

L.N. 297 of 2017

**CRIMINAL CODE
(CAP. 9)**

European Investigation Order Regulations, 2017

IN EXERCISE of the powers conferred by article 628A of the Criminal Code the Minister for Justice, Culture and Local Government has made the following regulations:-

1. The title of these regulations is the European Investigation Order Regulations, 2017. Citation.

2. In these regulations, unless the context otherwise requires: Interpretation.

"the Charter" shall mean the Charter of Fundamental Rights of the European Union;

"Directive" means the Directive 2014/41/EU regarding the European Investigation Order in criminal matters;

"European Investigation Order" (EIO) means a judicial decision which has been issued or validated by a judicial authority of a Member State of the European Union ("the issuing State") to have one or several specific investigative measures carried out in another Member State of the European Union ("the executing State") to obtain evidence in accordance with these regulations. The EIO may also be issued for obtaining evidence that is already in the possession of the competent authorities of the executing State;

"executing authority" means an authority having competence to recognise an EIO and ensure its execution in accordance with these regulations and the procedures applicable in a similar domestic case. Such procedures may require a court authorisation in the executing State when this is provided by its national law;

"executing State" means the Member State of the European Union executing the EIO, in which the investigative measure is to be executed;

"issuing authority" means:

- (i) a judge, a court, an investigating judge or a public prosecutor competent in the case concerned; or
- (ii) any other competent authority as defined by the issuing State which, in the specific case, is acting in its

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capacity as an investigating authority in criminal proceedings with competence to order the gathering of evidence in accordance with national law. In addition, before it is transmitted to the executing authority, the EIO shall be validated, after examination of its conformity with the conditions for issuing an EIO under these regulations, in particular the conditions set out in regulation 9(1), by a judge, court, investigating judge or a public prosecutor in the issuing State. Where the EIO has been validated by a judicial authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the EIO;

"issuing State" means the Member State of the European Union in which the EIO is issued;

"TEU" means Treaty on European Union.

Limitation.

3. These regulations shall be limited to the transmission of European Investigation Orders between Malta and Member States of the European Union excluding Ireland and Denmark and shall apply to orders issued from the 22nd May, 2017.

Obligation to execute.

4. (1) Any EIO shall be executed on the basis of the principle of mutual recognition and in accordance with these regulations.

(2) The issuing of an EIO may be requested by a suspected or accused person, or by a lawyer on his behalf, within the framework of applicable defence rights in conformity with national criminal procedure.

(3) These regulations shall not have the effect of modifying the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 of the TEU, including the rights of defence of persons subject to criminal proceedings, and any obligations incumbent on judicial authorities in this respect shall remain unaffected.

Scope of the EIO.

5. The EIO shall cover any investigative measure with the exception of the setting up of a joint investigation team and the gathering of evidence within such a team as provided in Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union ("the Convention") and in Council Framework Decision 2002/465/JHA, other than for the purposes of applying, respectively, Article 13(8) of the Convention and Article 1(8) of the Framework Decision.

6. For the purposes of these regulations the Attorney General shall be competent to receive European Investigation Orders issued in the issuing State and to transmit to the executing State European Investigation Orders issued in Malta.

Competent
Authorities.

7. An EIO may be issued:

Types of
proceedings.

(a) with respect to criminal proceedings that are 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;

(b) in 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;

(c) in 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; and

(d) in connection with proceedings referred to in paragraphs (a), (b), and (c) which relate to offences or infringements of law for which a legal person may be held liable or punished in the issuing State.

8. (1) The EIO in the form set out in the First Schedule shall be completed, signed, and its content certified as accurate and correct by the issuing authority.

Content and
form of the EIO.

(2) The EIO shall, in particular, contain the following information:

(a) data about the issuing authority and, where applicable, the validating authority;

(b) the object of the EIO and reasons for the EIO;

(c) the necessary information available on the person or persons concerned;

(d) a description of the criminal act, which is the subject of the investigation or proceedings, and the applicable provisions of the criminal law of the issuing State;

(e) a description of the investigative measure or

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measures requested and the evidence to be obtained.

(3) From among the official languages of the institutions of the Union only the Maltese and the English languages shall be used for completing or translating the EIO when Malta is the executing State;

(4) The competent authority of the issuing State shall translate the EIO set out in the First Schedule into an official language of the executing State or any other language indicated by the executing State in accordance with sub-regulation (3).

Conditions for
issuing and
transmitting the
EIO.

9. (1) The issuing authority may only issue an EIO when it is satisfied that the following conditions have been met:

(a) the issuing of the EIO is necessary and proportionate for the purpose of the proceedings referred to in regulation 7 taking into account the rights of the suspected or accused person; and

(b) the investigative measure indicated in the EIO could have been ordered under the same conditions in a similar domestic case.

(2) The conditions referred to in sub-regulation (1) shall be assessed by the issuing authority in each case.

(3) Where the executing authority has reason to believe that the conditions referred to in sub-regulation (1) have not been met, it may consult the issuing authority on the importance of executing the EIO. After that consultation the issuing authority may decide to withdraw the EIO.

Transmission of
the EIO.

10. (1) The EIO completed in accordance with regulation 8 shall be transmitted from the issuing authority to the executing authority by any means capable of producing a written record under conditions allowing the executing State to establish authenticity.

