that notion of “equivalent case” should not be interpreted strictly (eg. same category of offence v same offence).

- **G7.1. No remedies against recognition**

Only few countries provide for separate remedy against the decision of recognition. Nonetheless it should be clarified by the legislature that remedies against recognition are as such inappropriate, because they simply cause duplication and overlapping of controls without truly improving the safeguards.

- **G7.2: Improve transparency and controls on issuing authority**

One of the elements that the requested authority is supposed to control in the investigation order is whether the request comes from a competent foreign authority. Such control can at times be very simple (also in light of the larger concept of the EIO compared to the EAW), but it can nonetheless be problematic when the foreign issuing authority does not clarify its status in internal law (sometimes does not even translate its national name).

It is therefore suggested that steps are taken to allow the executing authority to control better whether request comes from a competent (and adequate) authority in light of ECJ case law. It is in particular that the issuing authority should briefly identify itself in form A. This could be done by simply amending form A, with a small addition, where the authority indicates if it belongs to the judiciary, the prosecution or to other public offices. It could also be achieved by providing that the issuing authority mentions the internet resource where more information over its status can be found.

- **G8: Clarify check of executing authority on legal remedies in the issuing state**

It should be clarified that it is only the issuing authority that is competent for checking that adequate remedies are in place in the issuing State (see also guideline G4).

Executing state should not check existence of adequate domestic remedies in issuing State. Such a control is unworkable for the executing authorities, that do not have sufficient knowledge on the system. Also, a similar control would breach the very essence of mutual trust.

Similarly to the control on proportionality, the executing authorities should not be allowed to have a say on the existence of adequate remedies, once such existence is positively checked – and asserted – by the issuing authorities.

The only possibility for the executing authorities to cast doubts is in case of clear and evident doubts, which surface from objective external evidence. In these cases it should be possible for the executing authorities to contact the issuing authorities, raising some of the doubts surfaced from the objective evidence available. Such consultations should be conducive to either: a) dispel doubts on the effective existence of adequate and sufficient remedies at domestic level in the issuing State; or b) convince the issuing authority to withdraw the EIO; or c) induce the issuing authority to file a request for preliminary ruling before the European Court of Justice.

- **G9: Response of the executing authority should be streamlined into a standardised response form to give issuing authority the necessary information to evaluate the evidence transmitted = INTRODUCTION ANNEX E**

Although the functioning of the EIO seems apparently smooth also due to the reduced number of formalities, such relaxed approach can carry inherent and hidden dangers. One such danger is the lack of information on what has happened in the executing State at the moment of executing the request. Such lack of transparency is not entirely conducive to the best administration of justice. It is also not necessarily the best prerequisite for developing mutual trust, unless mutual trust is misconstrued as blind trust, or even worse indifference.

Moreover, the empirical findings show that there is significant disparity as to the way in which results are returned to the issuing State by the executing authorities.

Lastly, it sounds rather surprising that while the instrument contains a specific form for requesting a measure (annex A) and another for acknowledging receipt (annex B), nothing is foreseen for the moment of transmission of the evidence gathered, and this despite the fact that this represents a rather crucial moment, not only to guarantee the reliability of the evidence, but also to ensure that the request has been carried out fully and accordingly to what had been requested. It is in fact not infrequent that executing authorities simply send back the results without any accompanying information, indication, or explanation.

It seems conducive to a better working of the instrument that a form is introduced for this moment of transmission of the evidence gathered. The proposal is therefore made to introduce an “annex E” in order to provide for a standardised form of transmission of the evidence collected by the executing State.

Annex E should include a minimum of elements to ensure transparency on evidence collection process in executing State (eg. legal basis, brief description of activities) (see annex).

[...]

One of the options considered was whether annex E should have different versions, depending on the type of measure executed (eg. annex E for searches, annex E for seizures, etc.). For the time being it seems unnecessary to increase the possible complications by providing for multiple versions, also because the study shows that the categorization of investigative measures is significantly different from country to country. At European standardized level it



is therefore suggested that only a general form be introduced. Nothing prevents the Member States to prepare however at internal level different forms for when they are requested of a search, a seizure, an interception, etc. (here keeping in account the internal categorization, which is the one relevant at the moment of execution of the measure, as the executing authority acts as if it was an equivalent internal case). Some standardized national forms in light of the different measures could be helpful to smoothen even more the working of the instrument in light of the suggestion here made.

