

Recognition and Execution of EIO– Practical Aspects

Tais Deus Ramos (Barcelona Prosecutor's Office)

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Outline



- Traditional Mutual Legal Assistance vs. Mutual Recognition
- Recognition and Execution of EIO
- Final remarks

Traditional Mutual Legal Assistance vs. Mutual Recognition

- International initiatives to fight cybercrime
- The Budapest Convention
- Traditional Mutual Legal Assistance Instruments vs. Mutual Recognition

Recognition and Execution of EIO (1)

- Competent Authority to receive the EIO
- Transmission of EIO
- Competent Authority to execute the EIO
- Grounds for non-execution

In particular, Grounds for non-execution (art. 11)

- immunity or a privilege / rules on determination and limitation of criminal liability relating to freedom of the press and freedom of expression in other media
- national security interests
- the EIO has been issued in proceedings referred to in Article 4(b) and (c) and the investigative measure would not be authorised under the law of the executing State in a similar domestic case;
- the execution of the EIO would be contrary to the principle of *ne bis in idem*;
- territoriality clause
- Infringement of Fundamental Rights
- Double criminality clause
- the use of the investigative measure indicated in the EIO is restricted under the law of the executing State to a list or category of offences or to offences punishable by a certain threshold, which does not include the offence covered by the EIO.

Recognition and Execution of EIO (2)

- Control of the proportionality of the investigative measure in the executing state
- Special Measures
 - Covert Agent
 - Interception of Communications
 - Provisional Measures
- Transfer of Evidence

Final Remarks

- On the EIO, judicial cooperation in criminal matters and e-evidence
- On the EIO and future developments in UE law concerning e-evidence

Thank you for your attention

Tais Deus Ramos
tais.deus@fiscal.es