(2) Any further official communication shall be made directly between the issuing authority and the executing authority.

(3) Without prejudice to the definition of executing authority in accordance to regulation 2, the Attorney General shall be competent to receive European Investigation Orders issued in the issuing State and to transmit to the executing State European Investigation Orders issued in Malta.

(4) The issuing authority may transmit EIOs via the telecommunications system of the European Judicial Network (EJN),

as set up by Council Joint Action 98/428/JHA.

(5) If the identity of the executing authority is unknown, the issuing authority shall make all necessary inquiries, including via the EIJ contact points, in order to obtain the information from the executing State.

(6) Where the authority in the executing State which receives the EIO has no competence to recognise the EIO or to take the necessary measures for its execution, it shall, *ex officio*, transmit the EIO to the executing authority and so inform the issuing authority.

(7) All difficulties concerning the transmission or authenticity of any document needed for the execution of the EIO shall be dealt with by direct contacts between the issuing authority and the executing authority involved or, where appropriate, with the involvement of the central authorities of the Member States.

11. (1) Where an issuing authority issues an EIO which supplements an earlier EIO, it shall indicate this fact in the EIO in Section D of the form set out in the First Schedule. EIO related to earlier EIO.

(2) If the issuing authority assists in the execution of the EIO in the executing State, in accordance with sub-regulation 12(4), it may, without prejudice to notifications made under regulation 36(1)(c), address an EIO which supplements an earlier EIO directly to the executing authority, while present in that State.

(3) The EIO which supplements an earlier EIO shall be certified in accordance with regulation 8(1), and, where applicable, be validated in accordance with the definition of "issuing authority" as specified in regulation 2.

12. (1) The executing authority shall recognise an EIO, transmitted in accordance with these regulations, without any further formality being required, and ensure its execution in the same way and under the same modalities as if the investigative measure concerned had been ordered by an authority of the executing State, unless that authority decides to invoke one of the grounds for non-recognition or non-execution or one of the grounds for postponement provided for in these regulations. Recognition and execution.

(2) The executing authority shall comply with the formalities and procedures expressly indicated by the issuing authority unless otherwise provided in these regulations and provided that such formalities and procedures are not contrary to the fundamental principles of law of the executing State.

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(3) Where an executing authority receives an EIO which has not been issued by an issuing authority as specified in regulation 2, the executing authority shall return the EIO to the issuing State.

(4) The issuing authority may request that one or more authorities of the issuing State assist in the execution of the EIO in support to the competent authorities of the executing State to the extent that the designated authorities of the issuing State would be able to assist in the execution of the investigative measures indicated in the EIO in a similar domestic case. The executing authority shall comply with this request provided that such assistance is not contrary to the fundamental principles of law of the executing State or does not harm its essential national security interests.

(5) The authorities of the issuing State present in the executing State shall be bound by the law of the executing State during the execution of the EIO. They shall not have any law enforcement powers in the territory of the executing State, unless the execution of such powers in the territory of the executing State is in accordance with the law of the executing State and to the extent agreed between the issuing authority and the executing authority.

(6) The issuing authority and executing authority may consult each other, by any appropriate means, with a view to facilitating the efficient application of this regulation.

Application for
a different type
of investigative
measure.

13. (1) The executing authority shall have, wherever possible, an application to an investigative measure other than that provided for in the EIO where:

(a) the investigative measure indicated in the EIO does not exist under the law of the executing State; or

(b) the investigative measure indicated in the EIO would not be available in a similar domestic case.

(2) Without prejudice to regulation 14, sub-regulation (1) does not apply to the following investigative measures, which always have to be available under the law of the executing State and shall under the authority of these regulations be available in Malta:

(a) the obtaining of information or evidence which is already in the possession of the executing authority and the information or evidence could have been obtained, in accordance with the law of the executing State, in the framework of criminal proceedings in similar domestic cases or for the purposes of the EIO;

(b) the obtaining of information contained in databases held by police or judicial authorities and directly accessible by the executing authority in the framework of criminal proceedings;

(c) the hearing of a witness, expert, victim, suspected or accused person or third party in the territory of the executing State;

(d) any non-coercive investigative measure as defined under the law of the executing State;

(e) the identification of persons holding a subscription of a specified phone number or IP address.

(3) The executing authority may also have an application to an investigative measure other than that indicated in the EIO where the investigative measure selected by the executing authority would achieve the same result by less intrusive means than the investigative measure indicated in the EIO.

(4) When the executing authority decides to avail itself of the possibility referred to in sub-regulations (1) and (3), it shall first inform the issuing authority, which may decide to withdraw or supplement the EIO.

(5) Where, in accordance with sub-regulation (1), the investigative measure indicated in the EIO does not exist under the law of the executing State or it would not be available in a similar domestic case and where there is no other investigative measure which would have the same result as the investigative measure requested, the executing authority shall notify the issuing authority that it has not been possible to provide the assistance requested.

14. (1) Without prejudice to regulation 4(3), recognition or execution of an EIO may be refused in the executing State where:

Grounds for non-recognition or non-execution.

