



TRAINING ON EIO

Online training of Master Trainers – 25th May 2022



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PLAN

- Welcome
- Tour de Table of participants
- Learning objectives
- Issuing an EIO using eEDES
- Reflection on particular investigative measures
- Reflections on the grounds of issuing an EIO
- Transmitting an EIO

TOUR DE TABLE

- Brief introduction of yourself
- What types of EIOs do you handle
- For how long have you been responsible for EIOs

LEARNING OUTCOMES FOR THIS TRAINING



By the end of the Training, participants should be able to:

1. Have a structured approach to passing on their knowledge on the EIO procedures
2. Identify and overcome cultural differences in the application of the EIO
3. Using their nuanced knowledge of legal differences between MSs, help anticipate potential obstacles in the EIO process
4. Use and instruct others on the use of the e-Evidence Digital Exchange System

STRUCTURE

- Session 1 – emphasis is on issuing an EIO
- Session 2 – emphasis is on receiving/executing an EIO
- In each session:
 - Choice of particular topics
 - Refresher of the provisions in the directive
 - Reflection on reality
 - Familiarisation with eEDES
- This is not a beginners guide to EIO... but the materials we have prepared for the trainings have a section for beginners too... depending on the trainees.



(MODULE 1, SESSION 1.2)
'ISSUING AN EIO'

OVERVIEW OF MODULE 1, SESSION 1.2

Session 'Issuing an EIO' of Module 1 covers:

- Issuing an EIO using eEDES
- Aspects of urgency (Section B of Annex A)
- Relation to an earlier EIO (Section D of Annex A)
- Identity of the person concerned (Section E of Annex A)
- Types of proceedings for which the EIO can be issued (Section F of Annex A)

CONTENT AND FORM OF THE EIO

The EIO shall contain the following information:

- (a) data about the issuing authority and, where applicable, the validating authority;
- (b) the object of and reasons for the EIO;
- (c) the necessary information available on the person(s) 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 measures(s) requested and the evidence to be obtained.

FOR AN EIO TO BE ISSUED

Annex A of the EIO Directive needs to be:



This can be done using eEDES.

ISSUING AN EIO USING eEDES

- eEDES stands for e-Evidence Digital Exchange System
- Developed by the European Commission
- By using eEDES, authorized users, having appropriate rights, can fill in the available forms (Annex A, B, C and a form for MLAs)
- They can then send these legal forms to competent authorities in other Member States
- Anonymous or guest users cannot access eEDES

E-EVIDENCE DIGITAL EXCHANGE SYSTEM

- It allows cross-border access to evidence
- The basis are two legal instruments (EIO Directive and MLA Convention)
- Developed in consultation with Member States and supports extension and continuous improvements

OBJECTIVES AND ADVANTAGES (1)



+

**Facilitating
judicial cooperation
between the
competent authorities**



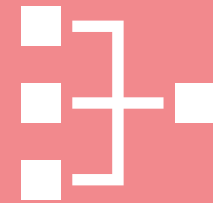
+

**Reducing the
operational risks -
- securing platform for
data exchanges**



+

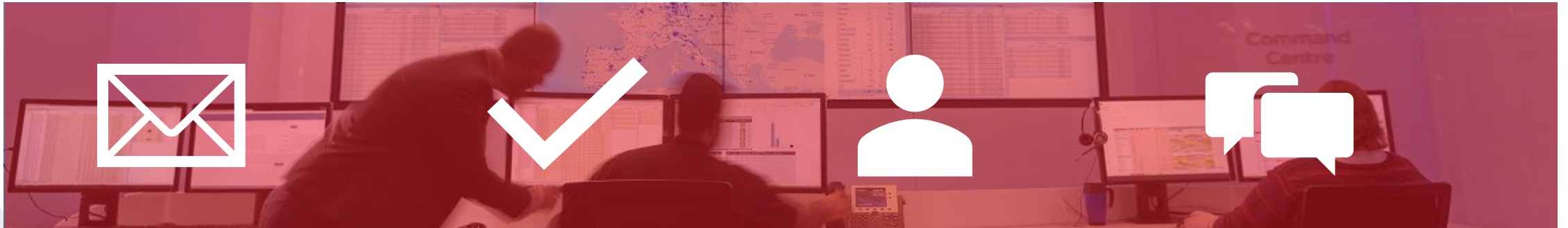
**Improving the
transparency
and speeding up
the process**



+

**Reducing
the complexity and
resource-intensity
of the exchanges**

OBJECTIVES AND ADVANTAGES (2)



+

Delivering user-friendly, intuitive tool which replaces other medium of contact (e-mails, traditional post etc.)

+

Simplifying the tasks of the Member States

+

Delivering unified place for communication consistent for all countries and users

+

Allowing MS to exchanges requests and responses in digital way

SCENARIO

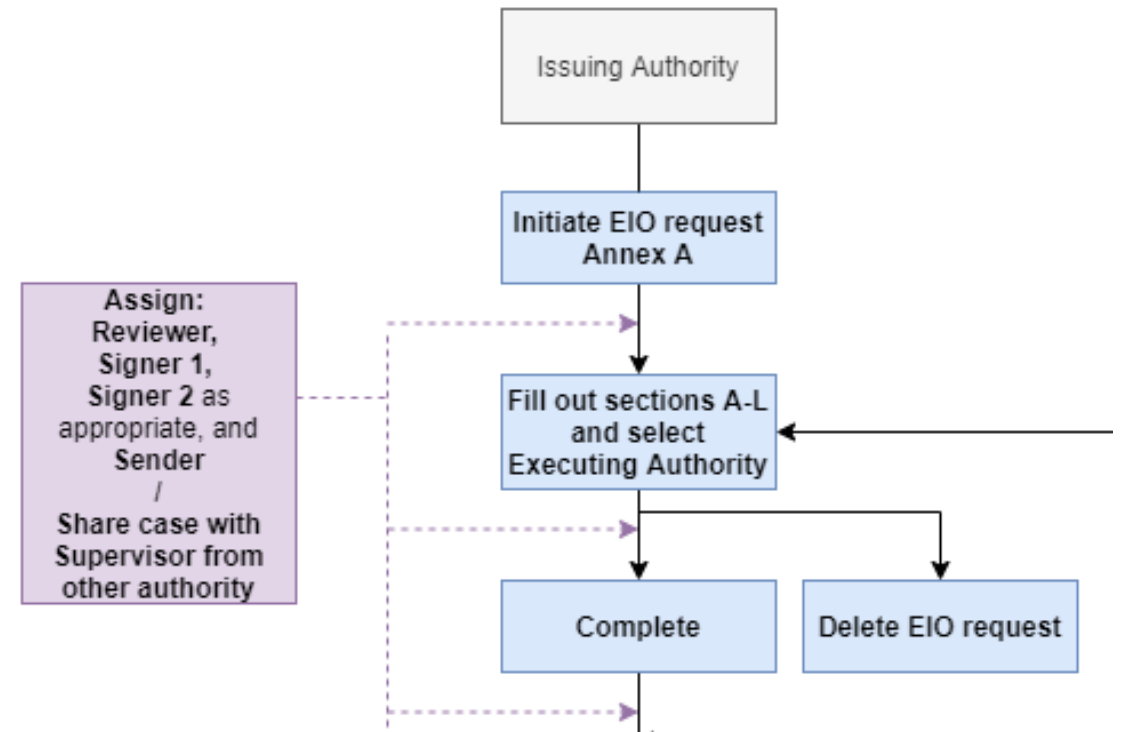
- Luisa M and Frank B (defendants) have placed online adverts on websites such as marktplaats.nl, fotocasa.es, etsy.fr for the sale of 2 (two) motor vehicles and 2 (two) Samsung Frame 50-inch TVs. In the adverts they explained that they were in possession of these items and were ready to transfer or send them to any purchaser wherever the purchaser resides in the European Union.
- Several persons (victims) from different EU Member States responded to the adverts and corresponded with the defendants. Some of them also paid the corresponding price by bank transfer to the bank accounts indicated by the defendants.
- None of the victims received the motor vehicles or TVs and even after asking for the objects they did not receive any reimbursement for the undelivered items.
- Oscar F is one such victim in your country. He transferred money to bank accounts IBAN BE25 ING 0000 2345 0678 and IBAN PT66 ING 0087 6543 213.
- You would like to obtain evidence on the owner of the bank account, the movements of the transferred money and any related information.

ACCESSING eEDES

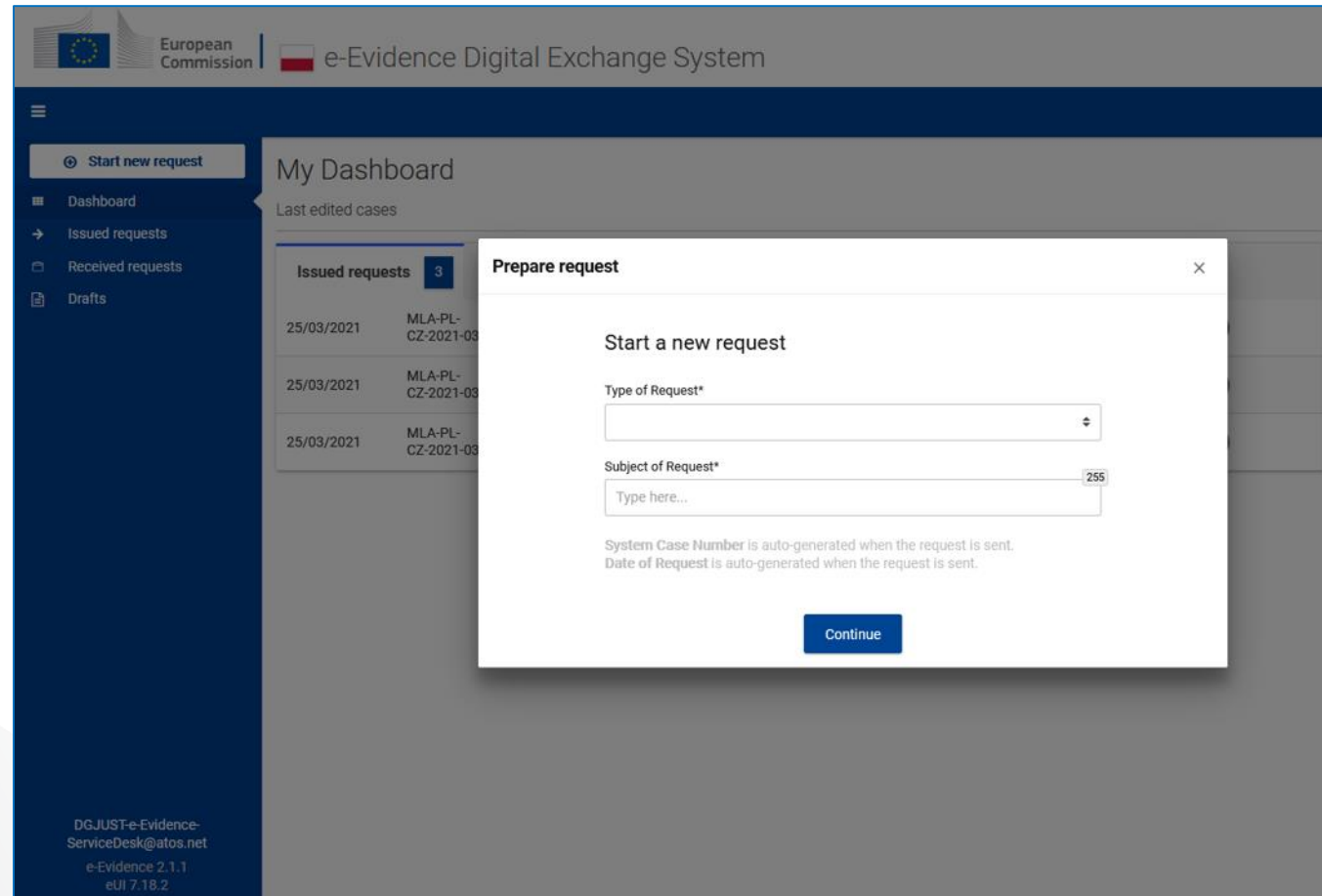
- Using login details, log into eEDES
- Using left menu button 'Start new EIO', create a case
- When drafting an EIO, one is assigned the Author's role
 - The Author's role is responsible for creating and editing drafts using the eEDES Portal
 - Applies to Both MLA and EIO
- **Task:** What type of request needs to be issued?

