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HELLENIC REPUBLIC

GOVERNMENT GAZETTE

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LAW No. 4489**European Investigation Order in Criminal Matters – Transposition of****DIRECTIVE 2014/41/EU and other provisions**

THE PRESIDENT OF THE HELLENIC REPUBLIC

hereby promulgates the following law passed by the Parliament:

CHAPTER 1**GENERAL PROVISIONS****Article 1**

The aim of this Law is to transpose into national legislation Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in Criminal Matters (L' 130).

Article 2**The European Investigation Order and obligation to execute it****(Article 1 of the Directive)**

1. A European Investigation Order (EIO) is a judicial or other decision which has been issued or validated by a judicial authority of a Member State ('the issuing State') to have one or

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several specific investigative measure(s) carried out in another Member State ('the executing State') to obtain evidence.

2. The Greek authorities shall execute an EIO on the basis of the principle of mutual recognition and in accordance with the provisions of this Law.

3. The issuing, transmitting and executing of an EIO shall respect the fundamental rights and principles as enshrined in Article 6 of the TEU, including the rights of defence of persons subject to criminal proceedings. Any obligations incumbent on Greek judicial authorities in respect with the rights of the previous indent shall remain unaffected.

Article 3

Definitions

(Article 2 of the Directive)

For the purposes of this Law, the following definitions apply:

- a) 'issuing State' means the Member State in which the EIO is issued;
- b) 'executing State' means the Member State executing the EIO, in which the investigative measure is to be carried out;
- 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. Before it is transmitted, the EIO shall be validated, after examination by an authority of point (i) above, of its conformity with the conditions for issuing an EIO, in particular the conditions set out in par.2 of article 7. In this case, the validating authority may also be regarded as an issuing authority for the purposes of transmission of the EIO.

The EIO Issuing Authority for Greece shall be any authority referred to in article 6.

(d) ‘executing authority’ means an authority having competence to recognise an EIO and ensure its execution. The competent judicial authority for executing an EIO in Greece shall be the authority of par. 1, article 11, which shall ensure the execution of the EIO according to the provisions of this law and the procedures applicable to a similar domestic case.

Article 4

Scope of the EIO

(Articles 1 par. 1(b) and 3 of the Directive)

The EIO shall cover any investigative measure including the taking of evidence that is already held by the competent authorities of the executing state. The EIO may not cover the setting up of a joint investigation team and the gathering of evidence within such a team as provided in Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ C 197 of 12.7.2000, p. 3) and in the Second Chapter (articles 13-24) of Law 3663/2008 (A’ 99) on the “European Judicial Cooperation Unit (EURO-JUST), Joint Investigation Teams and other provisions” (Council Framework Decision 2002/465/JHA). By way of exclusion, the state where the joint investigation team is activated shall be able to issue an EIO when the team needs the assistance of another member-state, other than those participating in the team.

Article 5

Types of proceedings for which the EIO can be issued

(Article 4 of the Directive)

An EIO may be issued:

a) with respect to criminal proceedings that are 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;

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b) in 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 of the judicial or the administrative authority may give rise to proceedings before a court having jurisdiction in criminal matters;

c) in 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 of the judicial or the administrative authority may give rise to proceedings before a court having jurisdiction in criminal matters; and

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.

CHAPTER 2

ISSUING AND TRANSMITTING AN EIO

Article 6

Greek EIO issuing authority

(Article 2(c) of the Directive)

The competent authority for issuing EIOs in Greece shall be: a) a judge, a court, an investigating judge or a public prosecutor competent in the case concerned; and b) any other competent authority which, in the specific case, is acting in its capacity as an investigating authority in criminal proceedings on the condition that an EIO issued by such authority shall be validated by a competent public prosecutor who shall validate the same after examination of its conformity with the conditions of this Law.

Article 7

Issuing an EIO

(Article 1, par. 2 and 6 of the Directive)

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1. The authority of article 6 shall issue an EIO either *ex officio* or upon a request of the suspected or accused person or their attorney acting on their behalf and account.

2. The said authority may only issue an EIO where it considers that 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 5 taking into account the rights of the suspected or accused person;

b) the investigative measure(s) indicated in the EIO could have been ordered under the same conditions in a similar domestic case.

3. If the conditions of the previous paragraph are not met, the said authority shall reject the request of the suspected or accused person.

4. The issuing authority may withdraw the EIO, upon consulting with the executing authority, where the latter has reason to believe that the conditions of paragraph 2 are not met.

