



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 29 April 2011**

**9499/11**

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**Interinstitutional File:  
2010/0817 (COD)**

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**LIMITE**

**COPEN            90**  
**EUROJUST       62**  
**EJN                49**  
**CODEC            703**

**NOTE**

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From :            The Presidency  
To :               Working Party on Cooperation in Criminal Matters

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Subject :        Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters.  
- Proposals of Presidency

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Delegations will find in the Annexes proposals from Presidency regarding Article Y and Article 13 of the draft Directive.

## Article Y

### Costs

1. Unless otherwise provided in the Directive, all costs undertaken on the territory of the executing State which are related to the execution of an EIO shall be borne by the executing State.
2. Where the executing authority considers that the costs for the execution of the EIO may become exceptionally high, it shall consult with the issuing authority on whether and how the costs could be shared.
3. If consultations referred to in paragraph 2 cannot lead to an agreement on the division of cost, the competent authorities should further consult with each other in order to assess whether the request could not be modified, spread over time or eventually completely or partially withdrawn. Where the issuing authority objects to the withdrawal of the EIO it shall specify its reasons to the executing authority. Having considered the reasons presented by the issuing authority, the executing authority shall recognise and execute EIO, unless it decides to invoke one of the grounds for non recognition or non execution provided for in this Directive.
4. deleted

Article 13  
Legal remedies

1. Member States shall ensure that any interested party may avail himself at least of the same legal remedies as those available in a domestic case against the investigative measure concerned, in order to preserve their legitimate interests.
2. (...)
3. The substantive reasons for issuing the EIO may be challenged only in an action brought (...)in the issuing State.
4. The issuing and the executing authorities shall take the necessary measures to ensure that any interested party is informed, in language that he understands, about the possibilities for seeking the legal remedies referred to in paragraph 1.
5. The issuing and executing authorities shall inform each other about the legal remedies sought against the issuing or the recognition or execution of an EIO. [ex para 6,7,9 of DE proposal]
- 5a. In case the evidence has already been transferred and the recognition or execution of an EIO has been successfully challenged in the executing State, this decision will be taken into account in the issuing State in accordance with its own national law.
6. (...).

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