ACTIONS DEDICATED FOR AUTHOR

- Initiates the case creation (EIO/MLA)
- Addressing the case (proper Member State and Authority on MS site)
- Filling sections of EIO/MLA
- Sending case for review
- Applying corrections when the case is returned for amendments

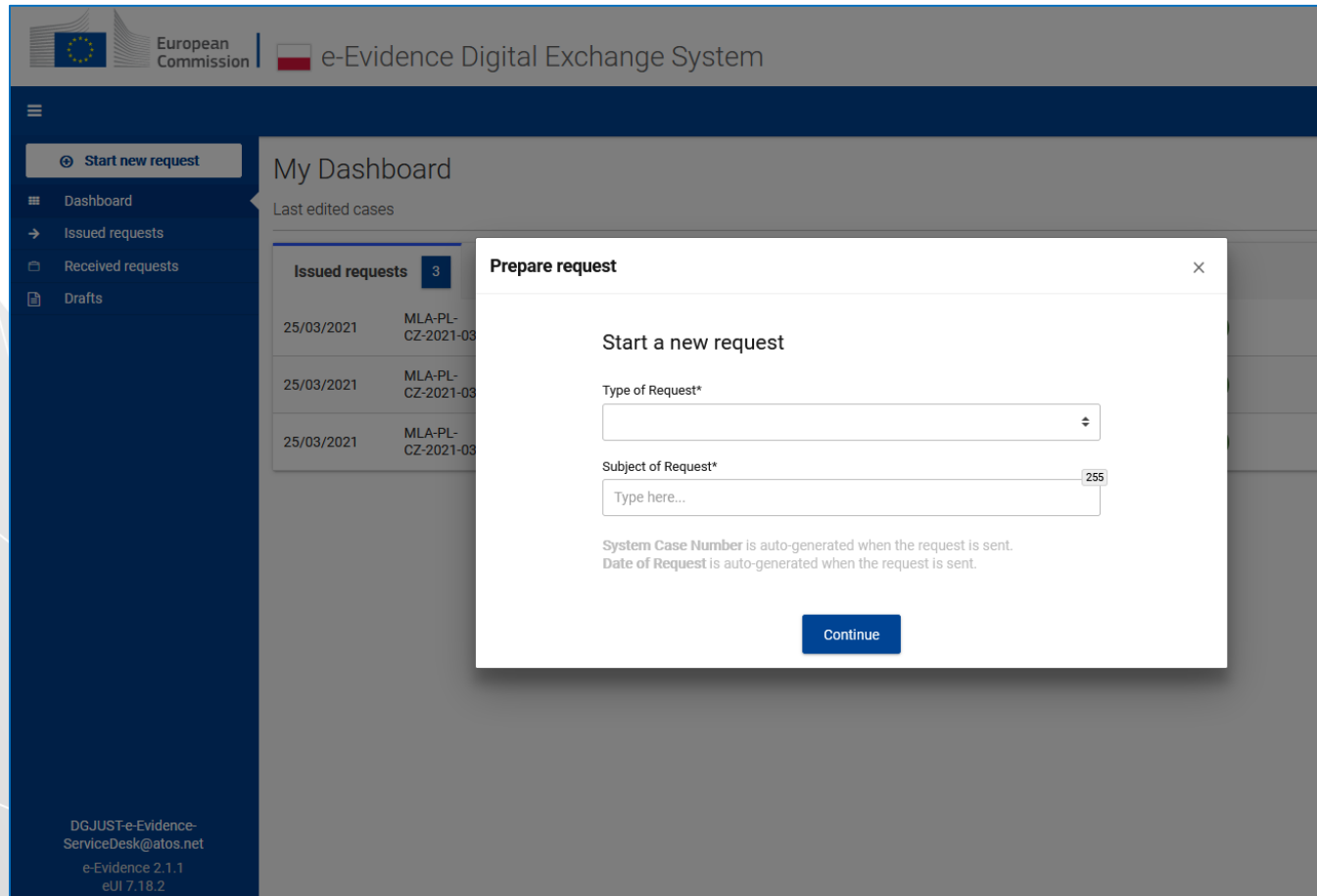


CHOOSING A TYPE OF REQUEST (1)



The screenshot displays the TREIO e-Evidence Digital Exchange System interface. At the top, the European Commission logo and the system name are visible. The main navigation menu on the left includes options for 'Start new request', 'Dashboard', 'Issued requests', 'Received requests', and 'Drafts'. The 'Start new request' option is currently selected. The main content area shows a 'My Dashboard' with a section for 'Issued requests' containing a table of three entries, each with a date of 25/03/2021 and a case number starting with 'MLA-PL-CZ-2021-03'. A 'Prepare request' dialog box is open in the foreground, titled 'Start a new request'. It contains two required fields: 'Type of Request*' (a dropdown menu) and 'Subject of Request*' (a text input field with a character limit of 255). Below these fields, there is a note: 'System Case Number is auto-generated when the request is sent. Date of Request is auto-generated when the request is sent.' A 'Continue' button is located at the bottom of the dialog box. In the bottom left corner of the interface, contact information for the service desk is provided: 'DG.JUST-e-Evidence-ServiceDesk@atos.net', 'e-Evidence 2.1.1', and 'eUI 7.18.2'.

CHOOSING A TYPE OF REQUEST (2)



The screenshot displays the 'My Dashboard' of the e-Evidence Digital Exchange System. A 'Prepare request' dialog box is open, titled 'Start a new request'. It contains the following fields and text:

- Type of Request***: A dropdown menu.
- Subject of Request***: A text input field with a character count of 255.
- System Case Number is auto-generated when the request is sent.
- Date of Request is auto-generated when the request is sent.
- Continue**: A blue button at the bottom.

The background dashboard shows a sidebar with 'Start new request', 'Dashboard', 'Issued requests', 'Received requests', and 'Drafts'. The main area displays 'Last edited cases' and a table of 'Issued requests' with 3 items, each dated 25/03/2021 and labeled 'MLA-PL-CZ-2021-03'.

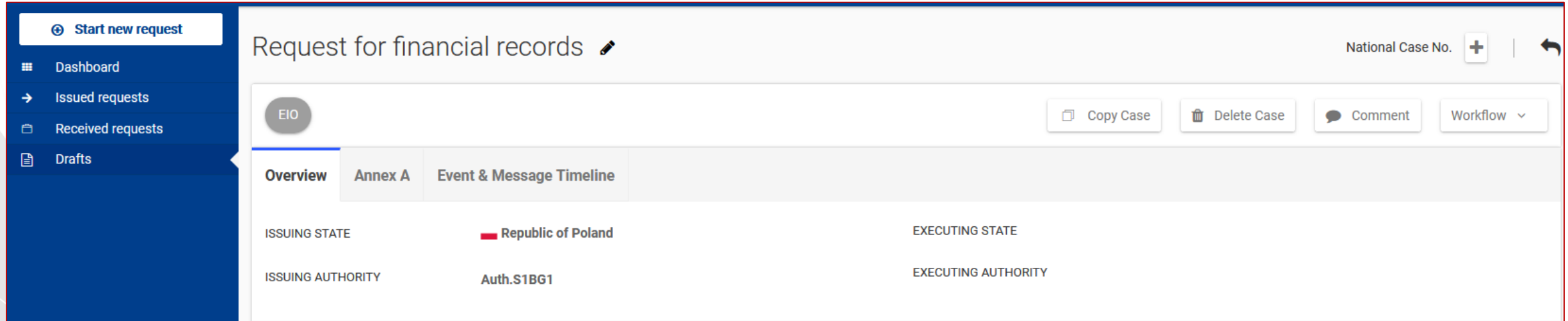
At the bottom left of the dashboard, the following text is visible:
DG.JUST-e-Evidence-ServiceDesk@atos.net
e-Evidence 2.1.1
eUI 7.18.2

Three choices:


- EIO – European Investigation Order
- MLA – Mutual Legal Assistance Request
- ITN – Interception Notification Notice

System case number & Date of Request are automatically generated when the request is sent.