Article 8

Form and content of the EIO

(Article 5 of the Directive)

1. The EIO shall be issued in the form set out in Annex A hereof and shall contain at least the following information:

a) the name, address, telephone and fax numbers and e-mail address, if available, of the EIO issuing authority or the validating authority;

(b) the object of and reasons for the EIO;

c) the identity details and nationality of the suspected or accused person; if he is a minor or incompetent person, the identity particulars and nationality of his representative or custodian;

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d) a description of the criminal act, which is the subject of the investigation or proceedings, and the applicable provisions of the criminal law governing the same;

(e) a description of the investigative measures(s) requested and the evidence to be obtained.

2. The EIO shall be completed and signed by the authority of article 6 which shall certify its accuracy and the correctness of its content.

3. The EIO shall be translated into the Greek or the English language.

Article 9

Transmission procedure

(Article 7 of the Directive)

1. The EIO completed in accordance with the previous Article, shall be transmitted from the Greek issuing authority to the competent authority of the executing State, either directly or via the contact points of the European Judicial Network or through the national member at Eurojust, 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 Greek issuing authority and the executing authority. In particular, where a problem arises regarding the transmission or the establishment of authenticity of any document and the direct communication is fruitless, the assistance of the Central Services of the Ministry of Justice, Transparency and Human Rights may be sought.

3. In case of doubts regarding the competent executing authority, the Greek issuing authority shall contact the Central Services of the Ministry of Justice, Transparency and Human Rights which shall make all necessary inquiries in order to obtain information and clarifications from the executing state. If the identity of the executing authority is unknown, the Greek issuing authority may, particularly via the contact points of the European Judicial

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Network or the national member at Eurojust, seek and obtain all necessary information regarding the competent executing authority.

Article 10

Competence for completing the EIO

(Articles 8 and 9 par. 4 of the Directive)

1. The competent authority which has issued an earlier EIO shall be exclusively competent for its supplementation (“supplementary EIO”) according to Section D’ of the form set out in Annex A hereof.
2. A supplementary EIO shall be certified, according to par. 1(a) of article 8 and shall be validated, where applicable, according to article 3(c).
3. The issuing authority shall assist in the execution of the EIO in the executing State, in accordance with Article 11(5) and may issue and transmit a supplementary EIO directly to the executing authority.
4. The issuing authority may request that one or more Greek authorities assist the competent authorities in the executing State during the execution of the EIO, to the extent that the Greek authorities would be able to assist in the execution of the investigative measures in a similar domestic case.

CHAPTER 3

PROCEDURES AND SAFEGUARDS FOR THE EXECUTION OF THE EIO BY GREECE

Article 11

Recognition and execution of the EIO

(Articles 2(d), 6(3), 7(6) & 9 of the Directive)

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1. The competent judicial authority for recognizing and executing the EIO in Greece shall be the public prosecutor of the Appeal Court in the judicial district of whom the EIO shall be executed, and who shall ensure, as the case may be, its execution.
2. The executing authority shall recognize any EIO transmitted to it and shall ensure its execution in the same way as if the investigative measure concerned had been ordered by a Greek competent authority, unless, according to the provisions of this Law, there are grounds for non-recognition or non-execution or for postponement.
3. The executing authority shall comply with the formalities and procedures expressly indicated by the issuing authority unless otherwise provided in this Law and provided that such formalities and procedures are not contrary to the Greek law.
4. Where the executing authority receives an EIO which has not been issued or validated by a judicial authority as specified in Article 3(c), the executing authority shall return the EIO to the issuing State.
5. The assistance by the authorities of the issuing State to the Greek authorities in the execution of the EIO is permitted to the extent that the foreign authorities would be able to assist in the execution of the investigative measures indicated in the EIO in a similar domestic case. If the issuing authority makes such a request for assistance by the authorities of its State in the execution of the EIO, the executing authority shall comply with this request provided that such assistance is not contrary to the Greek law or does not harm Greece's essential national security interests.
6. The authorities of the issuing State present during the execution of the EIO in Greece shall be bound by the Greek law. They shall not have any law enforcement powers in the Greek territory, unless the execution of such powers is in accordance with the Greek law and has been agreed between the issuing authority and the executing authority.
7. The executing authority may communicate directly with the issuing authority with any means it deems appropriate for the most efficient execution of the EIO. In particular, should any problem arise regarding the transmission or the establishment of authenticity of any

document and the direct communication is fruitless, the assistance of the Central Services of the Ministry of Justice, Transparency and Human Rights may be sought.

