

Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters

CHAPTER II

PROCEDURES AND SAFEGUARDS FOR THE ISSUING STATE

Article 6

Conditions for issuing and transmitting an EIO

- 1 The issuing authority may only issue an EIO where 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 Article 4 taking into account the rights of the suspected or accused person; and
 - b the investigative measure(s) indicated in the EIO could have been ordered under the same conditions in a similar domestic case.
- 2 The conditions referred to in paragraph 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 paragraph 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.

Article 7

Transmission of the EIO

- 1 The EIO completed in accordance with Article 5 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 Article 2(d), each Member State may designate a central authority or, where its legal system so provides, more than one central authority, to assist the competent authorities. A Member State may, if necessary due to the organisation of its internal judicial system, make its central authority(ies) responsible for the administrative transmission and receipt of EIOs, as well as for other official correspondence relating to EIOs.
- 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⁽¹⁾.
- 5 If the identity of the executing authority is unknown, the issuing authority shall make all necessary inquiries, including via the EJN 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.

Article 8

EIO related to an earlier EIO

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, in accordance with Article 9(4), it may, without prejudice to notifications made under Article 33(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 the first subparagraph of Article 5(1), and, where applicable, be validated in accordance with Article 2(c).

- (1) Joint Action 98/428/JHA of 29 June 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on the creation of a European Judicial Network ([OJ L 191, 7.7.1998, p. 4](#)).