(a) there is an immunity or a privilege under the law of the executing State which makes it impossible to execute the EIO or there are rules on determination and limitation of criminal liability relating to freedom of the press and freedom of expression in other media, which make it impossible to execute the EIO;

(b) in a specific case the execution of the EIO would harm essential national security interests, jeopardise the source of the information or involve the use of classified information relating to specific intelligence activities;

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(c) the EIO has been issued in proceedings referred to in regulation 7(b) and (c) and the investigative measure would not be authorised under the law of the executing State in a similar domestic case;

(d) the execution of the EIO would be contrary to the principle of *ne bis in idem*;

(e) the EIO relates to a criminal offence which is alleged to have been committed outside the territory of the issuing State and wholly or partially on the territory of the executing State, and the conduct in connection with which the EIO is issued is not an offence in the executing State;

(f) there are substantial grounds to believe that the execution of the investigative measure indicated in the EIO would be incompatible with the executing State's obligations in accordance with Article 6 of the TEU and the Charter;

(g) the conduct for which the EIO has been issued does not constitute an offence under the law of the executing State, unless it concerns an offence listed within the categories of offences set out in the Fourth Schedule, as indicated by the issuing authority in the EIO, if it is punishable in the issuing State by a custodial sentence or a detention order for a maximum period of at least three years; or

(h) 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 minimum threshold, which does not include the offence covered by the EIO.

(2) Sub-regulations (1)(g) and (h) do not apply to investigative measures referred to in regulation 13(2).

(3) Where the EIO concerns an offence in connection with taxes or duties, customs and exchange, the executing authority shall not refuse recognition or execution on the ground that the law of the executing State does not impose the same kind of tax or duty or does not contain a tax, duty, customs and exchange regulation of the same kind as the law of the issuing State.

(4) In the cases referred to in sub-regulation(1)(a), (b), (d), (e) and (f) before deciding not to recognise or not to execute an EIO, either in whole or in part, the executing authority shall consult the issuing authority, by any appropriate means, and shall, where

appropriate, request the issuing authority to supply any necessary information without delay.

(5) In the case referred to in sub-regulation (1)(a) and where power to waive the privilege or immunity lies with an authority of the executing State, the executing authority shall request it to exercise that power forthwith. Where power to waive the privilege or immunity lies with an authority of another State or international organisation, it shall be for the issuing authority to request the authority concerned to exercise that power.

15. (1) The decision on the recognition or execution shall be taken and the investigative measure shall be carried out with the same celerity and priority as for a similar domestic case and, in any case, within the time limits provided in this regulation.

Time limits for
recognition or
execution.

(2) Where the issuing authority has indicated in the EIO that, due to procedural deadlines, the seriousness of the offence or other particularly urgent circumstances, a shorter deadline than those provided in this regulation is necessary, or if the issuing authority has indicated in the EIO that the investigative measure must be carried out on a specific date, the executing authority shall take as full account as possible of this requirement.

(3) The executing authority shall take the decision on the recognition or execution of the EIO as soon as possible and, without prejudice to sub-regulation (5), no later than 30 days after the receipt of the EIO by the competent executing authority.

(4) Unless grounds for postponement under regulation 18 exist or evidence mentioned in the investigative measure covered by the EIO is already in the possession of the executing State, the executing authority shall carry out the investigative measure without delay and without prejudice to sub-regulation (5), not later than 90 days following the taking of the decision referred to in sub-regulation (3).

(5) If it is not practicable in a specific case for the competent executing authority to meet the time limit set out in sub-regulation (3) or the specific date set out in sub-regulation (2), it shall, without delay, inform the competent authority of the issuing State by any means, giving the reasons for the delay and the estimated time necessary for the decision to be taken. In such a case, the time limit laid down in sub-regulation (3) may be extended by a maximum of 30 days.

(6) If it is not practicable in a specific case for the competent executing authority to meet the time limit set out in sub-regulation (4), it shall, without delay, inform the competent authority of the issuing

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State by any means, giving the reasons for the delay and it shall consult with the issuing authority on the appropriate timing to carry out the investigative measure.

Transfer of evidence.

16. (1) The executing authority shall, without undue delay, transfer the evidence obtained or already in the possession of the competent authorities of the executing State as a result of the execution of the EIO to the issuing State.

Where requested in the EIO and if possible under the law of the executing State, the evidence shall be immediately transferred to the competent authorities of the issuing State assisting in the execution of the EIO in accordance with regulation 12(4).

(2) The transfer of the evidence may be suspended, pending a decision regarding a legal remedy, unless sufficient reasons are indicated in the EIO that an immediate transfer is essential for the proper conduct of its investigations or for the preservation of individual rights. However, the transfer of evidence shall be suspended if it would cause serious and irreversible damage to the person concerned.

(3) When transferring the evidence obtained, the executing authority shall indicate whether it requires the evidence to be returned to the executing State as soon as it is no longer required in the issuing State.

(4) Where the objects, documents, or data concerned are already relevant for other proceedings, the executing authority may, at the explicit request of and after consultations with the issuing authority, temporarily transfer the evidence on the condition that it be returned to the executing State as soon as it is no longer required in the issuing State or at any other time or occasion agreed between the competent authorities.

Legal remedies.

17. (1) All legal remedies available in a similar domestic case shall be applicable to the investigative measures indicated in the EIO.

(2) The substantive reasons for issuing the EIO may be challenged only in an action brought in the issuing State, without prejudice to the guarantees of fundamental rights in the executing State.