8. Where the executing authority finds that the conditions of article 7(2) are not met, it shall consult with the competent issuing authority in order to investigate the possibility of the latter to withdraw the EIO.

Article 12

Different types of investigative measures

(Article 10 of the Directive)

1. The executing authority shall have recourse to an investigative measure other than that provided for in the EIO where:

- a) the investigative measure indicated in the EIO does not exist under the domestic law; or
- b) the investigative measure indicated in the EIO would not be available in a similar domestic case.

2. Without prejudice to Article 13, paragraph (1) does not apply to the following investigative measures, which are available under the domestic law:

- a) the obtaining of information or evidence which is already in the possession of the Greek executing authorities and the information or evidence could have been obtained, in the framework of criminal proceedings or for the purposes of the EIO;
- b) the obtaining of information contained in databases held by police or judicial authorities and directly accessible by the executing authority in the framework of criminal proceedings;
- c) the hearing of a witness, victim, suspected person or third party in the Greek territory;
- d) any non-coercive measure as defined under the domestic law;
- e) the identification of persons holding a subscription of a specified phone number or connected to a specific IP address.

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3. The executing authority may also have recourse to an investigative measure other than that indicated in the EIO where the investigative measure selected would achieve the same result by less intrusive means than the investigative measure indicated in the EIO.

4. When the executing authority decides to avail itself of the possibility referred to in paragraphs 1 and 3, it shall first inform the issuing authority, which may decide to withdraw or supplement the EIO.

5. Where, in accordance with paragraph 1, the investigative measure indicated in the EIO does not exist under the domestic law or it would not be available in a similar domestic case and where there is no other investigative measure which would have the same result as the investigative measure requested, the executing authority shall notify the issuing authority that it has not been possible to provide the assistance requested.

Article 13

Grounds for non-recognition or non-execution

(Article 11 of the Directive)

1. Recognition or execution of an EIO shall be refused by the executing authority where:

a) according to domestic law, there is an immunity, a privilege or an exclusion of jurisdiction or execution which makes it impossible to execute the EIO or there are rules on determination and limitation of criminal liability relating to freedom of the press and freedom of expression in other media, which make it impossible to execute the EIO;

b) in a specific case, the execution of the EIO would harm essential national security interests, jeopardise the source of the information or involve the use of classified information relating to specific intelligence activities;

c) the EIO has been issued in proceedings referred to in Article 5(b) and (c) and the investigative measure would not be authorised in a similar domestic case;

d) the execution of the EIO would be contrary to the principle of *ne bis in idem*;

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e) the EIO relates to a criminal offence which is alleged to have been committed outside the territory of the issuing State and wholly or partially on the Greek territory, and the conduct in connection with which the EIO is issued is not an offence in Greece;

f) there are substantial grounds to believe that the execution of the investigative measure indicated in the EIO would be incompatible with Greece's obligations in accordance with Article 6 TEU and the Charter of Fundamental Rights;

g) the conduct for which the EIO has been issued does not constitute an offence under the domestic law, unless the issuing authority indicates that it concerns an offence listed within Annex D, punishable in the issuing State by a custodial sentence for a maximum period of at least three years; or

h) the use of the investigative measure is restricted under the domestic law to offences punishable by a certain threshold, which does not include the offence covered by the EIO.

2. The grounds of paragraphs 1(g) and 1(h) do not apply to the investigative measures referred to in Article 12(2).

3. Where the EIO concerns an offence in connection with taxes, customs or bank offences, the executing authority shall not refuse recognition or execution on the ground that the Greek law does not impose the same kind of tax or duty or does not contain a tax, duty, customs and bank regulation of the same kind as the law of the issuing State.

4. In the cases referred to in points (a), (b), (d), (e) and (f) of paragraph 1, before deciding not to recognise or not to execute an EIO, either in whole or in part, the executing authority shall consult the issuing authority by any appropriate means, and shall, where appropriate, request the issuing authority to supply any necessary information without delay.

5. In the case referred to in paragraph 1(a) and where power to waive the privilege or exclusion of jurisdiction or execution lies with another Greek authority, the executing authority shall request it to exercise that power forthwith. Where power to waive the privilege or exclusion of jurisdiction or execution lies with an authority of another State or international organisation, it shall be for the issuing authority to request the authority concerned to exercise that power.