SECTION A - ISSUING STATE AND EXECUTING STATE



The screenshot displays the TREIO user interface for a request titled "Request for financial records". On the left, a dark blue sidebar contains navigation options: "Start new request" (with a plus icon), "Dashboard", "Issued requests", "Received requests", and "Drafts". The main content area features a header with the request title and a "National Case No." field with a plus icon and a refresh icon. Below the header, there are action buttons: "Copy Case", "Delete Case", "Comment", and "Workflow" (with a dropdown arrow). A tabbed interface shows "Overview" as the active tab, with "Annex A" and "Event & Message Timeline" as other options. The "Overview" tab displays the following information:





ISSUING STATE	 Republic of Poland	EXECUTING STATE
ISSUING AUTHORITY	Auth.S1BG1	EXECUTING AUTHORITY

Request for financial records



- Dashboard
- Issued requests
- Received requests
- Drafts

EIO

 Copy Case
  Delete Case
  Comment
  Workflow

- Overview**
- Annex A
- Event & Message Timeline


ISSUING STATE	 Republic of Poland	EXECUTING STATE	
ISSUING AUTHORITY	Auth.S1BG1	EXECUTING AUTHORITY	

Status **DRAFT**

Linked cases  Add case link




Request started on:	26/05/2021	No cases linked
Latest update on:	26/05/2021	

Assigned users  Display roles  Edit users

Name	Authority
 Aneliya Chomakova S1BG1	Auth.S1BG1


Attached documents
No attachments yet

Contact 

ISSUING AUTHORITY 
Author
Auth.S1BG1
 address
 012356789

Start new request

Request for financial records

National Case No. 




EIO

 Copy Case

 Delete Case

 Comment

Workflow 

Overview

Annex A

Event & Message Timeline

 Get PDF / Print

 Attach Document

 Validation check

 Form Translation

Request Data

SECTION A

SECTION B

Urgency

SECTION C

Investigative measure(s) to be carried out

SECTION D

Related to an earlier EIO

SECTION E

Identity of the person concerned

SECTION F

Type of proceedings for which the EIO is issued

SECTION G

Grounds for issuing the EIO

SECTION H

Additional requirements for certain measures.

SECTION I

Formalities and procedures requested for the execution

SECTION J

Additional remedies

SECTION A

Issuing State


Republic of Poland

Executing State *

Select executing state 

Start new request


Request for financial records


National Case No. 




EIO

 Copy Case

 Delete Case

 Comment

Workflow 

Overview


Annex A

Event & Message Timeline

 Get PDF 

 Attach Document

 Validation check

 Form Translation

Request Data

SECTION A

SECTION B

Urgency

SECTION C

Investigative measure(s) to be carried out

SECTION D

Related to an earlier EIO

SECTION E

Identity of the person concerned

SECTION F

Type of proceedings for which the EIO is issued

SECTION G

Grounds for issuing the EIO

SECTION H

Additional requirements for certain measures.

SECTION I

Formalities and procedures requested for the execution

SECTION J


Additional remedies

SECTION A

Issuing State

Republic of Poland

Executing State *

Select executing state 


Start new request


Request for financial records

National Case No.  

EIO

 Copy Case

 Delete Case

 Comment

Workflow 

Overview

Annex A

Event & Message Timeline

 Get PDF / Print

 Attach Document

 Validation check

 Form Translation

Request Data

SECTION A

SECTION B

Urgency

SECTION C

Investigative measure(s) to be carried out

SECTION D

Related to an earlier EIO

SECTION E

Identity of the person concerned

SECTION F

Type of proceedings for which the EIO is issued

SECTION G

Grounds for issuing the EIO

SECTION H

Additional requirements for certain measures.

SECTION I

Formalities and procedures requested for the execution

SECTION J


Additional remedies

SECTION A

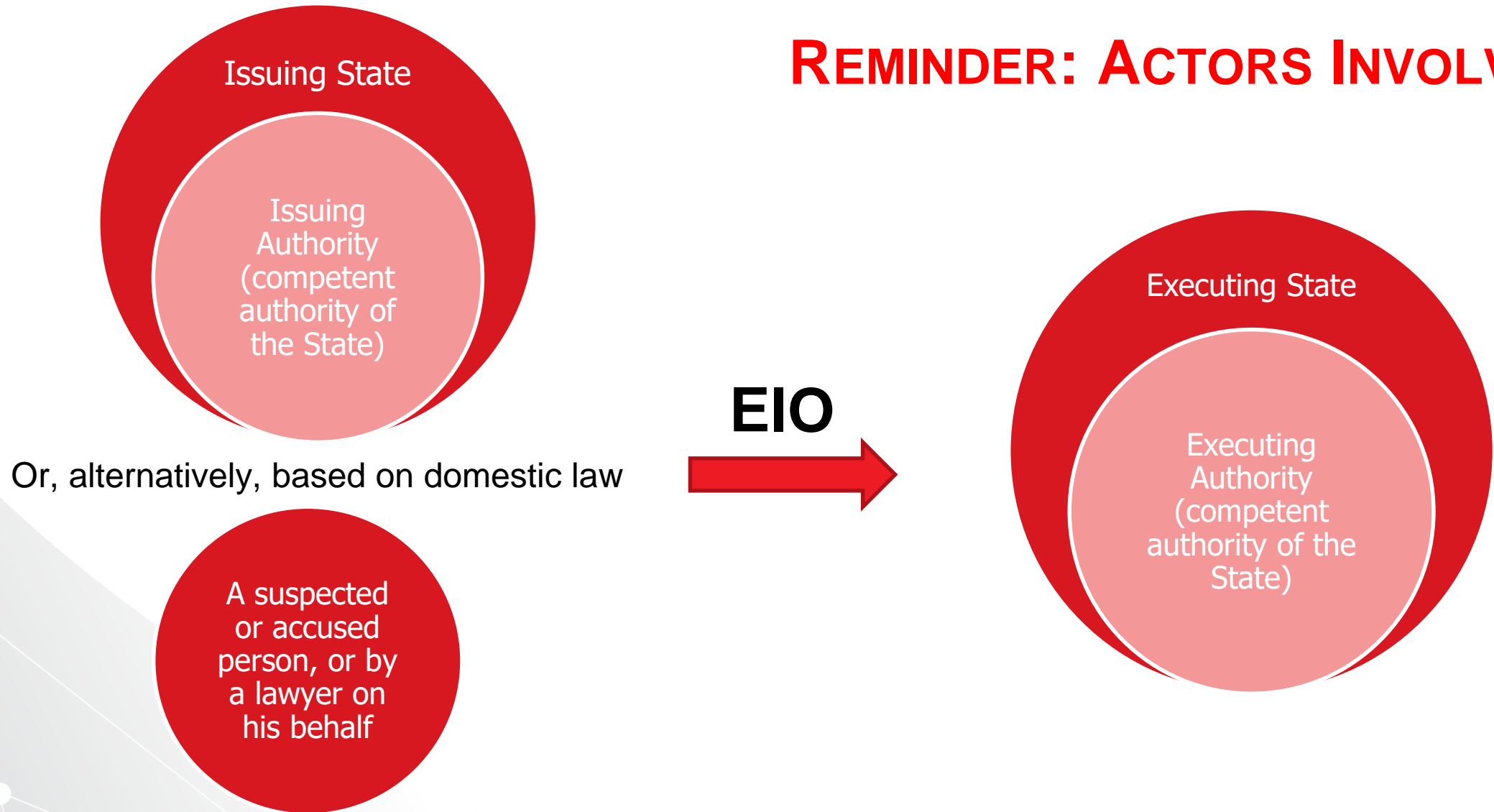
Issuing State

Republic of Poland

Executing State *

Select executing state 

REMINDER: ACTORS INVOLVED



SECTION B - URGENCY

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:

Date:

Time (with Time Zone):

WHAT IS 'URGENT'?



EVIDENCE

being concealed or
destroyed

or tampered with



TRIAL

imminent trial date



OTHER REASONS

Time limits for execution
e.g. deadline of end of
detention period

Situations of risk to people

Electronic evidence (such as
traffic data & subscriber
data) easily lost

SECTION D - RELATION TO AN EARLIER EIO

SECTION D | Related to an earlier EIO ⓘ

Indicate whether this EIO supplements an EARLIER EIO. If applicable, provide the 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) :

EIO:
 MLA request:
 EAW:
 Freezing/confiscation order:
 Other request:

EIO:
 MLA request:
 EAW:
 Freezing/confiscation order:
 Other request:

RELATION TO AN EARLIER EIO

- Not only to indicate previous EIOs, but also
 - European Arrest Warrants, freezing orders, MLA requests, JITs, including existing JITs with other States in the context of multilateral coordination frameworks
- Recommended practice: Section D should particularly be used when several EIOs have been sent to several countries in the same case and the need for coordination is present

Relevant article: **Article 8 of the EIO Directive**

(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 Annex A


(2) If the issuing authority assists in the execution of the EIO in the executing State, it may, 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 the first subparagraph of Article 5(1), and, where applicable, be **validated** in accordance with Article 2(c).

SECTION E - IDENTITY OF THE PERSON CONCERNED

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) 

(II) IN THE CASE OF LEGAL PERSON(S) 

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:

Add new natural person



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 ID:

Identity document(s) (ID card, passport), If available

Date of birth:

Residence and/or known address:

Place of birth:

Language(s) which the person understands:

 Cancel

 Add

Add new legal person



Name: *

Shortened name:

Form of legal person:

Shortened name, commonly used name or trading name, if applicable

Registered seat:

Address of the legal person:

Registration number:

Name of the legal person's representative:

Please describe the position the concerned person currently holds in the proceedings: *

- suspected or accused person
- victim

← Cancel

✓ Add

IDENTITY OF THE PERSON CONCERNED

- Should be used to identify the person/s concerned by the investigative measure (not necessarily the accused/suspected person/s)
- Could be victim, witness, expert, third party, other

Points of attention:

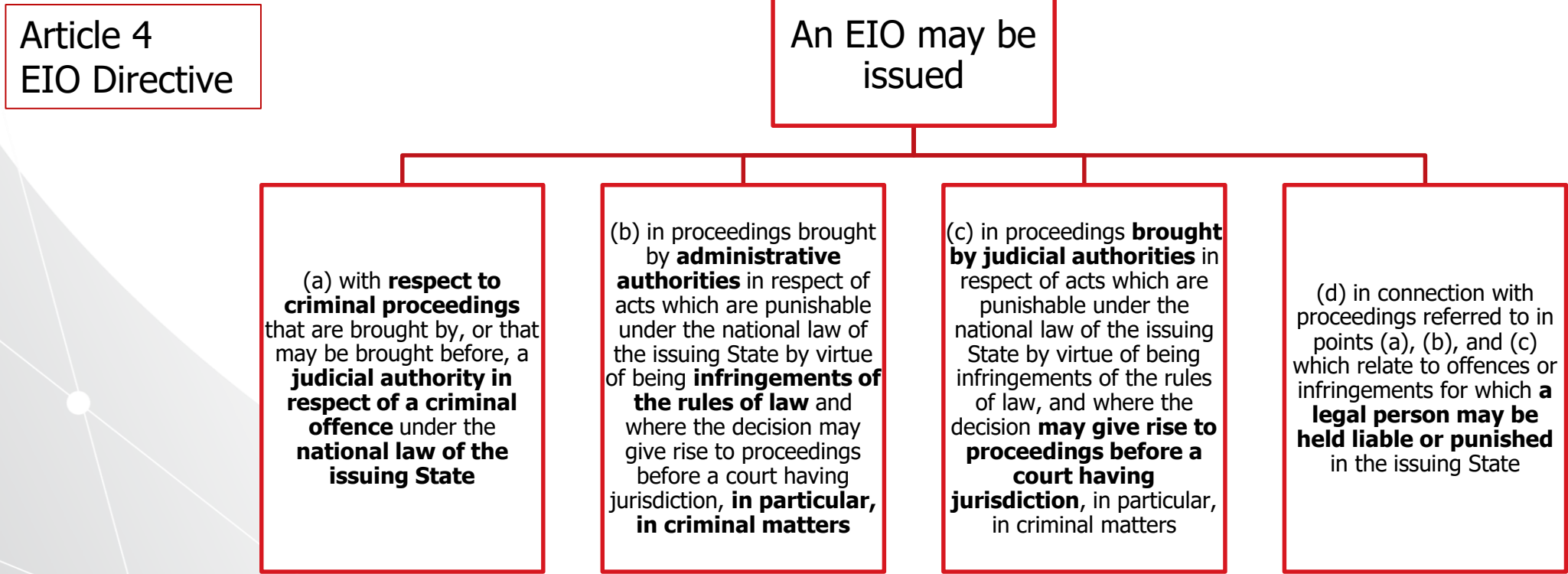
- One should give as much detail as in his/her possession – even if this is only a DNA profile
- One should include all details with utmost precision, including alias, with additional care for transliteration of characters (e.g., from Cyrillic or Arabic)
- In case a person is a company/legal person, one should not forget to indicate the form of the legal person

SECTION F - TYPE OF PROCEEDINGS

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,
- (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;
- (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.

TYPES OF PROCEEDINGS FOR WHICH THE EIO CAN BE ISSUED



KEY MESSAGES

- 1) eEDES can be used for the issuing of an EIO and an MLA
- 2) eEDES is meant to facilitate the issuing of an EIO
- 3) When issuing an EIO, it is best to fill in and reflect on each section of Annex A
- 4) Key points of attention: urgency; relation to earlier EIOs; and identity of the person concerned

SOME REFLECTIONS ON USING EEDES

REFLECTIONS ON USING eEDES

- What is positive about using this system for issuing an EIO?
- What are possible hurdles?
 - On look and feel
 - Missing
 - Not clear how it works



(MODULE 1, SESSION 1.3)
‘INVESTIGATIVE MEASURES’

OVERVIEW OF MODULE 1, SESSION 1.3


Session 'Investigative Measures' of Module 1 covers:

- Investigative measure(s) to be carried out (Section C of Annex A)
- Additional requirements for certain measures (Section H of Annex A)
- Information on bank and other financial accounts (Section H4 of Annex A)
- Proportionality of measures

SCENARIO

- Luisa M and Frank B (defendants) have placed online adverts on websites such as marktplaats.nl, fotocasa.es, etsy.fr for the sale of 2 (two) motor vehicles and 2 (two) Samsung Frame 50-inch TVs. In the adverts they explained that they were in possession of these items and were ready to transfer or send them to any purchaser wherever the purchaser resides in the European Union.
- Several persons (victims) from different EU Member States responded to the adverts and corresponded with the defendants. Some of them also paid the corresponding price by bank transfer to the bank accounts indicated by the defendants.
- None of the victims received the motor vehicles or TVs and even after asking for the objects they did not receive any reimbursement for the undelivered items.
- Oscar F is one such victim in your country. He transferred money to bank accounts IBAN BE25 ING 0000 2345 0678 and IBAN PT66 ING 0087 6543 213.
- You would like to obtain evidence on the owner of the bank account, the movements of the transferred money and any related information.

SECTION C - INVESTIGATIVE MEASURES TO BE CARRIED OUT

SECTION C | Investigative measure(s) to be carried out 

Describe the assistance/investigative measure(s) required AND indicate, if applicable, if it is one of the following investigative measures: *

Investigative measure(s) to collect the following types of e-evidence:

- Search
- Seizure (with a view to gather evidence)
- Surrender of documents
- Surrender of business records
- 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
- 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 video conference or other audio visual transmission
- Hearing by telephone conference
- Information on bank and other financial accounts
- Information on banking and other financial operations

EXAMPLE OF A FILLED IN DESCRIPTION BOX

Section C

Describe the assistance/investigative measure(s) required AND indicate, if applicable, if it is one of the following measures:*

The identity of the account holders should be investigated with the following banking institutions: IBAN BE25 ING 0000 2345 0678, ING Belgium.

To proceed to the inquiry of said account holders, one should clarify:

- whether bank transfers were made to accounts domiciled in Belgium banking institutions
- why they did it
- if they have suffered any patrimonial loss, and – in affirmative case, one should indicate their respective value
- to join documentation relating to such transfers.

To freeze account IBAN BE25 ING 0000 2345 0678.

REFLECTION ON FILLING IN THE DESCRIPTION BOX

Describe the assistance/investigative measure(s) required AND indicate, if applicable, if it is one of the following measures:*

- The identity of the account holders should be investigated with the following banking institutions: IBAN BE25 ING 0000 2345 0678, ING Belgium.
- To proceed to the inquiry of said account holders, one should clarify:
 - whether bank transfers were made to accounts domiciled in Belgium banking institutions
 - why they did it
 - if they have suffered any patrimonial loss, and – in affirmative case, one should indicate their respective value
 - join documentation relating to such transfers.
- To freeze account IBAN BE25 ING 0000 2345 0678.

Reflection:

Is this description:

- Clear?
- Simple and effective?
- Specific enough?
- Can all the measures be carried out? NO, freezing of accounts is not a measure for an EIO.

FURTHER REFLECTION

- Thinking modus: will the executing authority understand the order?
 - If a request is submitted to hear a witness/victim/suspect, the issuing authority should assist by enclosing a list of questions, either in Section C itself or in an attachment to the EIO.
 - In case there are needs and/or obligations that the law of the issuing authority would require, and they could help the executing authority to better understand the peculiarities of the order, one should consider giving additional contextual information.
 - One should be aware of different legal and operation cultures in the executing State. For example, not all banking cultures are the same; thus, investigative traditions may differ.

INDICATING AN INVESTIGATIVE MEASURE

- Section C has two parts:
 - Description of the measure
 - Indication of the measure from list of measures
- For some measures additional information may be needed – Section H of Annex A

SECTION C | Investigative measure(s) to be carried out ⓘ

Describe the assistance/investigative measure(s) required AND indicate, if applicable, if it is one of the following investigative measures: *

Investigative measure(s) to collect the following types of e-evidence:

- Search
- Seizure (with a view to gather evidence)
- Surrender of documents
- Surrender of business records
- 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
- 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 video conference or other audio visual transmission
- Hearing by telephone conference
- Information on bank and other financial accounts
- Information on banking and other financial operations

ADDITIONAL REQUIREMENTS FOR CERTAIN MEASURES


- For some specific investigative measures (Article 22-31 of the EIO Directive) additional requirements in Section H apply.
- These include:

Temporary transfer of a person held in custody to the issuing State/executing State
Video or telephone conference or other audiovisual transmission
Provisional measures to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence
Information on bank and other financial accounts/operations (Section H4)
Real time monitoring
Covert investigation
Interception of telecommunications


ADDITIONAL REQUIREMENTS FOR CERTAIN MEASURES – ARTICLES 22-30 (AND SECTION H)


SECTION H | Additional requirements for certain measures.

SECTION H1 Transfer of a person held in a custody  >

SECTION H2 Video or telephone conference or other audiovisual transmission  >

SECTION H3 Provisional measures  >



SECTION H4 Information on bank and other financial accounts  >

SECTION H5 Investigate measures implying the gathering of evidence in real time, continuously and over a certain period of time  >

SECTION H6 Covert investigations  >

SECTION H7 Interception of telecommunications  >

SECTION H4 INFORMATION ON BANK AND OTHER FINANCIAL ACCOUNTS

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  

 Add new account

No account added

Add new account



(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

(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 accounts

Indicate the relevant period of time and the related accounts:

- Name of the bank:
- Account number:
- Account holder:
- Relevant time period:

Show translation

Cancel

Add

RELATED RECITALS

- Broad understanding of whose financial accounts can be asked for

Recital 27: An EIO may be **issued in order to obtain evidence concerning the accounts, of whatever nature, held in any bank or any non-banking financial institution** by a person subject to criminal proceedings. This possibility is **to be understood broadly** as comprising not only suspected or accused persons but also any other person in respect of whom such information is found necessary by the competent authorities in the course of criminal proceedings.

- 'Details of a specified account' include

Recital 29: When an EIO is issued to obtain 'details' of a specified account, '**details**' should be **understood to include at least the name and address of the account holder, details of any powers of attorney held over the account, and any other details or documents provided by the account holder when the account was opened and that are still held by the bank.**

ARTICLE 27 INFORMATION ON BANKING AND OTHER FINANCIAL OPERATIONS

Article 27 EIO Directive

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.**

2. Each Member State **shall take the measures necessary to enable it to provide the information referred to in paragraph 1 in accordance with the conditions under this Article.**

What can be obtained:

- Details of specified accounts/banking operations
- Carried out in defined period

Legal basis for providing information on banking needs to be included in all MS

Article 27 EIO Directive

3. **The obligation set out** in this Article **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.**

5. An EIO may **also be issued** with regard to the information provided for in paragraph 1 with reference to the **financial operations conducted by non-banking financial institutions.** Paragraphs 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 Article 11, 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.**

Limits of the obligation:

To information in possession of the bank

Need for information has to be justified:

Relevance for the purpose of the criminal proceedings concerned needs to be shown.

EIO can also be issued for:

Financial operations by non-banking financial institutions

BUT only if authorised in a similar domestic case in executing state

PROPORTIONALITY OF MEASURE

Conditions to be verified by the issuing authority (Article 6 EIO Directive):

- The issuing Member State must check whether the measure is necessary and proportionate.
- The issuing Member State must check whether the measure could have been ordered under same conditions in a similar domestic case.

NECESSARY AND PROPORTIONATE

- Some guidance from Recital 11 of the EIO Directive
 - The **execution** of an investigative measure seems proportionate, adequate and applicable to the case in hand
 - The **evidence** sought is necessary and proportionate for the purpose of the proceedings
 - The **investigative measure** chosen is necessary and proportionate for the gathering of the evidence concerned
 - By means of issuing the EIO, another Member State should be involved in the gathering of that evidence.
- Open question: Should cost of measures be included in proportionality check?