(3) Where it would not undermine the need to ensure confidentiality of an investigation under regulation 22(1), the issuing authority and the executing authority shall take the appropriate measures to ensure that information is provided about the possibilities under national law for seeking the legal remedies when these become

applicable and in due time to ensure that they can be exercised effectively.

(4) All the time-limits for seeking a legal remedy shall be the same as those that are provided for in similar domestic cases and shall be applied in a way that guarantees the possibility of the effective exercise of these legal remedies for the parties concerned.

(5) The issuing authority and the executing authority shall inform each other about the legal remedies sought against the issuing, the recognition or the execution of an EIO.

(6) A legal challenge shall not suspend the execution of the investigative measure, unless it is provided in similar domestic cases.

(7) The issuing State shall take into account a successful challenge against the recognition or execution of an EIO in accordance with its own national law. Without prejudice to national procedural rules, the Member States shall ensure that in criminal proceedings in the issuing State the rights of the defence and the fairness of the proceedings are respected when assessing evidence obtained through the EIO.

18. (1) The recognition or execution of the EIO may be postponed in the executing State where:

Grounds for postponement of recognition or execution.

(a) its execution might prejudice an on-going criminal investigation or prosecution, until such time as the executing State deems reasonable;

(b) the objects, documents, or data concerned are already being used in other proceedings, until such time as they are no longer required for that purpose.

(2) As soon as the ground for postponement has ceased to exist, the executing authority shall forthwith take the necessary measures for the execution of the EIO and inform the issuing authority by any means capable of producing a written record.

19. (1) The competent authority in the executing State which receives the EIO shall, without delay, and in any case within a week of the reception of an EIO, acknowledge reception of the EIO by completing and sending the form set out in the Second Schedule.

Obligation to inform.

Where a central authority has been designated in accordance with regulation 10(3), this obligation is applicable both to the central authority and to the executing authority which receives the EIO from the central authority.

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In the cases referred to in regulation 10(6), this obligation applies both to the competent authority which initially received the EIO and to the executing authority to which the EIO is finally transmitted.

(2) Without prejudice to regulations 13(4) and (5) the executing authority shall inform the issuing authority immediately by any means:

(a) if it is impossible for the executing authority to take a decision on the recognition or execution due to the fact that the form provided for in the First Schedule is incomplete or manifestly incorrect;

(b) if the executing authority, in the course of the execution of the EIO, considers without further enquiries that it may be appropriate to carry out investigative measures not initially foreseen, or which could not be specified when the EIO was issued, in order to enable the issuing authority to take further action in the specific case; or

(c) if the executing authority establishes that, in the specific case, it cannot comply with formalities and procedures expressly indicated by the issuing authority in accordance with regulation 12.

Upon request by the issuing authority, the information shall be confirmed, without delay, by any means capable of producing a written record.

(3) Without prejudice to regulations 13(4) and (5) the executing authority shall inform the issuing authority without delay by any means capable of producing a written record:

(a) of any decision taken pursuant to regulations 13 or 14;

(b) of any decision to postpone the execution or recognition of the EIO, the reasons for the postponement and, if possible, the expected duration of the postponement.

Criminal
liability
regarding
officials.

20. When present in the territory of the executing State in the framework of the application of the regulations, officials from the issuing State shall be regarded as officials of the executing State with respect to offences committed against them or by them.

Civil liability
regarding
officials.

21. (1) Where, in the framework of the application of these regulations, officials of a Member State are present in the territory of

another Member State, the former Member State shall be liable for any damage caused by its officials during their operations, in accordance with the law of the Member State in whose territory they are operating.

(2) The Member State in whose territory the damage referred to in sub-regulation (1) was caused shall make good such damage under the conditions applicable to damage caused by its own officials.

(3) The Member State whose officials have caused damage to any person in the territory of another Member State shall reimburse in full any sums the latter Member State has paid to the victims or persons entitled on their behalf.

(4) Without prejudice to the exercise of its rights *vis-à-vis* third parties and with the exception of sub-regulation (3), each Member State shall refrain in cases referred to in sub-regulation (1) from requesting reimbursement of damages it has sustained from another Member State.

22. (1) All the necessary measures shall be taken to ensure Confidentiality. that in the execution of an EIO the issuing authority and the executing authority take due account of the confidentiality of the investigation.

(2) The executing authority shall, in accordance with its national law, guarantee the confidentiality of the facts and the substance of the EIO, except to the extent necessary to execute the investigative measure. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority without delay.

(3) The issuing authority shall, in accordance with its national law and unless otherwise indicated by the executing authority, not disclose any evidence or information provided by the executing authority, except to the extent that its disclosure is necessary for the investigations or proceedings described in the EIO.

(4) All the necessary measures shall be taken to ensure that banks do not disclose to the bank customer concerned or to other third persons that information has been transmitted to the issuing State in accordance with regulations 29 and 30 or that an investigation is being carried out.

(5) Unless these regulations otherwise provide, the implementing procedure of the provisions of the Criminal Code shall apply *mutatis mutandis* in respect of any breach of confidentiality in violation of these regulations. Cap. 9.

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Protection of
personal data.