Article 14**Time limits for recognition or execution****(Article 12 of the Directive)**

1. The decision on the recognition or execution shall be taken and the investigative measure shall be carried out with the same celerity and priority as for a similar domestic case and, in any case, within the time limits provided in this Article.
2. Where the issuing authority has indicated in the EIO that, due to the seriousness of the offence, procedural deadlines or other particularly urgent circumstances, a shorter deadline than that provided in this Article is necessary, or if the issuing authority has indicated in the EIO that the investigative measure must be carried out on a specific date, the executing authority shall take as full account as possible of this requirement.
3. The executing authority shall take the decision on the recognition or execution of the EIO as soon as possible and, without prejudice to paragraph 5, no later than thirty (30) days after the receipt of the EIO.
4. Unless grounds for postponement under Article 17 exist or the evidence mentioned in the investigative measure covered by the EIO is already in the possession of the Greek authorities, the executing authority shall carry out the investigative measure without delay and without prejudice to paragraph 5, not later than ninety (90) days following the taking of the decision referred to in paragraph 3.
5. If it is not practicable in a specific case for the executing authority to meet the time limits set out in paragraphs 2 and 3, it shall, without delay, inform the competent authority of the issuing State by any means, giving the reasons for the delay and the estimated time necessary for the decision to be taken. In such a case, the time limit laid down in paragraph 3 may be extended by a maximum of thirty (30) days.
6. If it is not practicable in a specific case for the executing authority to meet the time limit set out in paragraph 4, it shall, without delay, inform the competent authority of the issuing State

by any means, giving the reasons for the delay and shall consult with the issuing authority on the appropriate timing to carry out the investigative measure.

Article 15

Transfer of evidence

(Article 13 of the Directive)

1. As a result of the execution of the EIO, the executing authority shall, without delay, transfer the evidence obtained or already in the possession of the competent Greek authorities to the issuing State. Where requested in the EIO and if possible under the domestic law, the evidence shall be directly transferred to the competent authorities of the issuing State assisting in the execution of the EIO in accordance with Article 11(5).
2. The transfer of the evidence may be suspended, pending a decision regarding a legal remedy, unless sufficient reasons are indicated in the EIO that an immediate transfer is essential for the proper conduct of its investigations or for the preservation of individual rights. The transfer of evidence shall be suspended if it would cause serious and irreversible damage to the person indicated in the EIO.
3. When transferring the evidence obtained, the executing authority shall indicate whether it requires the evidence to be returned to Greece as soon as it is no longer required in the issuing State.
4. Where the objects, documents, or data concerned are already relevant for other proceedings, the executing authority may, at the written request of and after consultations with the issuing authority, temporarily transfer the evidence on the condition that it be returned to Greece as soon as it is no longer required in the issuing State or at any other time or occasion agreed between the competent authorities.

Article 16

Legal remedies

(Article 14 of the Directive)

1. For the investigative measures indicated in the EIO, legal remedies may be filed equivalent to those provided by the Greek law and within the respective time limits set.
2. The substantive reasons for issuing the EIO may be challenged only in an action brought in the competent authorities of the issuing State, without prejudice to the guarantees of fundamental rights in Greece.
3. Where it would not undermine the need to ensure confidentiality of an investigation under Article 21(1), the Greek authorities shall provide information about the possibilities under the Greek law for seeking the legal remedies in due time to ensure that they can be exercised effectively.
4. The time-limit for seeking a legal remedy shall be the same as that provided for in a similar domestic case and is applied in a way that guarantees the possibility of the effective exercise of these legal remedies for the parties concerned.
5. The issuing authority and the executing authority shall inform each other about the legal remedies that may be brought against the issuing, the recognition or the execution of an EIO.
6. A legal challenge shall not suspend the execution of the investigative measure, unless it is explicitly provided in the Greek law.
7. If a legal remedy against the recognition or execution of an EIO is successful, this shall be taken into account in accordance with the Greek law. Without prejudice to Greek procedural rules, the Greek authorities shall ensure that in criminal proceedings taking place in the issuing State, the rights of the defence and the fairness of proceedings are respected when assessing evidence obtained through the EIO.

Article 17**Grounds for postponement of recognition or execution****(Article 15 of the Directive)**

1. The recognition or execution of the EIO may be postponed where:

- a) its execution might prejudice an on-going criminal investigation or prosecution, until such time as the competent Greek authority of article 11(1) deems necessary;
- b) the objects, documents, or data concerned are already being used in other proceedings, until such time as deemed necessary.