RESPECTFUL OF FUNDAMENTAL RIGHTS

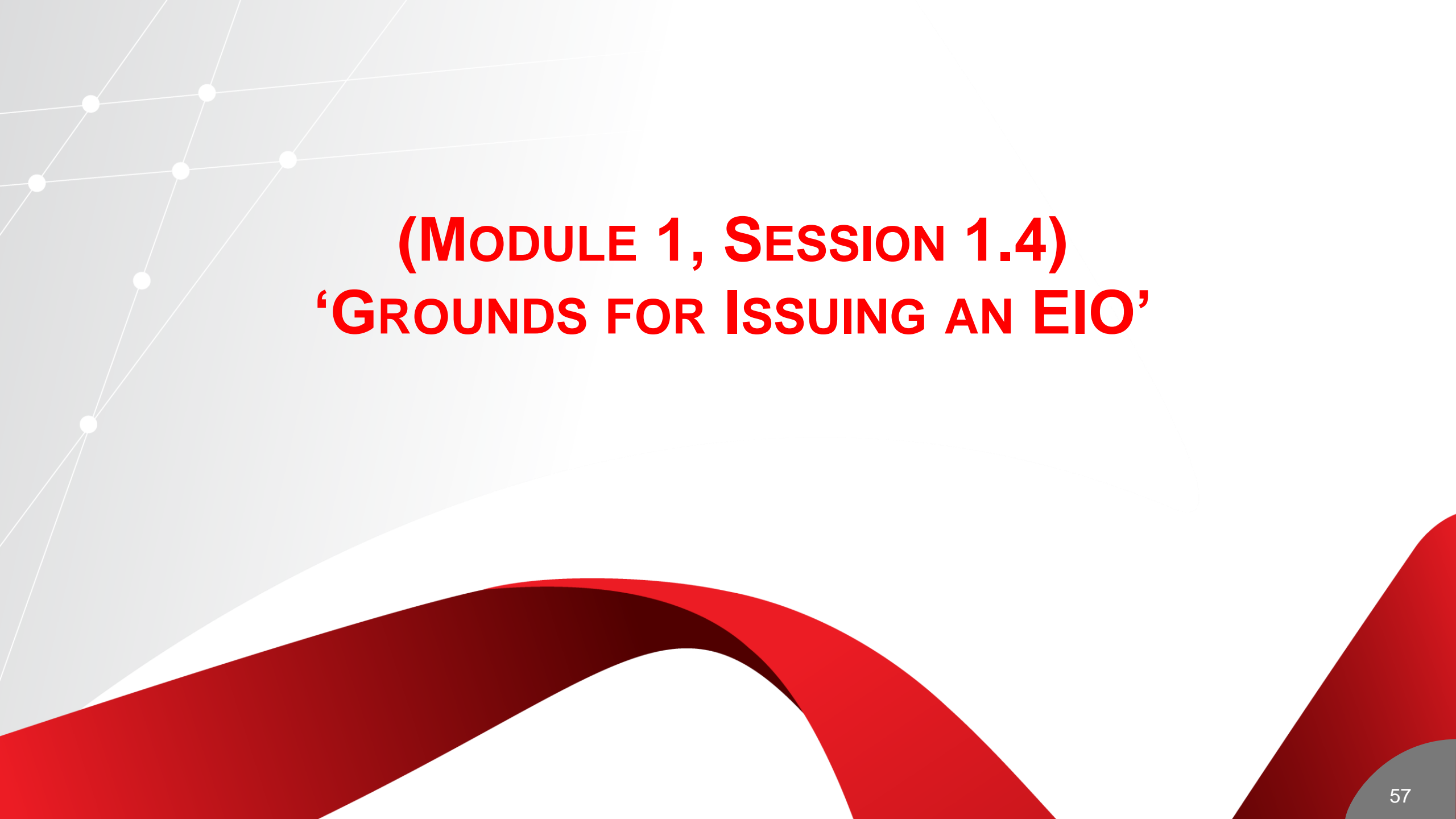
- Article 6 (1) of the EIO Directive includes that the measure must “**taking into account the rights of the suspected or accused person**”
- Recital 12 gives some guidance:
 - Particular attention to **Article 48** of the Charter of Fundamental Rights of the European Union
 - presumption of innocence
 - rights of defence in criminal proceedings
 - **Any limitation** of such rights by an investigative measure should **respect necessity, proportionality and objectives that it should pursue**, in particular the protection of the rights and freedoms of others (Article 52 of the Charter)

SIMILAR DOMESTIC CASE

- Art. 6(1)(b): the investigative measure(s) indicated in the EIO could have **been ordered under the same conditions in a similar domestic case**
- **From Eurojust casework**, three different interpretations emerge:
 - The judicial authority issuing EIO has power to order the same investigative measure domestically
 - Some MS transposed this in literal way, no further guidance on what this means
 - Not interpreted as a requirement that judicial authorities who issue an EIO have the power to order the same investigative measure domestically, in particular where, the judicial authority competent to issue an EIO is the judicial authority who is in charge of the investigation, prosecution or trial and this authority does not necessarily have the same powers domestically

KEY MESSAGES

- 1) Investigative measures are not limited to suspects or accused persons
- 2) Investigative measures need to be necessary and proportionate
- 3) Precision in the description of the measure is key: one needs to think from the executing State's perspective
- 4) One should use EIO to assist the understanding and work of the executing State
- 5) Asking for financial information is not a 'fishing expedition'



(MODULE 1, SESSION 1.4)
‘GROUNDS FOR ISSUING AN EIO’

OVERVIEW OF MODULE 1, SESSION 1.4

Session 'Grounds for Issuing an EIO' of Module 1 covers:

- Grounds for issuing an EIO (Section G of Annex A)
- Video or telephone conference or other visual transmission (Section H2 of Annex A)
- Real-time investigative measures (Section H5 of Annex A)

GROUNDS FOR ISSUING AN EIO

Article 5 – Content and Form of the EIO

The EIO in the form set out in Annex A shall be completed, signed, and its content certified as accurate and correct by the issuing authority.

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 and reasons for the EIO;**
- (c) the necessary information available on the person(s) 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 measures(s) requested and the evidence to be obtained.

GROUNDS FOR ISSUING THE EIO

SECTION G | Grounds for issuing the EIO

1. Summary of the facts

Set out the reason why the EIO is issued, including a summary of the underlying facts, a description of offences charged or under investigation, the stage of investigation has reached, the reasons for any risk factors and any other relevant information.

- Date, time (period of time) of offence
- Place of offence
- Name and nationality of the suspect/accused, and other details, if known

2. Nature and legal classification of the offence(s) for which the EIO is issued and the applicable statutory provision/code: *

3. Is the offence for which the EIO is issued punishable in the issuing State by a custodial sentence or detention order of a maximum of at least three years as defined by the law of the issuing State and included in the list of offences set out below? (please tick the relevant box)

- participation in a criminal organisation
- terrorism
- trafficking in human beings
- sexual exploitation of children and child pornography
- illicit trafficking in narcotic drugs and psychotropic substances
- illicit trafficking in weapons, munitions, 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

3. Is the offence for which the EIO is issued punishable in the issuing State by a custodial sentence or detention order of a maximum of at least three years as defined by the law of the issuing State and included in the list of offences set out below? (please tick the relevant box)

- participation in a criminal organisation
- terrorism
- trafficking in human beings
- sexual exploitation of children and child pornography
- illicit trafficking in narcotic drugs and psychotropic substances
- illicit trafficking in weapons, munitions, 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
- 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

THREE SECTIONS OF SECTION G

1. Summary of the facts
2. Nature and classification of the offence(s) for which the EIO is issued and the applicable statutory provision/code
3. Ticking list of offences (punishable in the issuing State by a custodial sentence or detention order of a maximum of at least three years as defined by the law of the issuing State)

SCENARIO

- Luisa M and Frank B (defendants) have placed online adverts on websites such as marktplaats.nl, fotocasa.es, etsy.fr for the sale of 2 (two) motor vehicles and 2 (two) Samsung Frame 50-inch TVs. In the adverts they explained that they were in possession of these items and were ready to transfer or send them to any purchaser wherever the purchaser resides in the European Union.
- Several persons (victims) from different EU Member States responded to the adverts and corresponded with the defendants. Some of them also paid the corresponding price by bank transfer to the bank accounts indicated by the defendants.
- None of the victims received the motor vehicles or TVs and even after asking for the objects they did not receive any reimbursement for the undelivered items.
- Oscar F is one such victim in your country. He transferred money to bank accounts IBAN BE25 ING 0000 2345 0678 and IBAN PT66 ING 0087 6543 213.
- You would like to obtain evidence on the owner of the bank account, the movements of the transferred money and any related information.

Request Data

SECTION A

SECTION B

Urgency

SECTION C

Investigative measure(s) to be carried out

SECTION D

Related to an earlier EIO

SECTION E

Identity of the person concerned

SECTION F

Type of proceedings for which the EIO is issued

SECTION G

Grounds for issuing the EIO

1

SECTION H

Additional requirements for certain measures.

SECTION I

Formalities and procedures requested for the execution

SECTION J

Additional remedies

SECTION K

Details of the authority which issued the EIO

SECTION L

Details of the judicial authority which validated the EIO

SECTION G | Grounds for issuing the EIO

1. Summary of the facts

Set out the reason why the EIO is issued, including a summary of the underlying facts, a description of offences charged or under investigation, the stage of investigation has reached, the reasons for any risk factors and any other relevant information.

Date, time (period of time) of offence

June 2020 *

Place of offence

Name and nationality of the suspect/accused, and other details, if known

Luisa M and Frank B *

Luisa M and Frank B have placed online adverts on websites such as marktplaats.nl, fotocasa, etsy.fr for the sale of 2 motor vehicles and 2 Samsung Frame 50 inch TVs. In the adverts they explained that they were in possession of these articles and were ready to transfer or send them to any purchaser where ever the purchaser resides in the European Union. *

Several persons (victims) from different EU states responded to the adverts and corresponded with the defendants. Several also paid the corresponding price by bank transfer to the bank accounts indicated by the defendants.

However, none of the victims received the motor vehicles or TVs and even after asking for the objects they did not receive any reimbursement for the undelivered items.

Oscar F is one such victim in your country. He transferred money to bank accounts IBAN BE25 ING 0000 2345 0678 and IBAN PT66 ING 0087 6543 213. |

Show translation

2. Nature and legal classification of the offence(s) for which the EIO is issued and the applicable statutory provision/code: *

QUESTIONS FOR REFLECTION

- Are the facts concrete enough?
- What elements would be needed to improve them?
- Is the language clear and simple?
- Would it be a good idea to copy the text of the bill of indictment in this box?
- Can this text be easily translated without losing meaning?