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23. It shall be ensured that personal data are protected and may only be processed in accordance with the Data Protection Act, and in particular, with Council Framework Decision 2008/977/JHA and the principles of the Council of Europe Convention for the protection of Individuals with regard to the Automatic Processing of Personal Data of 28 January 1981 and its Additional Protocol.

Access to such data shall be restricted, without prejudice to the rights of the data subject. Only authorised persons may have access to such data.

Costs.

24. (1) Unless otherwise provided in these regulations, the executing State shall bear all costs undertaken on the territory of the executing State which are related to the execution of an EIO.

(2) Where the executing authority considers that the costs for the execution of the EIO may be deemed exceptionally high, it may consult with the issuing authority on whether and how the costs could be shared or that the EIO be modified and how.

The executing authority shall inform the issuing authority in advance of the detailed specifications of the part of the costs deemed exceptionally high.

(3) In exceptional situations where no agreement can be reached with regard to the costs referred to in sub-regulation (2), the issuing authority may decide to:

(a) withdraw the EIO in whole or in part; or

(b) keep the EIO, and bear the part of the costs deemed exceptionally high.

Temporary
transfer to the
issuing State of
persons held in
custody for the
purpose of
carrying out an
investigative
measure.

25. (1) An EIO may be issued for the temporary transfer of a person in custody in the executing State for the purpose of carrying out an investigative measure with a view to gathering evidence for which the presence of that person on the territory of the issuing State is required, provided that he shall be sent back within the period stipulated by the executing State.

(2) In addition to the grounds for non-recognition or non-execution referred to in regulation 14 the execution of the EIO may also be refused if:

(a) the person in custody does not consent; or

(b) the transfer is liable to prolong the detention of the person in custody.

(3) Without prejudice to sub-regulation (2)(a), where the executing State considers it necessary in view of the person's age or physical or mental condition, the opportunity to state the opinion on the temporary transfer shall be given to the legal representative of the person in custody.

(4) In cases referred to in sub-regulation (1), transit of the person in custody through the territory of a third Member State ("the Member State of transit") shall be granted on application, accompanied by all necessary documents.

(5) The practical arrangements regarding the temporary transfer of the person including the details of his custody conditions in the issuing State, and the dates by which he must be transferred from and returned to the territory of the executing State shall be agreed between the issuing State and the executing State, ensuring that the physical and mental condition of the person concerned, as well as the level of security required in the issuing State, are taken into account.

(6) The transferred person shall remain in custody in the territory of the issuing State and, where applicable, in the territory of the Member State of transit, for the acts or convictions for which he has been kept in custody in the executing State, unless the executing State applies for his release.

(7) The period of custody in the territory of the issuing State shall be deducted from the period of detention which the person concerned is or will be obliged to undergo in the territory of the executing State.

(8) Without prejudice to sub-regulation (6), a transferred person shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the issuing State for acts committed or convictions handed down before his departure from the territory of the executing State and which are not specified in the EIO.

(9) The immunity referred to in sub-regulation (8) shall cease to exist if the transferred person, having had an opportunity to leave for a period of 15 consecutive days from the date when his presence is no longer required by the issuing authorities, has either:

- (a) nevertheless remained in the territory; or
- (b) having left it, has returned.

(10) Costs resulting from the application of this regulation shall be borne in accordance with regulation 24, except for the costs arising

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from the transfer of the person to and from the issuing State which shall be borne by that State.

Cap. 9. (11) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by article 435BC of the Criminal Code which shall apply *mutatis mutandis* to this regulation.

Temporary transfer to the executing State of persons held in custody for the purpose of carrying out an investigative measure.

26. (1) An EIO may be issued for the temporary transfer of a person held in custody in the issuing State for the purpose of carrying out an investigative measure with a view to gathering evidence for which his presence on the territory of the executing State is required.

(2) Sub-regulation (2)(a) and regulation 25(3) to (9) are applicable *mutatis mutandis* to the temporary transfer under this regulation.

(3) Costs resulting from the application of this regulation shall be borne in accordance with regulation 24, except for the costs arising from the transfer of the person concerned to and from the executing State which shall be borne by the issuing State.

Cap. 9. (4) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by article 435BB of the Criminal Code which shall apply *mutatis mutandis* to this regulation.

Hearing by video conference or other audiovisual transmission.

27. (1) Where a person is in the territory of the executing State and has to be heard as a witness or expert by the competent authorities of the issuing State, the issuing authority may issue an EIO in order to hear the witness or expert by video conference or other audiovisual transmission in accordance with sub-regulations (5) to (7).

The issuing authority may also issue an EIO for the purpose of hearing a suspected or accused person by video conference or other audiovisual transmission.

(2) In addition to the grounds for non-recognition or non-execution referred to in regulation 14, execution of an EIO may be also refused if either:

(a) the suspected or accused person does not consent; or

(b) the execution of such an investigative measure in a particular case would be contrary to the fundamental principles of the law of the executing State.

(3) The issuing authority and the executing authority shall

agree the practical arrangements. When agreeing such arrangements, the executing authority shall undertake to:

(a) summon the witness or expert concerned, indicating the time and the venue of the hearing;

(b) summon the suspected or accused persons to appear for the hearing in accordance with the detailed rules laid down in the law of the executing State and inform such persons about their rights under the law of the issuing State, in such a time as to allow them to exercise their rights of defence effectively; and

(c) ensure the identity of the person to be heard.