2. As soon as the ground for postponement has ceased to exist, the executing authority shall forthwith execute the EIO and inform the issuing authority by any means capable of producing a written record.

Article 18

Obligation to inform

(Articles 7 par. 6 and 16 of the Directive)

1. The competent executing authority which receives the EIO shall, without delay, and in any case within seven (7) days of the reception of an EIO, complete and send the form set out in Annex B.

This obligation is applicable both to the central authority of article 9(3) and to the executing authority which receives the EIO from the central authority.

If the Greek authority which receives the EIO has no competence to recognise or to execute the EIO, it shall, *ex officio*, transmit the EIO to the competent executing authority, in any case within seven (7) days from its reception.

2 . Without prejudice to Article 12(4) and (5), the executing authority shall inform the issuing authority immediately by any means:

- a) if it is impossible for the executing authority to take a decision on the recognition or execution due to the fact that the form provided for in Annex A is incomplete or manifestly incorrect;

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b) if the executing authority, in the course of the execution of the EIO, considers without further enquiries that it may be appropriate to carry out investigative measures not initially foreseen, or which could not be specified when the EIO was issued, in order to enable the issuing authority to take further action in the specific case;

c) if the executing authority establishes that, in the specific case, it cannot comply with formalities and procedures expressly indicated by the issuing authority in accordance with Article 11.

Upon request by the issuing authority, the information shall be confirmed without delay by any means capable of producing a written record.

3. Without prejudice to Article 12(4) and (5) the executing authority shall inform the issuing authority immediately by any means capable of producing a written record:

a) on any decision taken according to articles 12 or 13;

b) on any decision related to the postponement of execution or recognition of the EIO, the grounds of postponement and, if appropriate, the possible duration of the postponement.

Article 19

Criminal liability regarding officials

(Article 17 of the Directive)

When present in the Greek territory in the framework of this Law, officials from the issuing State shall be regarded as officials in the sense of article 13(a) of the Penal Code, with respect to offences committed against them or by them.

Article 20

Civil liability regarding officials

(Article 18 of the Directive)

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1. Where, in the framework of this Law, officials of a Member State are present in the Greek territory, the Member State of origin shall be liable for any illegal act or omission they committed which resulted in any damage, in accordance with the provisions of articles 104 and 105 of the Introductory Law of the Civil Code (C.L. 2783/1941, A' 29).

The Greek State shall be liable for damages caused by its officials when they operate in the framework of this Law, in the territory of another Member State, in accordance with the law of the Member State in whose territory they operate.

2. If officials of a Member State cause any damage in the Greek territory against a third party, in the framework of this Law, the Greek State shall make good such damage under the conditions applicable to damage caused by its own officials.

3. If officials of the Greek State have caused damage in the territory of another Member State against a third party, in the framework of this Law, the Greek State shall reimburse in full any sums the Member State has paid to the victims or persons entitled on their behalf.

4. Without prejudice to the exercise of its rights vis-à-vis third parties, the Greek State shall refrain from requesting reimbursement of damages it has sustained from another Member State, according to the liability established in par. 1.

Article 21

Confidentiality

(Article 19 of the Directive)

1. In the execution of an EIO, the issuing authorities and the executing authorities take due account of the confidentiality of the investigation.

2. The Greek executing authority shall, in accordance with domestic law, guarantee the confidentiality of the facts and the substance of the EIO, except to the extent necessary to execute the investigative measure. If the executing authority cannot comply with the requirement of confidentiality, it shall notify the issuing authority without delay.

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3. The Greek issuing authority shall, in accordance with domestic law and unless otherwise indicated or informed by the executing authority, not disclose any evidence or information provided by the executing authority, to the extent that its disclosure is not necessary for the investigations or proceedings described in the EIO.

4. Banks shall not disclose to their customer concerned or to other third persons that information has been transmitted to the issuing State in accordance with Articles 26 and 27 or that an investigation is being carried out. In case the obligation of the previous indent is violated, violators shall be imposed with the following sanctions: a) if for a natural person, those provided for in the last indent of article 31, in the case of par. 1(b) and art. 52(4) of Law 3691/2008 (A' 166) and b) if for a legal person, those provided for in art. 52(1)(a) of Law 3691/2008.