[...]

- **G10: move away from control of foreign evidence on the basis of foreign law**

A crucial element to improve the working of the instrument is to ensure that there is adequate control on the lawfulness of the evidence received. Unlike the EAW, the EIO entails three moments of control, the last being at the moment of receiving/using evidence on the part of the requesting State.

States however struggle with regard to the types of control that could be carried out. Part of these struggles refer to the lack of information on the entire process of evidence gathering, and particularly on how evidence was collected in the executing State (see in this respect G9). Other struggles have to do with the more general debate on the control of unlawful evidence, which does not end to spur controversy nationally and supranationally on the parameters that should be followed and on the rationales for excluding evidence that should be adopted.

It is known that even ECtHR leaves States mostly free to adopt their own evidentiary rules. Nonetheless some points ought however to be clarified.

The first is that the issuing (receiving) state should not (be allowed to) check the legality of the evidence on the basis of whether foreign law has been respected. Such an approach can be perceived as a significant interference in the sovereignty of another State. Moreover, it could contribute to weaken the level of mutual trust between States. Lastly, and most importantly – and similarly to what is noted about a possible control on adequate remedies in the issuing State – this control is largely unworkable as the national authorities lack the required knowledge and expertise to assess the respect of foreign law.

Second, some rationales should be excluded from the reasons on which basis foreign collected evidence should be excluded. This is in particular the case for the so called disciplinary rationales, whereby evidence is excluded in order to discipline the authorities that collected the evidence wrongfully. Such a logic and control should have no place in a system of interstate cooperation – there should be no discipline exercised on foreign bodies or authorities – even less when that system is based on mutual trust.

It is advisable to establish that the control on lawfulness of foreign evidence be carried out in light of general parameters of fairness of the procedure and respect of human rights (next to the inevitable control on the reliability of the evidence). It can therefore be suggested to ensure a control on fairness and legality of evidence on the basis of general standards of human rights protection, either grounded in national or supranational principles.

**ANNEX E**

**EUROPEAN INVESTIGATION ORDER (EIO)**

This EIO has been executed by the requested competent authority. The executing authority certifies that they have executed the requested measures to the best of their abilities and in a loyal manner, and according to the indications provided here below.

**SECTION A**

Executing State:.....

Requesting State: .....

EIO number/reference/date .....

**SECTION B**

Executing authority .....

Tick the type of authority which executed (or supervised the execution of) the EIO:

- judicial authority
- \*any other competent authority as defined by the law of the issuing State

Name of representative/contact point:

.....

Address: .....

Tel. No: (country code) (area/city code).....

Fax No: (country code) (area/city code) .....

E-mail:.....

Signature of the executing authority and/or its representative certifying the content of the EIO as accurate and correct:

Name: .....

Post held (title/grade):.....

Date: .....

Official stamp (if available):

**SECTION C: Executed Measure(s)**

Please indicate here below the measures that have been executed, providing also indications as to departures from the requested formalities

**Obtaining information or evidence already in the possession of the executing authority**

Please indicate how/when the evidence was initially collected (type of investigative measure, type of crime(s) investigated, other relevant circumstance)

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Indication of number of national file (where possible)

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Judicial authorisation or supervision? Name of authority.....

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**Obtaining information contained in databases held by police or judicial authorities**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Indication of database

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**Hearing**

- witness
- expert
- suspected or accused person
- victim
- third party

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Identification of persons holding a subscription of a specified phone number or IP address**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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**Judicial authorisation or supervision? Name of authority.....**

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Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Temporary transfer of a person held in custody to the issuing State Temporary**

**transfer of a person held in custody to the executing State**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Brief description of activity carried out

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**Hearing by videoconference or other audiovisual transmission**

witness

expert

suspected or accused person

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Hearing by telephone conference**

witness

expert

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Information on bank and other financial accounts**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Information on banking and other financial operations**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Investigative measure implying the gathering of evidence in real time, continuously and over a certain period of time**

**monitoring of banking or other financial operations**

**controlled deliveries**

**other**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Covert investigation**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Interception of telecommunications**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Brief description of activity carried out (with indication if all results transmitted or only selection)

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**Provisional measure(s) to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence**

Internal name of executed measure (original and translated)

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Legal basis/bases. Please indicate the relevant provision(s) of the law

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Translation of national provision or website where translated provision can be found

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Judicial authorisation or supervision? Name of authority.....

