

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 V

INTERCEPTION OF TELECOMMUNICATIONS

Article 30

Interception of telecommunications with technical assistance of another Member State

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

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.

3 An EIO referred to in paragraph 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 Article 11, the execution of an EIO referred to in paragraph 1 may also be refused where the investigative measure 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 paragraph 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 point (a) or (b).

7 When issuing an EIO referred to in paragraph 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 Article shall be borne in accordance with Article 21, except for the costs arising from the transcription, decoding and decrypting of the intercepted communications which shall be borne by the issuing State.

Article 31

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

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 needed to carry out the interception, the intercepting Member State shall notify the competent authority of the notified Member State of the interception:

- 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 paragraph 1 shall be made by using the form set out in Annex C.

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 paragraph 1, the competent authority of the intercepting Member State:

- 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 Article 5(2) shall be applicable *mutatis mutandis* for the notification referred to in paragraph 2.