

Session 2: Best Practices in EIO requests preparation: need assessment and proportionality of the requested data & ethical issues

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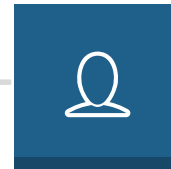
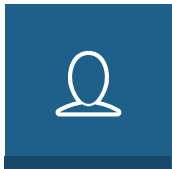
Agenda

Preliminary Considerations



Short Overview

EIO – Validation and Issuing
Judge Cláudia Pina



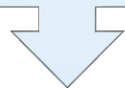
Accessing e-evidence –
Challenges to Fundamental Rights
Tanja Fachathaler

Discussion



Directive 2014/41/EU

Adopted 3rd April 2014, came into force 22 May 2017



EIOD replaced:

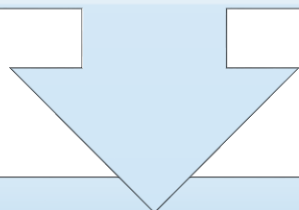
European Convention on Mutual Assistance in Criminal Matters (+ additional protocols and bilateral agreements)

Convention Implementing the Schengen Agreement

Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and its protocol

Council Framework Decision 2008/978 /JHA on the European Evidence Warrant

Framework decision 2003/577/JHA regarding the freezing of evidence



All Member States have adopted the EIOD, Denmark and Ireland opted out

Article 1.1 EIOD

“A European Investigation Order is a judicial decision which has been issued or validated by a judicial authority of a Member State (“the issuing State”) to have one or several specific investigative measure(s) carried out in another member State (“The executing State”) to obtain evidence in accordance with this Directive.”

How the EIO works





L 130/24 EN Official Journal of the European Union 1.5.2014

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.

SECTION A
 Issuing State:
 Executing State:

SECTION B: Urgency
 Please indicate if there is any urgency due to

- Evidence being concealed or destroyed
- Imminent trial date
- 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

Annex B

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ANNEX B

CONFIRMATION OF THE RECEIPT OF AN EIO

This form has to be completed by the authority of the executing State which received the EIO referred to below:

<p>(A) THE EIO CONCERNED Authority which issued the EIO:</p> <p>File reference:</p> <p>Date of issuing:</p> <p>Date of receipt:</p>
<p>(B) THE AUTHORITY WHICH RECEIVED THE EIO (*) Official name of the competent authority:</p> <p>Name of its representative:</p> <p>Post held (title/grade):</p> <p>Address:</p> <p>Tel. No: (country code) (area/city code)</p> <p>Fax No: (country code) (area/city code)</p> <p>E-mail:</p> <p>File reference:</p> <p>Languages in which it is possible to communicate with the authority:</p>
<p>(C) (WHERE APPLICABLE) THE COMPETENT AUTHORITY TO WHOM THE EIO IS TRANSMITTED BY THE AUTHORITY UNDER (B) Official name of the authority:</p> <p>Name of its representative:</p> <p>Post held (title/grade):</p> <p>Address:</p> <p>Tel. No: (country code) (area/city code)</p> <p>Fax No: (country code) (area/city code)</p> <p>E-mail:</p> <p>Date of transmission:</p> <p>File reference:</p> <p>Language(s) that may be used for communication:</p>

(*) This section is to be completed by each authority which received the EIO. This obligation falls upon the authority competent to recognise and execute the EIO and, where applicable, upon the central authority or the authority which transmitted the EIO to the competent authority.

Annex C

ANNEX C

NOTIFICATION

This form is used in order to notify a Member State about the interception of telecommunication that will be, is or has been carried out on its territory without its technical assistance. I hereby inform ... (notified Member State) of the interception.

(A) ⁽¹⁾ THE COMPETENT AUTHORITY
 Official name of the competent authority of intercepting Member State:

Name of its representative:

Post held (title/grade):

Address:

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

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

E-mail:

File reference:

Date of issuing:

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

(B) INFORMATION CONCERNING THE INTERCEPTION

(I) Information about state of play: This notification takes place (please tick)

- prior to the interception
- during the interception
- after the interception

(II) The (anticipated) duration of the interception (as known to the issuing authority):
, starting from

(III) Target of the interception: (telephone number, IP number or e-mail)

(IV) Identity of the persons concerned
 State all information, as far as they are known, regarding the identity of the (i) natural or (ii) legal person(s) against whom the proceedings are/may be/is taking place:

- (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:

⁽¹⁾ The authority which is referred to here is the one which should be contacted in further correspondence with the issuing State.

What the future looks like





Get in Touch

LIVE_FOR was pleased to have you!

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