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Brief description of activity carried out (with indication if all results transmitted or only selection)  
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**Others**

Internal name of executed measure (original and translated)  
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Legal basis/bases. Please indicate the relevant provision(s) of the law  
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Translation of national provision or website where translated provision can be found  
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Judicial authorisation or supervision? Name of authority.....  
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Brief description of activity carried out (with indication if all results transmitted or only selection)  
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**SECTION D: Non-executed measures**

Indicate whether some of the requested measures have not been executed and explain briefly why  
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**SECTION E: Secrecy/confidentiality**

Indicate whether the execution has taken place safeguarding confidentiality of the proceedings or not

- fully secret/confidential

partly secret/confidential – information given to (witness/victim/lawyer/ suspect)

.....

not confidential

Further information if needed

.....

**SECTION F: Legal remedies**

1. Please indicate if a legal remedy has been filed against the issuing of an EIO, and if so please provide further details (description of the legal remedy, including necessary steps to take and deadlines):

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.....

2. Authority in the executing State which can supply further information on procedures for seeking legal remedies in the executing State:

Name: .....

Contact person (if applicable): .....

Address: .....

Tel. No: (country code) (area/city code) .....

Fax No: (country code) (area/city code) .....

E-mail: (country code) (area/city code) .....

**SECTION J: Results transmitted**

Please enclose hereafter the results of the executed measures (with translation if necessary)

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**ANNEX A**

**EUROPEAN INVESTIGATION ORDER (EIO)**

This EIO has been issued by a competent authority. The issuing authority certifies that the issuing of this EIO is necessary and proportionate for the purpose of the proceedings specified within it taking into account the rights of the suspected or accused person and that the investigative measures requested could have been ordered under the same conditions in a similar domestic case. ~~I request that the investigative measure or measures specified below be carried out taking due account of the confidentiality of the investigation and that the evidence obtained as a result of the execution of the EIO be transferred.~~

The issuing authority also certifies that the issuing State provides for adequate judicial remedies against the requested measure.

For the drafting of the form can the issuing authority relevant information at the website of the European Judicial Network: <https://www.ejn-crimjust.europa.eu/ejn2021/Home/EN>.

<b>SECTION A</b> Issuing State:..... Executing State: .....
<b>SECTION B: Urgency</b> Please indicate if there is any urgency due to <input type="checkbox"/> Evidence being concealed or destroyed <input type="checkbox"/> Imminent trial date <input type="checkbox"/> Any other reason Please specify below: Time limits for execution of the EIO are laid down in Directive 2014/41/EU. However, if a shorter or specific time limit is necessary, please provide the date and explain the reason for this: ..... ..... .....

**SECTION C: Investigative measure(s) to be carried out**

1. Describe the assistance/investigative measure(s) required AND indicate, if applicable, if it is one of the following investigative measures:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

Obtaining information or evidence which is already in the possession of the executing authority

Obtaining information contained in databases held by police or judicial authorities

Hearing

- witness
- expert
- suspected or accused person
- victim
- third party

Identification of persons holding a subscription of a specified phone number or IP address

Temporary transfer of a person held in custody to the issuing State

Temporary transfer of a person held in custody to the executing State

Hearing by videoconference or other audiovisual transmission

- witness
- expert
- suspected or accused person

- Hearing by telephone conference
  - witness
  - expert
- Information on bank and other financial accounts
- Information on banking and other financial operations
- Investigative measure implying the gathering of evidence in real time, continuously and over a certain period of time
  - monitoring of banking or other financial operations
  - controlled deliveries
  - other
- Covert investigation
- Interception of telecommunications
- Provisional measure(s) to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence

**SECTION D: Relation to an earlier EIO**

Indicate whether this EIO supplements an earlier EIO. If applicable, provide information relevant to identify the previous EIO (the date of issue of the EIO, the authority to which it was transmitted and, if available, the date of transmission of the EIO, and reference numbers given by the issuing and executing authorities):

.....  
.....

If relevant please indicate if an EIO has already been addressed to another Member State in the same case:

.....  
.....