POINTS OF ATTENTION: GROUNDS FOR ISSUING THE EIO

- Summary of facts should neither be too long nor too short
 - Copying of bill of indictment is not a good option
 - Language – keep clear and simple
- Classification of the offence is needed
 - Follow the terminology used to describe the crime
 - List importance
 - List urgency
- One should make sure that summary of facts and boxes of crimes ticked are in line
- One should note on the differences in understanding of particular crimes: dual criminality rule
- One should distinguish between accused, suspect, victim, etc.

ADDITIONAL REQUIREMENTS FOR CERTAIN MEASURES

For some specific investigative measures (Articles 22-31 EIO Directive) additional requirements in Section H apply. These include:

Temporary transfer of a person held in custody to the issuing State/executing State

Video or telephone conference or other audiovisual transmission (Section H2)

Provisional measures to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence

Information on bank and other financial accounts/operations

Real time monitoring


Covert investigation


Interception of telecommunications


ADDITIONAL REQUIREMENTS FOR CERTAIN MEASURES – ARTICLES 22-30 (AND SECTION H)


SECTION H | Additional requirements for certain measures.

SECTION H1 Transfer of a person held in a custody  >

SECTION H2 Video or telephone conference or other audiovisual transmission  >

SECTION H3 Provisional measures  >



SECTION H4 Information on bank and other financial accounts  >

SECTION H5 Investigate measures implying the gathering of evidence in real time, continuously and over a certain period of time  >

SECTION H6 Covert investigations  >

SECTION H7 Interception of telecommunications  >

SECTION H2 VIDEO OR TELEPHONE CONFERENCE OR OTHER AUDIOVISUAL TRANSMISSION

SECTION H2 Video or telephone conference or other audiovisual transmission  

If hearing by video conference or telephone conference or other audiovisual transmission is requested:

Please indicate the name of the authority that will conduct the hearing (contact details/language)

The same as issuing authority

Other:

Technical details:

Language and interpretation arrangements:

Proposed dates for the hearing:

Hearing type:

Please indicate reasons for requesting this measure:

(a) hearing by video conference or other audiovisual transmission:

(b) hearing by telephone conference

WHO CAN BE HEARD?

- Suspect
- Accused person
- Expert or witness

Application of:

- Right to remain silent
- Legal representation

Article 24 (1) EIO Directive

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 videoconference or other audiovisual transmission in accordance with paragraphs 5 to 7.

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

AT WHICH PROCEDURAL STAGE?

- Hearings at different procedural phases:
 - Investigation
 - Trial
 - Appeal

But there are differences between Member States for the hearing of suspects and accused persons.

(ADDITIONAL) GROUNDS FOR NON-RECOGNITION

- Lack of the suspected or accused person's consent
- Contrary to the fundamental principles of the law of the executing State

Article 24 (2) EIO Directive

In addition to the grounds for non-recognition or non-execution referred to in Article 11, execution of an EIO may be 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.

PRACTICAL ARRANGEMENTS

- When the hearing should take place
 - Urgency
- Where the hearing should take place
- Measures for the protection of the person to be heard
- Coordination
- Costs

Article 24 (3) EIO Directive

The issuing authority and the executing authority shall agree the practical arrangements. When agreeing such arrangements, the **executing authority shall undertake:**

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

GENERAL RULES

Duties of executing State

- be present during the hearing, and – where necessary – assisted by an interpreter
- responsible for ensuring both the identity of the person to be heard and the respect for the fundamental principles of the law of the executing State

If the executing authority 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 (Article 24 (5) of the EIO Directive)

- at the request of the issuing State or the person to be heard, ensure that the person to be heard is assisted by an interpreter
- duty to draw minutes (Article 24 (6) of the EIO Directive).

Duties of issuing State

- the hearing conducted directly by, or under the direction of, the competent authority of the issuing State in accordance with its own laws.

HEARING BY TELEPHONE CONFERENCE

Article 25 EIO Directive

(1) When a person in the territory of another Member State has to be heard as a witness or expert, where it is not **not appropriate or possible for the person to be heard to appear in its territory in person, and after having examined other suitable means.**



(2) Unless otherwise agreed, Article 24 (3), (5), (6) and (7) shall **apply mutatis mutandis** to hearings by telephone conference.

CONDITIONS FOR TELEPHONE CONFERENCE

These are the conditions that need to be met:

- It is issued in the framework of criminal proceedings (as defined by Article 4 EIO Directive)
- The issuing and executing authorities belong to MSs bound by the EIO Directive (Recitals 44 and 45 therein, meaning it is not applicable to Ireland and Denmark),
- It is documented by means of a form (provided by Annex A of the EIO Directive) duly translated into one of the languages recognized by the executing MS (Article 5 EIO Directive)
- It has the purpose of obtaining evidence by hearing witnesses or experts who happen to be in the executing MS, provided that
 - it is not possible or convenient to have them transferred to the issuing MS, and
 - there are no other suitable means to obtain such statements (Article 25 (1) EIO Directive).

SECTION H5 EVIDENCE IN REAL TIME, CONTINUOUSLY AND OVER A CERTAIN PERIOD OF TIME

SECTION H5 Investigate 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:

INVESTIGATIVE MEASURES IMPLYING THE GATHERING OF EVIDENCE IN REAL TIME, CONTINUOUSLY AND OVER A CERTAIN PERIOD OF TIME

Article 28	
Applicable situations (when?)	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
Refusal	If the execution of the investigative measure concerned would not be authorised in a similar domestic case
Practical arrangements	Agreed between the issuing State and the executing State
Justification	The issuing authority shall indicate in the EIO why it considers the information requested relevant for the purpose of the criminal proceedings concerned
Responsibility (who is responsible?)	The right to act, to direct and to control operations related to the execution lie with the executing State.

SECTION H6 COVERT INVESTIGATIONS

SECTION H6 Covert investigations i v

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:

⋮

COVERT INVESTIGATIONS – ARTICLE 29

Aim	To assist the issuing State in the conduct of investigations into crime by officers acting under covert or false identity ('covert investigations')
Reason	The issuing authority shall indicate in the EIO why it considers that the covert investigation is likely to be relevant
National law and procedures of executing state	The decision on the recognition and execution of an EIO issued under this Article shall be taken in each individual case by the competent authorities of the executing State with due regard to its national law and procedures
Refusal	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
Applicable law and control	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.
Duration	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.

KEY MESSAGES

- 1) The factual elements of the case explaining the grounds for the issuing of an EIO need to be clear, informative and concise
- 2) The description of the criminal act and applicable proceedings is a mandatory requirement for the issuing of an EIO
- 3) Requests for video conferencing and telephone conferencing require good coordination. They can be used at all procedural stages
- 4) Real-time investigations can be executed only if authorised in a similar domestic case
- 5) Covert investigations are not always a matter of an EIO. They take place in accordance with the national law and procedures of the Member State on the territory of which the covert investigation takes place




(MODULE 1, SESSION 1.5)
‘TRANSMITTING AN EIO’

OVERVIEW OF MODULE 1, SESSION 1.5

Session 'Transmitting an EIO' of Module 1 covers:

- Formalities and procedures requested for execution (Section I)
- Legal Remedies (Section J)
- Details of the authority which issued the EIO (Section K)
- Details of authority which validated the EIO (Section L)
- Transmission of an EIO
- Transmission of an EIO using eEDES

SECTION I - FORMALITIES AND PROCEDURES REQUESTED FOR THE EXECUTION

SECTION I | Formalities and procedures requested for the execution 

1. Tick and complete, if applicable

It is requested that executing authority comply with 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.

FORMALITIES AND PROCEDURES REQUESTED FOR EXECUTION

- Legal basis

Article 9 (2) EIO Directive: The executing authority **shall comply** with the formalities and procedures **expressly indicated** by the issuing authority **unless otherwise provided** in this Directive **and provided** that such formalities and **procedures are not contrary to the fundamental principles of law of the executing State.**

- Formalities related to a hearing of a person:
 - E.g., in hearing of a witness, the issuing authority should indicate how the witness should be informed of his or her rights and how an oath or a declaration of honour should be taken according to certain provisions of the national code of criminal procedure.
 - E.g., when a hearing is to be executed in the investigation or the trial phase, a list of questions can be annexed by the issuing authority
- No instructions can lead to the inadmissibility of evidence without complying with specific formalities

SECTION J – ADDITIONAL REMEDIES

SECTION J | Additional 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:

The same as issuing authority

Other:

Contact person (if applicable)

Address:

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

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

E-mail:

ARTICLE 14 - LEGAL REMEDIES (1)

- MS shall ensure that legal remedies equivalent to those available in a similar domestic case, are applicable to the investigative measures indicated in the EIO.
- 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.
- Where it would not undermine the need to ensure confidentiality of an investigation, 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.

LEGAL REMEDIES (2)

- MS shall ensure that the time-limits for seeking a legal remedy shall be the same as those that are provided for in similar domestic cases and are applied in a way that guarantees the possibility of the effective exercise of these legal remedies for the parties concerned.
- 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.
- A legal challenge shall not suspend the execution of the investigative measure, unless it is provided in similar domestic cases.
- 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 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.

INTERPRETATION APPLICATION OF SECTION J

CJEU, Case C-324/17, *Gavanozov*, 24 October 2019

In its judgment the CJEU states that

“...the referring court is asking, in essence, whether Article 5(1) of Directive 2014/41, read in conjunction with Section J of the form referred to in Annex A to that directive, must be interpreted as meaning that the judicial authority of a Member State must, when issuing an EIO, include in that section a description of the legal remedies, if any, which are provided for in its Member State against the issuing of such an order”.

The Court rules that

Article 5 (1) of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, read in conjunction with Section J of the form set out in Annex A to that directive, must be interpreted as meaning that the judicial authority of a Member State does not, when issuing a European Investigation Order, have to include in that section a description of the legal remedies, if any, which are provided for in its Member State against the issuing of such an order.


INTERPRETATION OF ARTICLE 14

- CJEU, Case C-852/19, Gavanozov II, 11 November 2021
- Questions:
 - Whether Union law precludes legislation of a Member State which has issued an EIO that does not provide for any legal remedy against the issuing of an EIO the purpose of which is the carrying out of searches and seizures as well as the hearing of a witness by videoconference;
 - Whether Union law precludes the issuing, by the competent authority of a Member State, of an EIO, the purpose of which is the carrying out of searches and seizures as well as the hearing of a witness by videoconference, where the legislation of that Member State does not provide any legal remedy against the issuing of such an EIO.

