

Paris, 5 May 2017

NOTE FROM THE FRENCH AUTHORITIES

Subject: Transposition of Directive 2014/41/EU

We would like to inform the European Commission that Directive 2014/41/EU regarding the European Investigation Order in criminal matters has been transposed by Order No 2016-1636 of 1 December 2016 on the European Investigation Order in criminal matters (Official Journal of the French Republic, 2 December 2016), notified to the Commission on 6 December 2016, and Decree No 2017-511 of 7 April 2017 on the European Investigation Order in criminal matters (Official Journal of the French Republic, 7 April 2017), notified to the Commission on 24 April 2017. The explanatory documents required under recital 37 of the Directive were also notified on that date.

Pursuant to Article 33 of Directive 2014/41, we would like to inform the Commission of the following:

1. With regard to Article 33. 1. a)

The competent issuing authority under Article 2(c) and (d) of the above Directive will be the public prosecutor, the examining magistrate, the examining chamber and its presiding judge, and the trial and sentencing courts and their presiding judges, in accordance with Article 694-20 of the Code of Criminal Procedure.

The competent executing authority will be the public prosecutor or the examining magistrate with territorial jurisdiction, in accordance with Articles 694-30, D. 47-1-10 and D. 47-1-11 of the Code of Criminal Procedure.

The accepted language for a European Investigation Order, pursuant to Article 5(2) of the Directive referred to above, will be French, in accordance with Articles 694-22 and D. 47-1-12 of the Code of Criminal Procedure.

Pursuant to Article 7(3) of the Directive, the following central authorities will be tasked with assisting the competent judicial authorities in three cases:

- the Director of the Prisons Service within the Ministry of Justice will assist the French issuing or executing authority referred to under a) above by formalising transfer requests for detained persons in liaison with the competent authorities of the foreign country, in accordance with Articles D. 47-1-6 and D. 47-1-18 of the Code of Criminal Procedure;
- the Director of the Prisons Service within the Ministry of Justice will assist the French issuing authority referred to under a) above by formalising transit requests for detained persons in

liaison with the competent authorities of the foreign country, in accordance with Article D. 47-1-6 of the Code of Criminal Procedure;

- the Director of Criminal Matters and Pardons within the Ministry of Justice (Office for International Mutual Assistance in Criminal Matters) will provide technical or legal assistance if any difficulties are encountered by the national judicial authority or the foreign authority.

Moreover, the following central authorities will be competent in three cases:

- the Minister for Justice will be able to refuse the recognition or execution of a European Investigation Order that could be detrimental to fundamental national security interests, imperil the source of information or include the use of information classified under Article 694-34 of the Code of Criminal Procedure;
- the Director of Criminal Matters and Pardons within the Ministry of Justice (Office for International Mutual Assistance in Criminal Matters) will be responsible for authorising the transit of a person detained on French territory as part of the execution of a European Investigation Order (EIO) issued by another Member State, in accordance with Article D. 47-1-19 of the Code of Criminal Procedure;
- the Director of Criminal Matters and Pardons within the Ministry of Justice (Office for International Mutual Assistance in Criminal Matters) will be responsible for responding to telecommunications interception notifications laid down by Article 31 of the Directive, in accordance with Article D. 32-2-1 of the Code of Criminal Procedure.

2. With regard to Article 33. 2

The French authorities have not established a standard list of required documents as laid down by Article 22(4) of the Directive. Pursuant to Articles D. 47-1-6 and -19, the Ministry of Justice, via the Department of Criminal Matters and Pardons and the Prisons Service, will ensure the transmission of 'all necessary documents' for each EIO.

3. With regard to Article 33. 3

France undertakes to inform the Commission of any later amendments made to the information in this document.

For any information or additional explanations concerning the transposition of this Directive, the European Commission's departments should contact:

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