Article 22

Protection of personal data

(Article 20 of the Directive)

When implementing this Law, the personal data are protected in accordance with Law 2472/1997 (A' 207).

Access to such data shall be restricted, without prejudice to the rights of the data subject. Only authorised persons may have access to such data.

Article 23

Costs

(Article 21 of the Directive)

1. The costs undertaken in Greece which are related to the execution of an EIO shall be borne by Greece, to the exclusion of the cases of art. 24(7), art. 25(3) and art. 32(8).

2. Where the Greek executing authority considers that the costs for the execution of the EIO may be deemed exceptionally high, it may consult with the issuing authority on whether and

how the costs could be shared or the EIO modified. The executing authority shall inform the issuing authority in advance of the detailed specifications of the part of the costs deemed exceptionally high.

3. In exceptional situations where no agreement can be reached with regard to the costs referred to in paragraph 2, the Greek issuing authority may decide to withdraw the EIO in whole or in part, or to keep the EIO and bear the part of the costs deemed exceptionally high.

CHAPTER 4

SPECIFIC PROVISIONS

Article 24

Temporary transfer to the issuing State of persons held in custody for the purpose of carrying out an investigative measure

(Article 22 of the Directive)

1. The Greek issuing authority may issue an EIO for the temporary transfer of a person in custody in the executing State for the purpose of carrying out an investigative measure with a view to gathering evidence for which the presence of that person in the country is required. The temporary transfer shall be carried out provided that the person shall be sent back within the period stipulated by the executing State.

2. The EIO under the previous paragraph shall not be executed when one of the grounds of article 13 exists or if: a) the person in custody does not consent; or b) the transfer is liable to prolong the detention of the person in custody. In case (a) of the previous indent, where due to the detained person's age or physical or mental condition, the executing authority deems it necessary, the opportunity to state the opinion on the temporary transfer shall be given to the legal representative of the person in custody.

3. The issuing authority shall file an application to transit the person in custody through the territory of a third Member State ('the Member State of transit'), accompanied by the request of the issuing authority to the executing authority, as well as by the approval of the executing

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authority. The public prosecutor of the Appeal Court of Athens shall be competent to receive the applications for transit through the Greek territory, as well as all necessary documents, and any other official correspondence related to applications for transit.

4. The practical arrangements regarding the temporary transfer of the person including the details of his custody conditions in the issuing State, and the dates by which he must be transferred from and returned to the territory of the executing State shall be agreed between the issuing State and the executing State, ensuring that the physical and mental condition of the person concerned, as well as the level of security required in the issuing State, are taken into account.

5. The transferred person shall remain in custody in the territory of the issuing State or in the territory of the Member State of transit, for the acts or convictions for which he has been kept in custody in the executing State, unless the executing State applies for his release. The period of custody in the territory of the issuing State shall be deducted from the period of detention which the person concerned is or will be obliged to undergo in the territory of the executing State in case of his conviction.

6. A transferred person shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the issuing State for acts committed or convictions handed down before his transfer and which are not specified in the EIO. The previous indent shall not be applicable when the transferred person, having had an opportunity to leave for a period of fifteen (15) days from the date when his presence is no longer required by the issuing authority, has either remained in the territory of the issuing state or, having left it, has returned.

7. Costs resulting from the application of this Article shall be borne in accordance with Article 23, whilst the costs arising from the transfer of the person to and from the issuing State which shall be borne by that State.

Article 25

Temporary transfer to the executing State of persons held in custody for the purpose of carrying out an investigative measure

(Article 23 of the Directive)

1. The issuing authority shall issue an EIO for the temporary transfer of a person held in custody in the issuing State for the purpose of carrying out an investigative measure with a view to gathering evidence for which his presence on the territory of the executing State is required.
2. Paragraphs 2 to 6 of the previous Article are also applicable to the temporary transfer under this Article.
3. Costs resulting from the application of this Article shall be borne in accordance with Article 23, whilst the costs arising from the transfer of the person concerned to and from the executing State which shall be borne by that State.