CJEU, CASE C-852/19, *GAVANOZOV II*, 11 NOVEMBER 2021

- Judgement:
 1. Article 14 of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, read in conjunction with Article 24(7) of that directive and Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding legislation of a Member State which has issued a European investigation order that does not provide for any legal remedy against the issuing of a European investigation order, the purpose of which is the carrying out of searches and seizures as well as the hearing of a witness by videoconference.
 2. Article 6 of Directive 2014/41, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union and Article 4(3) of the Treaty on European Union, must be interpreted as precluding the issuing, by the competent authority of a Member State, of a European investigation order, the purpose of which is the carrying out of searches and seizures as well as the hearing of a witness by videoconference, where the legislation of that Member State does not provide any legal remedy against the issuing of such a European investigation order.

SECTION K - DETAILS OF THE AUTHORITY WHICH ISSUED THE EIO

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 law of the issuing State

* Please also complete SECTION L

Name of authority:

Auth.S1BG1

Name of representative/contact point:

File No:

Address:

address

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

012356789

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

0123456788

E-mail:

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

Show translation

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:

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:

ISSUING AUTHORITY – DEFINITION, ARTICLE 2 (c)

'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 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 this Directive, in particular the conditions set out in Article 6.1, 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;

SECTION L - DETAILS OF THE JUDICIAL AUTHORITY WHICH VALIDATED THE EIO

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 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):

VALIDATING AUTHORITY

- Where an EIO is drawn up by any other competent authority as defined by the issuing State which, in the specific case, is acting in its capacity as an investigating authority in criminal proceedings with competence to order the gathering of evidence in accordance with national law (Article 2 (c) (ii) EIO Directive)
- Then EIO needs to be validated a judicial authority, that authority may also be regarded as an issuing authority for the purposes of transmission of the EIO
- Therefore, the validating authority is either:
 - a) judge or court
 - b) investigating judge
 - c) public prosecutor.

TRANSMISSION OF AN EIO

- Before transmission:
 - Conditions set out in Article 6 (1) EIO Directive need to be confirmed
 - Section K signed
 - Translation of documents and additional attached documents checked
- Transmission:
 - By ordinary mail or digitally
 - By eEDES
- Identifying the competent executing authority

TRANSMISSION IN EEDES



TRANSMISSION WORKFLOW IN EEDS

Responsibilities as:

Author

Checks all the mandatory sections have been filled
Selects 'Complete' from workflow menu to proceed to Reviewer.

Reviewer

Reviews and accepts EIO – goes to Signer
Rejects - goes back to author

Signer

Fills in details issuing authority
Signs the EIO request

Sender

Last step: sends the EIO

Assign: Reviewer, Signer 1, Signer 2 as appropriate, and Sender / Share case with Supervisor from other authority



Actors:

Author

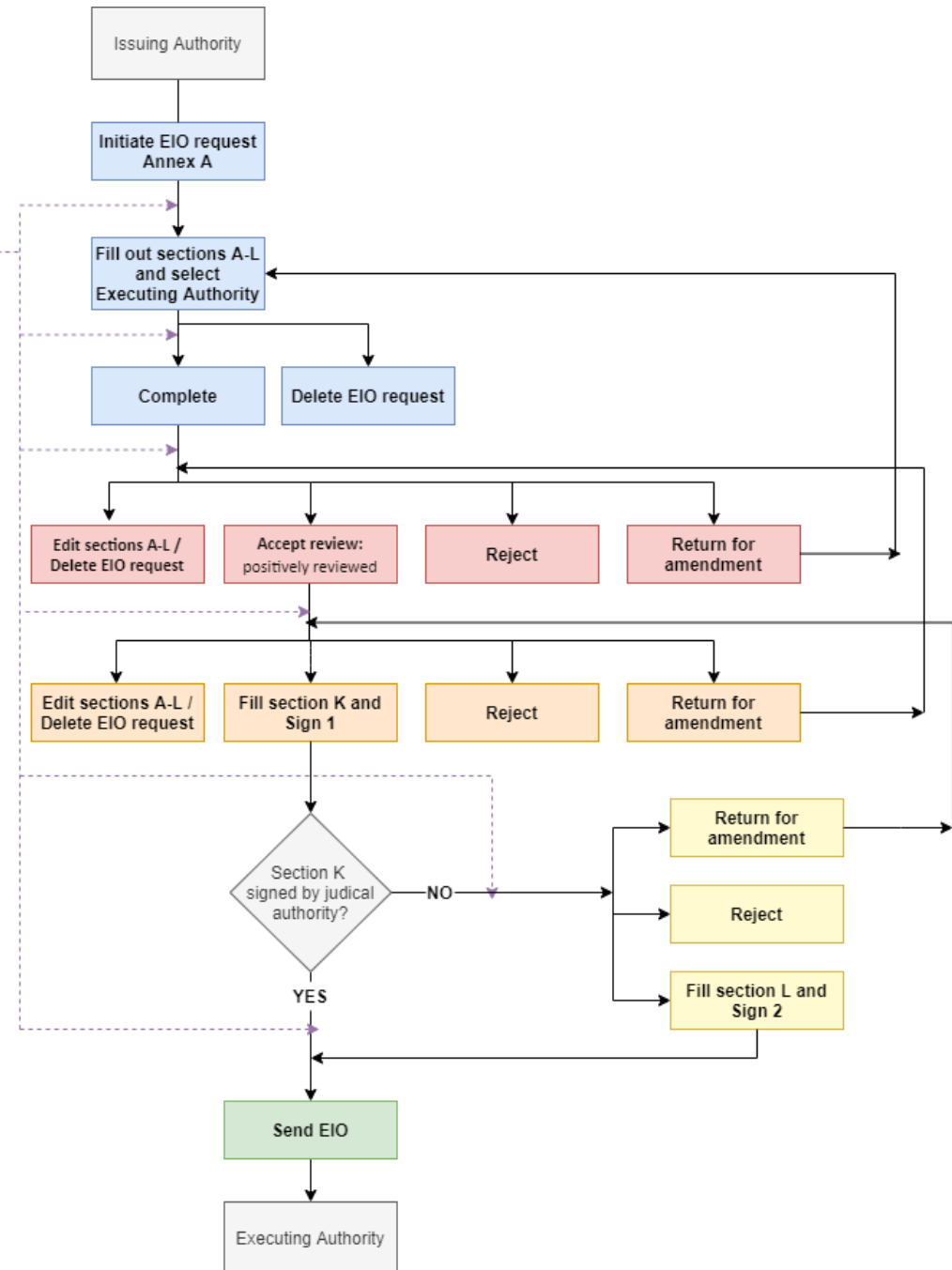
Supervisor

Reviewer

Signer 1

Signer 2

Sender



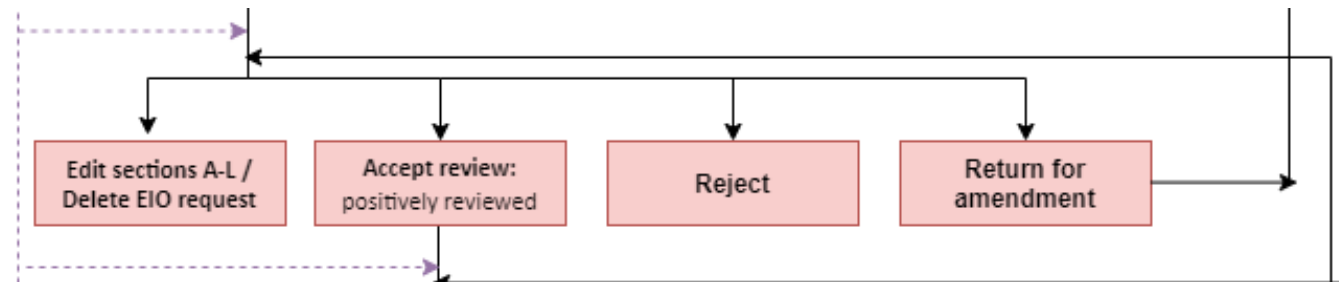
REVIEWER

The Reviewer user role is responsible for **Rejecting or Accepting a draft e-Evidence request** in the e-Evidence Portal before it is sent out for signature(s).



ACTIONS DEDICATED FOR REVIEWER

- Receive cases from Author to perform a review
- Editing Sections A to L directly
- Positively reviewing – sending the case for next step to Signer 1
- Rejecting – closing the processing the case
- Returning for amendment – sending the case back to the author for corrections



SIGNER 1

The Signer 1 is responsible for filling in the details of the issuing authority and signing the e-Evidence EIO request before it is sent to another Member State using the e-Evidence Portal.



If Signer 1 is a member of the **judicial authority**, no further validation is required.

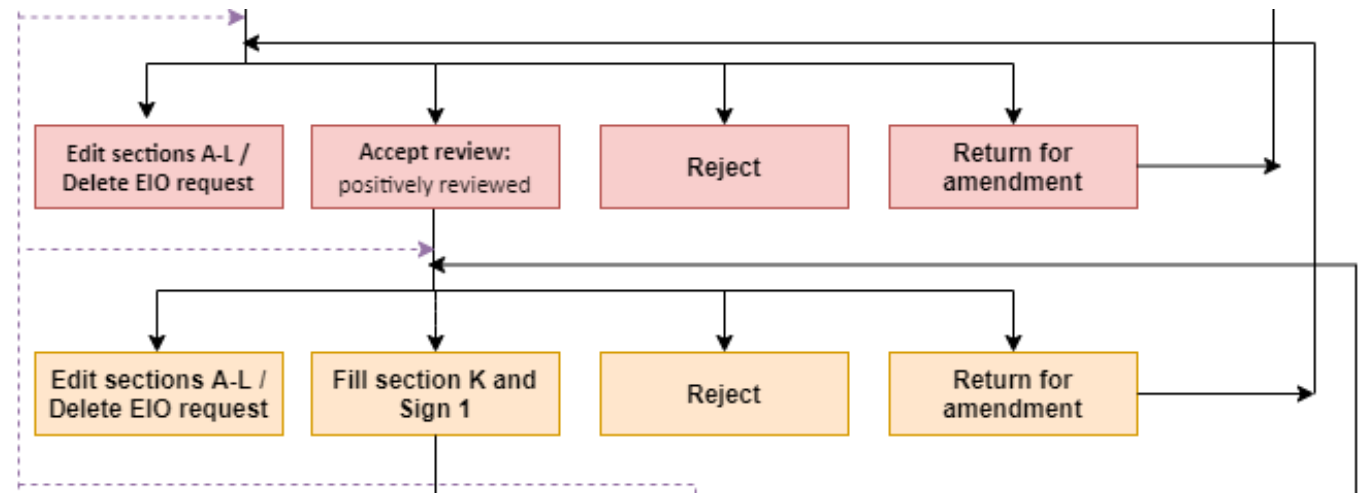


If Signer 1 is a member of a **non-judicial authority**, then the Signer will need to provide the details of a judicial authority that will validate the EIO through Signer 2.