**SECTION E: Identity of the person concerned**

1. State all information, as far as known, regarding the identity of the (i) natural or (ii) legal person(s) concerned by the investigative measure (if more than one person is concerned, please provide the information for each person):

(i) In the case of natural person(s)

Name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number: .....

Type and number of the identity document(s) (ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address; if address not known, state the last known address:

.....

Language(s) which the person understands:

.....



(ii) In the case of legal person(s)

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Registered seat: .....

Registration number: .....

Address of the legal person: .....

Name of the legal person's representative: .....

Please describe the position the concerned person currently holds in the proceedings:

- suspected or accused person
- victim
- witness
- expert
- third party
- other (please specify) .....

2. If different from the address above, please give the location where investigative measure is to be carried out:

.....  
.....

3. Provide any other information that will assist with the execution of the EIO:

.....  
.....

**SECTION F: Type of proceedings for which the EIO is issued:**

- (a) with respect to criminal proceedings brought by, or that may be brought before, a judicial authority in respect of a criminal offence under the national law of the issuing State; or
- (b) proceedings brought by administrative authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters; or
- (c) proceedings brought by judicial authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters;
- (d) in connection with proceedings referred to in points (a), (b), and (c) which relate to offences or infringements for which a legal person may be held liable or punished in the issuing State.

**SECTION F-BIS: Secrecy/confidentiality**

Indicate whether the recognition and the execution should safeguard the confidentiality of the proceedings or not

- fully secret/confidential
- partly secret/confidential – information given to (witness/victim/lawyer/ suspect)  
.....
- not confidential

Further information if needed

.....  
.....  
.....  
.....

**SECTION G: Grounds for issuing the EIO**

**1. Summary of the facts**

Set out the reasons why the EIO is issued, including a summary of the underlying facts, a description of offences charged or under investigation, the stage the investigation has reached, the reasons for any risk factors and any other relevant information.

.....  
.....  
.....

**2. Nature and legal classification of the offence(s) for which the EIO is issued and the applicable statutory provision/code:**

.....  
.....  
.....

**3. Is the offence for which the EIO is issued punishable in the issuing State by a custodial sentence or detention order of a maximum of at least three years as defined by the law of the issuing State and included in the list of offences set out below? (please tick the relevant box)**

- participation in a criminal organisation
- terrorism
- trafficking in human beings
- sexual exploitation of children and child pornography
- illicit trafficking in narcotic drugs and psychotropic substances
- illicit trafficking in weapons, munitions and explosives
- corruption
- fraud, including that affecting the financial interests of the European Union within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests
- laundering of the proceeds of crime
- counterfeiting currency, including of the euro
- computer-related crime

- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties
- facilitation of unauthorised entry and residence
- murder, grievous bodily injury
- illicit trade in human organs and tissue
- kidnapping, illegal restraint and hostage-taking
- racism and xenophobia
- organised or armed robbery
- illicit trafficking in cultural goods, including antiques and works of art
- swindling
- racketeering and extortion
- counterfeiting and piracy of products
- forgery of administrative documents and trafficking therein
- forgery of means of payment
- illicit trafficking in hormonal substances and other growth promoters
- illicit trafficking in nuclear or radioactive materials
- trafficking in stolen vehicles
- rape
- arson
- crimes within the jurisdiction of the International Criminal Court
- unlawful seizure of aircraft/ships
- sabotage

**SECTION H: Additional requirements for certain measures**

Fill out the sections relevant to the investigative measure(s) requested:

**SECTION H1: Transfer of a person held in custody**

(1) If a temporary transfer to the issuing State of a person held in custody for the purpose of the investigation is requested, please indicate whether the person consented to this measure:

- Yes                       No                       I request that the person's consent is sought

(2) If a temporary transfer to the executing State of a person held in custody for the purpose of investigation is requested, please indicate whether the person consented to this measure:

- Yes                       No

**SECTION H2: Video or telephone conference or other audiovisual transmission**

If hearing by videoconference or telephone conference or other audiovisual transmission is requested:

Please indicate the name of the authority that will conduct the hearing (contact details/language):

.....

Please indicate reasons for requesting this measure: .....

.....