Article 26**Hearing by videoconference or other audiovisual transmission****(Article 24 of the Directive)**

1. 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 shall issue an EIO in order to hear the witness or expert by videoconference or other audiovisual transmission in accordance with paragraphs 5 to 7. An EIO under the previous indent may be also issued for the purpose of hearing a suspected or accused person by videoconference or other audiovisual transmission.
2. The execution of an EIO under the previous paragraph may be refused by the executing authority if one of the grounds of article 13 exists or in any one of the following cases:
 - 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 domestic law.
3. The issuing authority and the executing authority shall agree the practical arrangements. After agreeing with such arrangements, the executing authority shall undertake to:

- a) inform the witness or expert concerned, indicating the time and the venue of the hearing;
 - b) summon the suspected or accused person to appear for the hearing in accordance with the detailed rules laid down in the law of the executing State and inform such person about their rights under domestic law, in such a time as to allow them to exercise their rights of defence effectively;
 - c) ensure the identity particulars of the person to be heard.
4. If in circumstances of a particular case the executing authority does not have or has no access to the necessary technical means for a hearing held by videoconference, such means may be made available to it by the issuing State by mutual agreement.
5. Where a hearing is held by videoconference or other audiovisual transmission, the following rules shall apply:
- a) the competent Greek executing authority shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identity of the person to be heard and the respect for domestic law. If the executing authority is of the view that during the hearing the domestic law is being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance therewith;
 - b) measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the issuing State and the executing State;
 - c) the hearing shall be conducted directly by, or under the direction of, the competent authority of the issuing State in accordance with its domestic law;
 - d) the Greek executing authority shall ensure that the person to be heard is assisted by an interpreter, if necessary, at the request of the person or the issuing State;
 - e) suspected or accused persons shall be informed in advance of the hearing of the procedural rights which would accrue to them, including the right not to testify, under the domestic law and the law of the issuing State. Witnesses and experts may claim the right not to testify which

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would accrue to them under the Greek law or the law of the issuing State and shall be informed about this right.

6. Without prejudice to any measures of case b' of the previous paragraph, the executing authority shall draw up minutes at the end of the hearing and shall forward the same to the issuing authority. Such minutes shall indicate the date and venue of the hearing, the identity of the person heard, the identities and functions of all other persons participating in the hearing at the executing State, any oaths taken and the technical conditions under which the hearing took place.

7. Where the person is being heard within the territory of a Member State and he refuses to testify when under an obligation to testify or does not testify the truth, the necessary measures shall be taken for the application of domestic law in the same way as if the hearing took place in a national procedure.

Article 27

Hearing by telephone conference

(Article 25 of the Directive)

1. If a person is in the territory of one Member State and has to be heard as a witness or expert by the competent Greek authorities where it is not appropriate or possible for the person to be heard to appear before the Greek authorities in person, the Greek issuing authority shall issue an EIO in order to hear the witness or expert by telephone conference after having examined other suitable means.

2. Unless otherwise agreed, the provisions of paragraphs 3, 5, 6 and 7 of the previous article shall apply mutatis mutandis to hearings by telephone conference.

Article 28

Information on bank and other financial accounts

(Article 26 of the Directive)

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1. An EIO may be issued by the issuing authority in order to determine whether any natural or legal person or any association without legal personality subject to the criminal proceedings concerned holds or controls one or more accounts in any bank located in the territory of the executing State, and if so, to obtain the specific details.
2. The issuing authority may also issue an EIO to determine whether any natural or legal person or any association without legal personality subject to the criminal proceedings concerned holds one or more accounts in any non-bank financial institution located on the territory of the executing State. The executing authority may refuse to execute an EIO on the grounds of article 13, as well as if the execution of the requested investigative measure would not be authorised in a similar domestic case.
3. The information referred to in the previous paragraphs shall also, if requested in the EIO, include accounts for which the person subject to the criminal proceedings concerned has powers of attorney.
- 4 The issuing authority shall indicate in the EIO the reasons why it considers that the requested information is likely to be of value for the purpose of the criminal proceedings concerned and on what grounds it presumes that the account kept with a bank or non-bank financial institution in the executing state and, to the extent possible, their details and any other information available which may facilitate its execution.
5. The obligation to execute hereunder shall apply only to the extent that the information requested by the EIO is in the possession of the bank or non-bank financial institution in which the account is held.

Article 29

Information on banking and other financial operations

(Article 27 of the Directive)

1. The issuing authority may issue an EIO in the context of criminal proceedings, 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. The EIO shall include the details of any sending or recipient account.

2. The issuing authority may also issue an EIO in the context of criminal proceedings in order to obtain the details of specified bank accounts and of banking operations which have been conducted during a defined period through non-bank financial institutions. The executing authority may refuse to execute the EIO on the grounds of article 13 as well as where the execution of the investigative measure would not be authorised in a similar domestic case.