ACTIONS DEDICATED FOR **SIGNER 1**

- Responsible for filling Section K
- Editing Sections A to L directly
- Approving the case by signing the PDF document, and sending for further processing (Signer 2 / Sender)
- Rejecting – closing the processing of the case
- Returning for amendment – sending the case back to the Reviewer for corrections



SIGNER 2

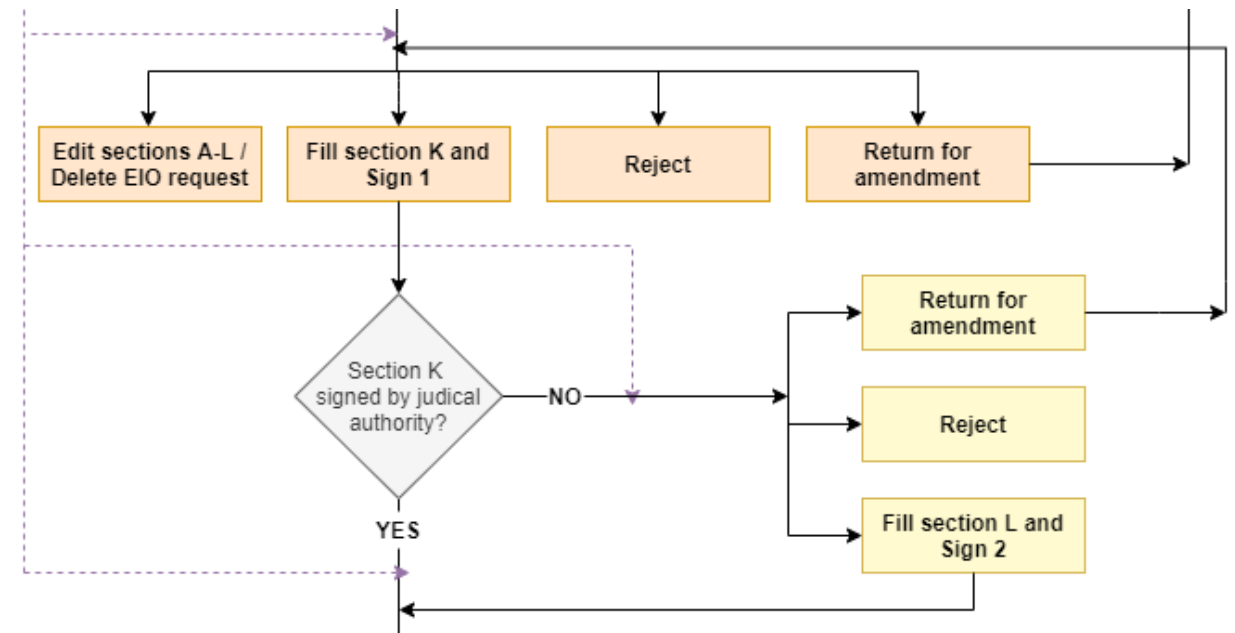
The Signer2 is always a member of a **judicial authority**.

This user is responsible for validating the EIO through a second approval signature before an EIO can be sent to another Member State using the e-Evidence Portal.



ACTIONS DEDICATED FOR **SIGNER 2**

- Responsible for filling Section L
- Approve the case by signing the PDF document, and sending for further processing to Sender
- Rejecting – closing the processing of the case
- Returning for amendment – sending the case back to Signer 1 for corrections





EIO WORKFLOW (1)

Sign step requires **SIGNER_1** role

After positive review, the corresponding status is displayed on the case list & overview tab.

This step has mandatory fields to be filled in. You can easily find them with validation check.

Filling Section K determines if a second sign will be required. User 'judicial authority' option for simple flow.

After signed file is uploaded & signature presence checked User can confirm signed file submission to be send.

Note

Document sign requires external tools to sign PDF file. For training purpose use Adobe Reader. Signing can be done on certificates tool menu.



Certificates



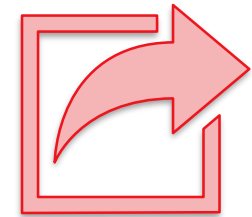
EIO WORKFLOW (2)

Last workflow step is SEND

This action requires user with **SENDER** role.

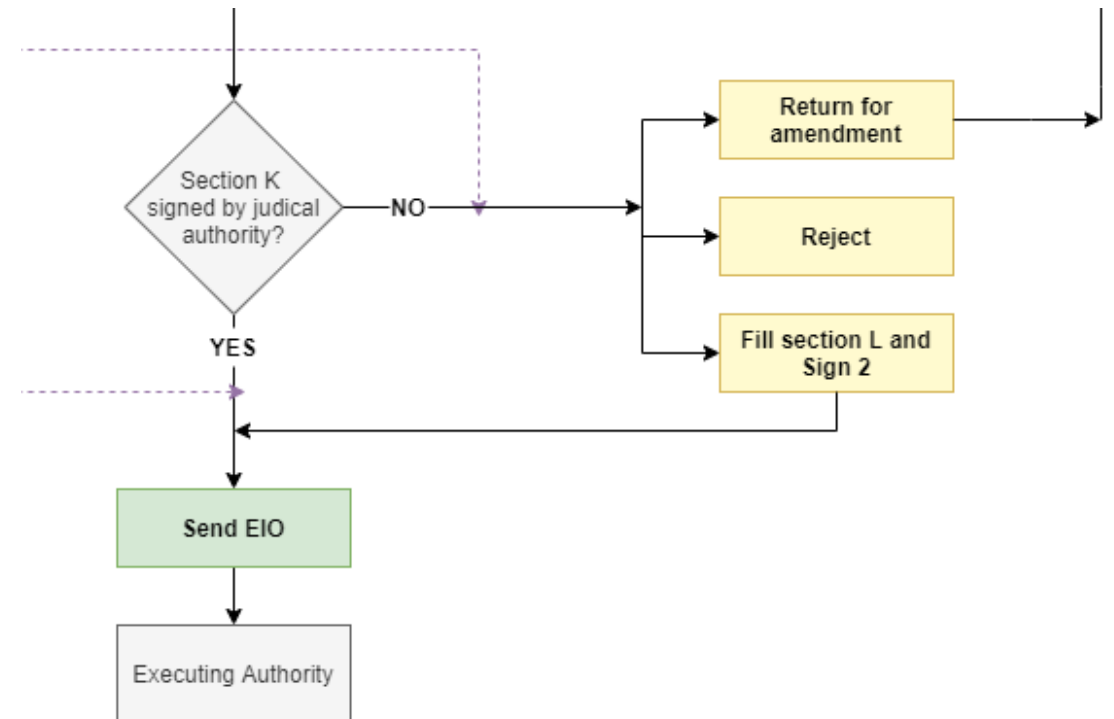
SENDER

The Sender - is responsible for **sending an e-Evidence requests to another Member State** using the e-Evidence Portal.



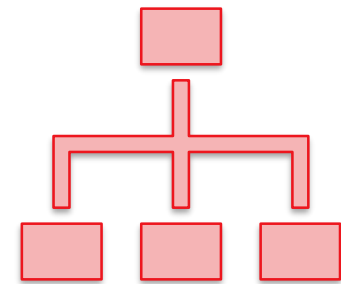
ACTIONS DEDICATED FOR **SENDER**

Responsible for **sending the case for executing authority** on Member State



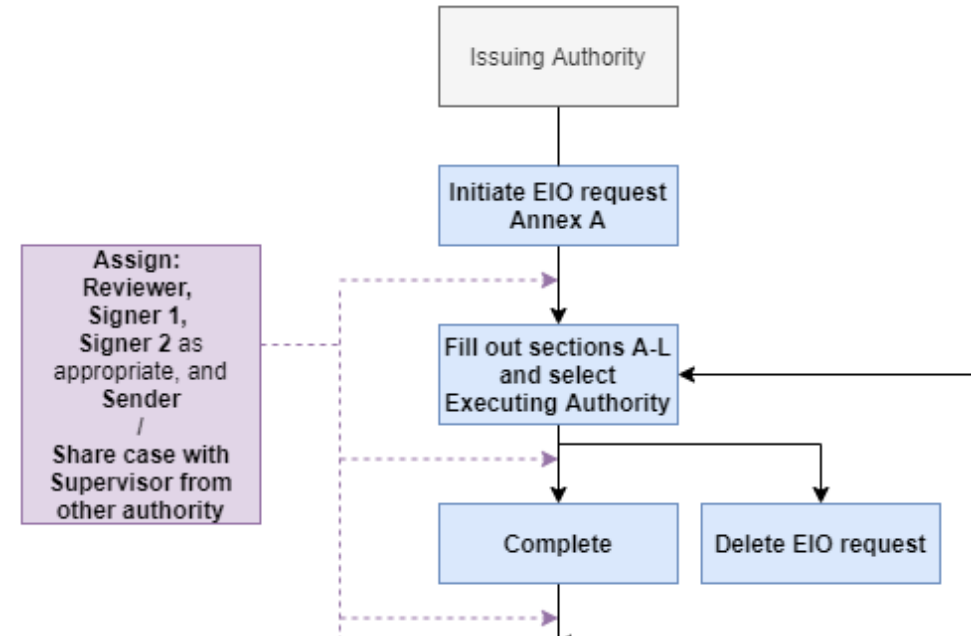
SUPERVISOR

The Supervisor user has **access to all cases** (drafts, issued, received and closed) within a Competent Authority and is responsible for **assigning cases to users** using the e-Evidence Portal.



ACTIONS DEDICATED FOR SUPERVISOR

- Assigning other roles for the case e.g., Reviewer, Signer 1, Signer 2 (if applicable) and Sender
- Supervisor does not perform any other operations on case
- Assigning the case to Supervisor in another Authority – case sharing



KEY MESSAGES

- 1) Giving clear and precise information on specific formalities and procedures will reduce the risk that evidence gathered is considered inadmissible.
- 2) Gavanozov judgements help in interpretation of Section J. It is not a mandatory section, and Article 14 of the EIO Directive cannot be executed if no legal remedy exists.
- 3) The contents of an EIO need to be validated by a judicial authority before transmission.
- 4) Using eEDES will facilitate the process of transmission of an EIO.

CONCLUDING REMARKS



THANK YOU!
DO WE NEED ANOTHER SESSION?