- (a) hearing by videoconference or other audiovisual transmission:
- the suspected or accused person has given his/her consent
- (b) hearing by telephone conference

**SECTION H3: Provisional measures**

If a provisional measure to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence, is requested, please indicate whether:

- the item is to be transferred to the issuing State
- the item is to remain in the executing State; please indicate an estimated date:

for lifting of provisional measure: .....

for the submission of a subsequent request concerning the item: .....

**SECTION H4: Information on bank and other financial accounts**

(1) If information on bank accounts or other financial accounts that the person holds or controls is requested, please indicate, for each of them, the reasons why you consider the measure relevant for the purpose of the criminal proceedings and on what grounds you presume that banks in the executing State hold the account:

- information on bank accounts that the person holds or in respect of which he or she has the power of attorney
- information on other financial accounts that the person holds or in respect of which he or she has the power of attorney

.....  
.....  
.....  
.....

(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

.....  
.....  
.....  
.....

Indicate the relevant period of time and the related accounts:

.....  
.....

**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:

.....  
.....

**SECTION H6: Covert investigations**

If covert investigation is requested please indicate the reasons why you consider the investigative measure likely to be relevant for the purpose of the criminal proceedings:

.....  
.....

SECTION H7: Interception of telecommunications

(1) If interception of telecommunications is requested please indicate the reasons why you consider the investigative measure relevant for the purpose of the criminal proceedings:

.....  
.....

(2) Please provide following information:

(a) information for the purpose of identifying the subject of the interception:

.....

(b) the desired duration of the interception:

.....

(c) technical data (in particular the target identifier — such as mobile telephone, landline telephone, email address, internet connection), to ensure that the EIO can be executed:

.....

(3) Please indicate your preference concerning the method of execution:

- immediate transmission
- recording and subsequent transmission

Please indicate if you also require transcription, decoding or decrypting of the intercepted material\*:

.....  
.....

\* Please be aware that the costs of any transcription, decoding or decrypting must be met by the issuing State.



**SECTION I: Formalities and procedures requested for the execution**

1. Tick and complete, if applicable

It is requested that the executing authority comply with the following formalities and procedures (...): .....

2. Tick and complete, if applicable

It is requested that one or several officials of the issuing State assist in the execution of the EIO in support of the competent authorities of the executing State.

Contact details of the officials:

.....  
.....

Languages that may be used for communication:.....

.....

**SECTION J: Legal remedies**

1. Please indicate if a legal remedy has already been sought against the issuing of an EIO, and if so please provide further details (description of the legal remedy, including necessary steps to take and deadlines):

.....  
.....

2. Authority in the issuing State which can supply further information on procedures for seeking legal remedies in the issuing State and on whether legal assistance and interpretation and translation is available:

Name: .....

Contact person (if applicable): .....

Address: .....

Tel. No: (country code) (area/city code) .....

Fax No: (country code) (area/city code) .....

E-mail: .....

**SECTION K: Details of the authority which issued the EIO**

Tick the type of authority which issued the EIO:

- judicial authority
- \*any other competent authority as defined by the law of the issuing State

\* Please also complete section (L)

Name of authority:

.....

Name of representative/contact point:

.....

File No: .....

Address: .....

Tel. No: (country code) (area/city code) .....

Fax No: (country code) (area/city code) .....

E-mail: .....

Languages in which it is possible to communicate with the issuing authority:

.....

If different from above, the contact details of the person(s) to contact for additional information or to make practical arrangements for the transfer of evidence:

Name/Title/Organisation: .....

Address: .....

E-mail/Contact Phone No: .....

Signature of the issuing authority and/or its representative certifying the content of the EIO as accurate and correct:

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available):

**SECTION L Details of the judicial authority which validated the EIO**

Please indicate the type of judicial authority which has validated this EIO:

- (a) judge or court
- (b) investigating judge
- (c) public prosecutor

Official name of the validating authority:

.....

Name of its representative:

.....

Post held (title/grade):

.....

File no: .....

Address: .....

.....

Tel. No: (country code) (area/city code) .....

Fax No: (country code) (area/city code) .....

E-mail: .....

Languages in which it is possible to communicate with the validating authority:

.....

Please indicate if the main contact point for the executing authority should be the:

- issuing authority
- validating authority

Signature and details of the validating authority

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available):

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