



The European Investigation Order

**Procedure and
upcoming tools for
simplification**

Today's' presentation

- General introduction
- Issuing and executing EIO
- Practical tools to facilitate the use of EIO



EIO Directive - Background

When?

- In 2010 seven Member States (Austria, Belgium, Bulgaria, Estonia, Slovenia, Spain and Sweden) tabled the initiative for a Directive
- As from 22/05/2017 the Directive 2014/41/EU, adopted in 2014, became applicable

Who?

- Does not apply to IE and DK

National transposition:

<http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=celex:32014L0041>

National transpositions by Member State

Collapse all / Expand all	Transposition deadline(s)	Number of measures
+ Belgium	22/05/2017	1
Bulgaria		0
+ Czech Republic	22/05/2017	39
Denmark		0
+ Germany	22/05/2017	1
+ Estonia	22/05/2017	1
Ireland		0
+ Greece	22/05/2017	1
Spain		0
+ France	22/05/2017	3
+ Croatia	22/05/2017	5
+ Italy	22/05/2017	1
+ Cyprus	22/05/2017	1
+ Latvia	22/05/2017	2
+ Lithuania	22/05/2017	11
Luxembourg		0
+ Hungary	22/05/2017	2
+ Malta	22/05/2017	1
+ Netherlands	22/05/2017	2
Austria		0
+ Poland	22/05/2017	8
+ Portugal	22/05/2017	1
+ Romania	22/05/2017	6
+ Slovenia	22/05/2017	11
+ Slovakia	22/05/2017	7
+ Finland	22/05/2017	6
+ Sweden	22/05/2017	22
+ United Kingdom	22/05/2017	2

Two different regimes for obtaining evidence in the EU



mutual legal assistance



mutual recognition

- Mutual legal assistance:
 - **1959 CoE Convention + 2 additional protocols (1978 + 2001)**
 - **Convention implementing Schengen agreement (1990)**
 - **2000 EU Convention + additional protocol (2001)**
 - **Bilateral and multilateral agreements**
- Mutual recognition:
 - **FD freezing of property and evidence (2003/577)**
 - **FD European Evidence Warrant (2008/978)**

EIO– Main objectives of the proposal

- Create a single comprehensive legal framework
- Speed up the gathering and transfer of evidence
- Ensure a high level of protection of fundamental rights

MLA and EIO in the EU

MLA	EIO
28 MS	26 MS
Mutual assistance in criminal matters	Obtaining evidence in criminal matters
Requesting State Requested State	Issuing State Executing State
Request	Order

What is the EIO?

- The EIO is: a judicial decision issued or validated by a judicial authority of a Member State ("the issuing State") in order to have one or several specific investigative measure(s) carried out in another Member State ("the executing State") with a view to obtaining evidence in criminal matters

EIO – a broad scope

Exceptions:

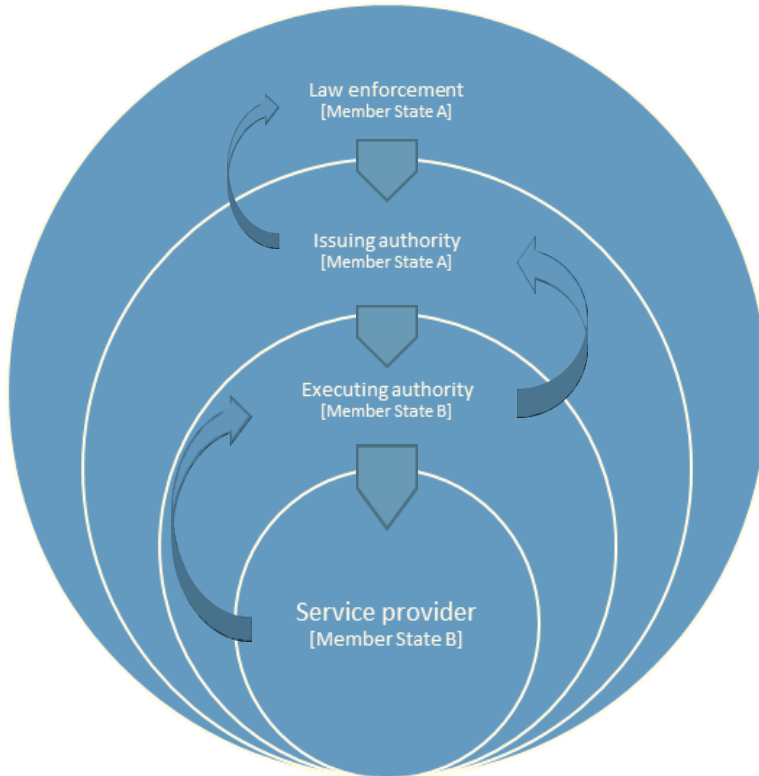
- Setting up of a JIT and the gathering of evidence within a JIT (Art.3)
- Cross-border surveillance as referred to in the Convention implementing the Schengen Agreement (Recital 9)
- Freezing/seizure for the purpose of confiscation (Recital 34, Art. 34(2))
- Transfer of a person for the purposes of prosecution (Recital 25)

Sending and service of procedural documents / Information on previous convictions / Returning of objects to an injured party / Spontaneous exchange of information / Transfer of proceedings / Confiscation / Cooperation between customs authorities / Police to police cooperation

How to get an EIO?