(4) If in circumstances of a particular case the executing authority has no access to technical means for a hearing held by video conference, such means may be made available to it by the issuing State by mutual agreement.

(5) Where a hearing is held by video conference or other audiovisual transmission, the following rules shall apply:

(a) the hearing shall take place in the presence of a magistrate, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identity of the person to be heard and respect for the fundamental principles of the law of the executing State. If the magistrate is of the view that during the hearing the fundamental principles of the law of the executing State are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with those principles;

(b) measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the issuing State and the executing State;

(c) the hearing shall be conducted directly by, or under the direction of, the competent authority of the issuing State in accordance with its own laws;

(d) at the request of the issuing State or the person to be heard, the executing State shall ensure that the person to be heard is assisted by an interpreter, if necessary;

(e) suspected or accused persons shall be informed in advance of the hearing of the procedural rights which would accrue to them, including the right not to testify, under the law of the executing State and the issuing State. Witnesses and experts

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may claim the right not to testify which would accrue to them under the law of either the executing or the issuing State and shall be informed about this right in advance of the hearing.

(6) Without prejudice to any measures agreed for the protection of persons, on the conclusion of the hearing, the executing authority shall draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the executing State participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The document shall be forwarded by the executing authority to the issuing authority.

(7) All the necessary measures shall be taken to ensure that, where the person is being heard within its territory in accordance with this regulation and refuses to testify when under an obligation to testify or does not testify the truth, national law applies in the same way as if the hearing took place in a national procedure. Unless these regulations otherwise provide, the implementing procedure of the provisions of the Criminal Code shall apply to the situations proposed for in this sub-regulation.

Cap. 9.

Hearing by
telephone
conference.

28. (1) If a person is in the territory of one Member State and has to be heard as a witness or expert by competent authorities of another Member State, the issuing authority of the latter Member State may, where it is not appropriate or possible for the person to be heard to appear in its territory in person, and after having examined other suitable means, issue an EIO in order to hear a witness or expert by telephone conference as provided for in sub-regulation (2).

(2) Unless otherwise agreed, regulation 27(3), (5), (6) and (7) shall apply *mutatis mutandis* to hearings by telephone conference.

(3) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by articles 647A and 649(13) of the Criminal Code which shall apply *mutatis mutandis* to this regulation.

Cap. 9.

Information on
bank and other
financial
accounts.

29. (1) An EIO may be issued in order to determine whether any natural or legal person subject to the criminal proceedings concerned holds or controls one or more accounts, of whatever nature, in any bank located in the territory of the executing State, and if so, to obtain all the details of the identified accounts.

(2) All the measures necessary shall be taken to provide the information referred to in sub-regulation (1) in accordance with the conditions under this regulation.

(3) The information referred to in sub-regulation (1) shall also, if requested in the EIO, include accounts for which the person subject to the criminal proceedings concerned has powers of attorney.

(4) The obligation set out in this regulation shall apply only to the extent that the information is in the possession of the bank keeping the account.

(5) In the EIO the issuing authority shall indicate the reasons why it considers that the requested information is likely to be of substantial value for the purpose of the criminal proceedings concerned and on what grounds it presumes that banks in the executing State hold the account and, to the extent available, which banks may be involved. It shall also include in the EIO any information available which may facilitate its execution.

(6) An EIO may also be issued to determine whether any natural or legal person subject to the criminal proceedings concerned holds one or more accounts, in any non-bank financial institution located on the territory of the executing State. Sub-regulations (3) to (5) shall apply *mutatis mutandis*. In such case and in addition to the grounds for non-recognition and non-execution referred to in regulation 14, the execution of the EIO may also be refused if the execution of the investigative measure would not be authorised in a similar domestic case.

(7) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by article 435AA and 435BA of the Criminal Code which shall apply *mutatis mutandis* to this regulation. Cap. 9.

30. (1) An EIO may be issued in order to obtain the details of specified bank accounts and of banking operations which have been carried out during a defined period through one or more accounts specified therein, including the details of any sending or recipient account. Information on banking and other financial operations.

(2) All the measures necessary shall be taken to provide the information referred to in sub-regulation (1) in accordance with the conditions under this regulation.

(3) The obligation set out in this regulation shall apply only to the extent that the information is in the possession of the bank in which the account is held.

(4) In the EIO the issuing authority shall indicate the reasons why it considers the requested information relevant for the purpose of the criminal proceedings concerned.

B 2096

(5) An EIO may also be issued with regard to the information provided for in sub-regulation (1) with reference to the financial operations conducted by non-banking financial institutions. Sub-regulations 3 to 4 shall apply *mutatis mutandis*. In such case and in addition to the grounds for non-recognition and non-execution referred to in regulation 14, the execution of the EIO may also be refused where the execution of the investigative measure would not be authorised in a similar domestic case.

Cap. 9. (6) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by article 435AA and BA of the Criminal Code which shall apply *mutatis mutandis* to these regulations.

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

31. (1) When the EIO is issued for the purpose of executing an investigative measure requiring the gathering of evidence in real time, continuously and over a certain period of time, such as:

(a) the monitoring of banking or other financial operations that are being carried out through one or more specified accounts;

(b) the controlled deliveries on the territory of the executing State;

its execution may be refused, in addition to the grounds for non-recognition and non-execution referred to in regulation 14, if the execution of the investigative measure concerned would not be authorised in a similar domestic case.

