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## **Council adopts the "European Investigation Order" directive**

The Council adopted today a directive regarding the European Investigation Order (EIO) in criminal matters (PE-CONS 122/13). The goal of the directive is to allow member states to carry out investigative measures at the request of another member state on the basis of mutual recognition. The investigative measures would, for example, include interviewing witnesses, obtaining of information or evidence already in the possession of the executing authority, and (with additional safeguards) interception of telecommunications, and information on and monitoring of bank accounts.

The new rules would replace the current patchwork of legal provisions in this area with a single new instrument aiming to make judicial cooperation on investigations faster and more efficient. It will introduce automatic mutual recognition of investigation orders and limit the grounds for refusal by another EU state to execute the order, while at the same time providing legal remedies to protect the defence rights of concerned persons. Finally, it sets deadlines for carrying out the investigative measures and requires that the recognition or execution should be carried out with the same priority and speed as for a similar domestic case.

Member states will have 3 years after the entry into force of the directive to adopt the necessary national provisions.

### **What's new?**

- The EIO is a judicial decision, which has been issued or validated by a judicial authority of a member state, to have one or more specific investigative measure(s) carried out in another member state to obtain evidence in accordance with the directive. The EIO may also be issued to obtain evidence that is already in the possession of the competent authorities of the executing state.

**P R E S S**

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- The issuing of an EIO may be requested by a suspected or accused person, or by a lawyer on his/her behalf, within the framework of applicable defence rights in conformity with national criminal procedure.
- **Conditions for issuing and transmitting an EIO:** the issuing authority may only issue an EIO when it is necessary and proportionate for the purpose of the proceedings (taking into account the rights of the suspected or accused person) and when the investigative measure(s) indicated in the EIO could have been ordered under the same conditions in a similar domestic case.
- **Scope:** The EIO can be used in criminal proceedings, but also in those brought by administrative authorities, in particular when there is a criminal dimension.
- **Grounds for non-recognition or non-execution:** A number of safeguards ensure that an EIO will not be executed if it could harm essential national security interests or immunities established in the executing state, for instance rules limiting criminal liability relating to freedom of the press.
- **Legal remedies:** Member states must ensure that interested parties are entitled to legal remedies equivalent to those available in a similar domestic case and that they are properly informed of these possibilities. Legal remedies may be sought in both the issuing and the executing state.
- **Deadlines for the execution:** Member states must acknowledge receipt of an EIO within 30 days and carry out the investigation measure within 90 days.
- **Costs:** Save in exceptional circumstances, the executing state bears the costs of the measures carried out in its territory.

The EIO is an initiative which was presented in April 2010 by seven member states<sup>1</sup>. The United Kingdom decided to participate in the EIO by using the opt-in option provided for in Protocol 21 of the Lisbon Treaty. Ireland and Denmark are not taking part.

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<sup>1</sup> Austria, Belgium, Bulgaria, Estonia, Slovenia, Spain and Sweden.