- Conditions for issuing an EIO (Art. 6)
 - Necessary and proportionate
 - Possible in a similar domestic case

In case of doubt, possibility of consultation which may lead to withdrawal by the issuing authority



EIO flowchart

EIO - Time limits

- New principle: same celerity and priority as for a similar domestic case
- The EIO Directive sets the following time limits:
 - 30 days for deciding on recognition or execution of an EIO (Art. 12(3));
 - 90 days for carrying out investigative measures following the taking of the aforementioned decision (Art. 12(4));
 - 24 hours, where practicable, for decision on provisional measure following the receipt of an EIO (Art. 32(2)).
- Possibility shorter deadlines or specific date
- Grounds for postponement (Art. 15)

EIO - Grounds for refusal

- General grounds for refusal (art 11)
 - Applicable irrespective of the measure concerned
 - **Immunity or privilege or rules limiting the criminal liability relating to freedom of the press**
 - **Harm to essential national security interests**
 - **Non-criminal procedures**
 - **Ne bis in idem**
 - **Extraterritoriality coupled with double criminality**
 - **Incompatible with fundamental rights obligations**

EIO - Grounds for refusal

- Additional grounds for refusal for certain measures
- Lack of double criminality (Art. 11(1)(g))
 - **Except for a list of serious offences**
- Measure is restricted to a list or category of offences or offences punishable by a certain threshold (Art. 11(1)(h))
- Impossibility to execute (Art. 10(5))
 - **Investigative measure does not exist or would not be available in a similar domestic case**
 - **Absence of alternative measures**

EIO - Grounds for refusal

- Additional grounds for refusal for certain measures
- Not applicable for a list of measures:
 - ❖ **pre-existing evidence**
 - ❖ **databases directly accessible**
 - ❖ **hearings**
 - ❖ **non-coercive measures (law of executing State)**
 - ❖ **identification of telephone number / IP address**

What next?

- Electronic version of the forms in Annex A, B, C + Guidelines on the completion of EIO
- E-evidence platform



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.

SECTION A

Issuing State: Bulgaria

Executing State:

Belgium
Bulgaria
Czech Republic**SECTION B: Urge**

Please indicate if

 Evidence bei Imminent tri 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:

Other reasons:

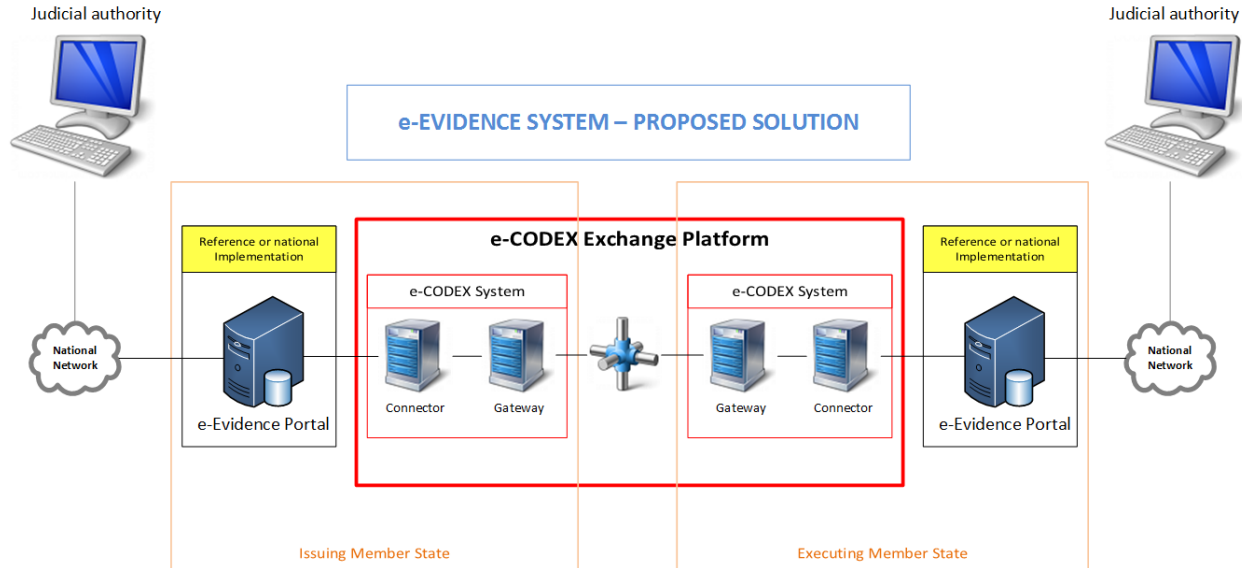
- Suspect/accused in custody
- Need for coordination with other requests and/or other national measures
- Statute of limitations (prescription)

- Export PDF
- Create PDF
- Edit PDF
- Comment
- Combine Files
- Organize Pages
- Fill & Sign
- Send for Signature
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Thank you for your attention!

Questions / comments?