(2) The practical arrangements regarding the investigative measure referred to in sub-regulation (1)(b) and wherever else necessary shall be agreed between the issuing State and the executing State.

(3) The issuing authority shall indicate in the EIO why it considers the information requested relevant for the purpose of the criminal proceedings concerned.

(4) The right to act, to direct and to control operations related to the execution of an EIO referred to in sub-regulation (1) shall lie with the competent authorities of the executing State.

Cap. 9. (5) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by article 435E of the Criminal Code which shall apply *mutatis mutandis* to these regulations.

32. (1) An EIO may be issued for the purpose of requesting the executing State to assist the issuing State in the conduct of investigations into crime by officers acting under covert or false identity ("covert investigations").

Covert investigations.

(2) The issuing authority shall indicate in the EIO why it considers that the covert investigation is likely to be relevant for the purpose of the criminal proceedings concerned. The decision on the recognition and execution of an EIO issued under this regulation shall be taken in each individual case by the competent authorities of the executing State with due regard to its national law and procedures.

(3) In addition to the grounds for non-recognition and non-execution referred to in regulation 14, the executing authority may refuse to execute an EIO as referred to in sub-regulation (1), where:

(a) the execution of the covert investigation would not be authorised in a similar domestic case; or

(b) it was not possible to reach an agreement on the arrangements for the covert investigations under sub-regulation (4).

(4) Covert investigations shall take place in accordance with the national law and procedures of the Member State on the territory of which the covert investigation takes place. The right to act, to direct and to control the operation related to the covert investigation shall lie solely with the competent authorities of the executing State. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the issuing State and the executing State with due regard to their national laws and procedures.

(5) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by article 435E(3) of the Criminal Code which shall apply *mutatis mutandis* to this regulation.

Cap. 9.

33. (1) An EIO may be issued for the interception of telecommunications in the Member State from which technical assistance is needed.

Interception of telecommunications with technical assistance of another Member State.

(2) Where more than one Member State is in a position to provide the complete necessary technical assistance for the same interception of telecommunications, the EIO shall be sent only to one of them. Priority shall always be given to the Member State where the subject of the interception is or will be located.

B 2098

(3) An EIO referred to in sub-regulation (1) shall also contain the following information:

- (a) information for the purpose of identifying the subject of the interception;
- (b) the desired duration of the interception; and
- (c) sufficient technical data, in particular the target identifier, to ensure that the EIO can be executed.

(4) The issuing authority shall indicate in the EIO the reasons why it considers the indicated investigative measure relevant for the purpose of the criminal proceedings concerned.

(5) In addition to the grounds for non-recognition or non-execution referred to in regulation 14, the execution of an EIO referred to in sub-regulation (1) may also be refused where the investigative measure concerned would not have been authorised in a similar domestic case. The executing State may make its consent subject to any conditions which would be observed in a similar domestic case.

(6) An EIO referred to in sub-regulation (1) may be executed by:

- (a) transmitting telecommunications immediately to the issuing State; or
- (b) intercepting, recording and subsequently transmitting the outcome of interception of telecommunications to the issuing State.

The issuing authority and the executing authority shall consult each other with a view to agreeing on whether the interception is carried out in accordance with paragraph (a) or (b).

(7) When issuing an EIO referred to in sub-regulation (1) or during the interception, the issuing authority may, where it has a particular reason to do so, also request a transcription, decoding or decrypting of the recording subject to the agreement of the executing authority.

(8) Costs resulting from the application of this regulation shall be borne in accordance with regulation 24, except for the costs arising from the transcription, decoding and decrypting of the intercepted communications which shall be borne by the issuing State.

(9) Unless these regulations otherwise provide, the implementing procedure of this regulation shall be governed by article 628(B)(1)(d) of the Criminal Code and the Security Service Act which shall apply *mutatis mutandis* to this regulation.

Cap. 9.
Cap. 391.

34. (1) Where, for the purpose of carrying out an investigative measure, the interception of telecommunications is authorised by the competent authority of one Member State (the "intercepting Member State") and the communication address of the subject of the interception specified in the interception order is being used on the territory of another Member State (the "notified Member State") from which no technical assistance is required to carry out the interception, the intercepting Member State shall notify the competent authority of the notified Member State of the interception:

Notification of the Member State where the subject of the interception is located from which no technical assistance is needed.

(a) prior to the interception in cases where the competent authority of the intercepting Member State knows at the time of ordering the interception that the subject of the interception is or will be on the territory of the notified Member State;

(b) during the interception or after the interception has been carried out, immediately after it becomes aware that the subject of the interception is or has been during the interception, on the territory of the notified Member State.

(2) The notification referred to in sub-regulation (1) shall be made by using the form set out in the Third Schedule.

(3) The competent authority of the notified Member States may, in case where the interception would not be authorised in a similar domestic case, notify, without delay and at the latest within 96 hours after the receipt of the notification referred to in sub-regulation (1), the competent authority of the intercepting Member State with the following:

(a) that the interception may not be carried out or shall be terminated; and

(b) where necessary, that any material already intercepted while the subject of the interception was on its territory may not be used, or may only be used under conditions which it shall specify. The competent authority of the notified Member State shall inform the competent authority of the intercepting Member State of reasons justifying those conditions.

(4) Regulation 8(2) shall be applicable *mutatis mutandis* for the notification referred to in sub-regulation (2).

B 2100

Provisional
measures.

35. (1) The issuing authority may issue an EIO in order to take any measure with a view to provisionally preventing the destruction, transformation, removal, transfer or disposal of an item that may be used as evidence.

(2) The executing authority shall decide and communicate the decision on the provisional measure as soon as possible and, wherever practicable, within 24 hours of receipt of the EIO.

(3) Where a provisional measure referred to in sub-regulation (1) is requested the issuing authority shall indicate in the EIO whether the evidence is to be transferred to the issuing State or is to remain in the executing State. The executing authority shall recognise and execute the EIO and transfer the evidence in accordance with the procedures laid down in these regulations.

(4) Where, in accordance with sub-regulation (3), an EIO is accompanied by an instruction that the evidence shall remain in the executing State, the issuing authority shall indicate the date of lifting the provisional measure referred to in sub-regulation (1), or the estimated date for the submission of the request for the evidence to be transferred to the issuing State.

(5) After consulting the issuing authority, the executing authority may, in accordance with its national law and practice, lay down appropriate conditions in light of the circumstances of the case to limit the period for which the provisional measure referred to in sub-regulation (1) is to be maintained. If, in accordance with those conditions, it envisages lifting the provisional measure, the executing authority shall inform the issuing authority, which shall be given the opportunity to submit its comments. The issuing authority shall forthwith notify the executing authority that the provisional measure referred to in sub-regulation (1) has been lifted.

Relations to
other legal
instruments,
agreements and
arrangements.

36. (1) Without prejudice to their application between Member States and third States and their temporary application by virtue of regulation 38, these regulations replace, as from 22 May 2017, the corresponding provisions of the following conventions applicable between the Member States bound by these regulations:

(a) European Convention on Mutual Assistance in Criminal Matters of the Council of Europe of 20 April 1959, as well as its two additional protocols, and the bilateral agreements concluded pursuant to Article 26 thereof;

(b) Convention implementing the Schengen Agreement;

(c) Convention on Mutual Assistance in Criminal

Matters between the Member States of the European Union and its protocol.

(2) The application of the Framework Decision 2008/978/JHA is hereby replaced in respect of the Member States bound by the European Investigative Order transposed through these regulations. These regulations replace the Freezing Orders (Execution in the European Union) Regulations with regard to Member States bound by Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters. S.L. 9.13.

With regard to Member States bound by Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters, references to Framework Decision 2008/978/JHA and, as regards freezing of evidence, to the Freezing Orders (Execution in the European Union) Regulations, shall be construed as references to these regulations. S.L. 9.13.

37. (1) Mutual assistance requests received before 22 May 2017 shall continue to be governed by existing instruments relating to mutual assistance in criminal matters. Decisions to freeze evidence by virtue of Framework Decision 2003/577/JHA and received before 22 May 2017 shall also be governed by that Framework Decision. Transitional provisions.

(2) Regulation 10(1) is applicable *mutatis mutandis* to the EIO following a decision of freezing taken under Framework Decision 2003/577/JHA.

38. In the application of these regulations the provisions of these regulations shall prevail over the provisions of any other law if the latter are in conflict or are inconsistent with the provisions of these regulations. Conflict.

39. The Freezing Orders (Execution in the European Union) Regulations are hereby repealed. Repeal. S.L. 9.13.

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FIRST SCHEDULE**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

☐ 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:

.....

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(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 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.

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

B 2106

(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:

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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):

SECOND SCHEDULE**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.

(A) THE EIO CONCERNED Authority which issued the EIO: File reference:..... Date of issuing:..... Date of receipt:
(B) THE AUTHORITY WHICH RECEIVED THE EIO ⁽¹⁾ Official name of the competent authority: 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:..... Languages in which it is possible to communicate with the authority:
(C) (WHERE APPLICABLE) THE COMPETENT AUTHORITY TO WHOM THE EIO IS TRANSMITTED BY THE AUTHORITY UNDER (B) Official name of the authority: 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:..... Date of transmission:..... File reference:..... Language(s) that may be used for communication:

⁽¹⁾ 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.

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(D) ANY OTHER INFORMATION WHICH MAY BE RELEVANT FOR THE ISSUING AUTHORITY:
(E) SIGNATURE AND DATE Signature: Date: Official stamp (if available):

THIRD SCHEDULE**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.

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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 and contact details of the representative of the legal person:
(V)	Information regarding the purpose of this interception: State all information necessary, including a description of the case, legal classification of the offence(s) and the applicable statutory provision/code, in order to enable the notified authority to assess the following: ☐ whether the interception would be authorised in a similar domestic case; and whether the material obtained can be used in legal proceedings ☐ where the interception has already occurred, whether that material can be used in legal proceedings Please note that any objection to the interception or the use of already intercepted material must be made no later than 96 hours after the reception of this notification.
(C)	SIGNATURE AND DATE Signature: Date: Official stamp (if available):

FOURTH SCHEDULE
THE CATEGORIES OF OFFENCES
REFERRED TO IN ARTICLE 11

- participation in a criminal organisation,
- terrorism,
- trafficking of 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,

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- 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.
-