3. 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.

4. The obligation to execute under this Article shall apply only to the extent that the information requested by the EIO is in the possession of the bank or non-bank financial institution in which the account is held.

Article 30

Investigative measures implying the gathering of evidence in real time, continuously and over a certain period of time

(Article 28 of the Directive)

1. For the purpose of gathering of evidence, the issuing authority shall issue an EIO for the conduct of an investigative measure in real time, continuously and over a certain period of time, 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.

2. The practical arrangements regarding paragraph 1(b) and wherever else necessary shall be agreed between the issuing State and the executing State.

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3. The issuing authority shall indicate in the EIO why it considers the information requested relevant for the purpose of the criminal proceedings concerned.
4. The competent Greek authorities shall act, direct and control all the operations related to the execution of an EIO referred to in paragraph 1.
5. The competent Greek authorities, in addition to the grounds referred to in Article 13, may refuse to execute an EIO, if the execution of the investigative measure concerned would not be authorised in a similar domestic case.

Article 31

EIO for covert investigations

(Article 29 of the Directive)

1. The issuing authority may issue an EIO for the purpose of requesting the executing State to assist the issuing State during criminal proceedings, jointly with competent investigating officers of the executing State, acting under covert or false identity ('covert investigations'). An EIO under the previous indent shall indicate why such a covert investigation is considered necessary and the executing authority shall take into account the provisions of domestic law that provide for the same.
2. The Greek executing authority may refuse to execute, on one of the grounds referred to in Article 13 or where: a) the execution of the measure would not be authorised in a similar domestic case; b) the agreement under paragraph 3 has not been reached.
3. 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 covert investigation shall lie solely with the competent authorities of the executing State. In particular, the covert investigation carried out in the Greek territory shall be conducted according to the Greek law and the procedures provided thereunder. The right to act, to direct and to control the covert investigation of the previous indent shall exclusively lie with the competent Greek authorities. The duration of the covert investigation, the conditions, and the legal status of the officers concerned shall be agreed between Greece and the issuing

State with due regard to the applicable Greek law and the procedures followed within the Greek legal order.

CHAPTER 5

INTERCEPTION OF TELECOMMUNICATIONS

Article 32

Interception of telecommunications with technical assistance of another Member State

(Article 30 of the Directive)

1. The competent issuing authority may issue an EIO for the interception of telecommunications in the executing state which is to provide technical assistance.
2. Where more than one Member State are in a position to provide the necessary technical assistance for the interception of telecommunications, the EIO shall be sent only to one of them. Priority shall be given to the Member State where the subject of the interception during criminal proceedings 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 of telecommunications; 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 referred to in Article 13, the execution of an EIO referred to in paragraph 1 may also be refused where the investigative measure would not have been

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authorised in a similar domestic case. As executing State, Greece may make its consent subject to any conditions which would be observed in a similar domestic case.

6. Without prejudice to the previous paragraph, the 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 the manner and the conditions of the interception of telecommunications in accordance with points (a) or (b) of the previous indent.

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 23, except for the costs arising from the transcription, decoding and decrypting of the intercepted communications which shall be borne by the issuing State.

Article 33

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

(Article 31 of the Directive)

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 completing and sending the form set out in Annex C.

3. The competent authority of the notified Member State 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 8(3) shall be applicable *mutatis mutandis* for the notification referred to in paragraph 2.

CHAPTER 6

PROVISIONAL MEASURES

Article 34

Provisional measures

(Article 32 of the Directive)

1. The issuing authority may issue an EIO in order to take any measure with a view to provisionally preventing the destruction, transformation, removal, transfer or disposal of an item that may be used as evidence.
2. The executing authority shall decide and communicate the decision on the provisional measure as soon as possible and, wherever practicable, within 24 hours of receipt of the EIO.
3. Where a provisional measure referred to in paragraph 1 is requested, the issuing authority shall indicate in the EIO whether the evidence is to be transferred to the issuing State or is to remain in the executing State. The executing authority shall recognise and execute the EIO and transfer the evidence in accordance with the procedures laid down in this Law.
4. Where, in accordance with paragraph 3, an EIO is accompanied by an instruction that the evidence shall remain in the executing State, the issuing authority shall indicate the date of lifting the provisional measure referred to in paragraph 1, or the estimated date for the submission of the request for the evidence to be transferred to the issuing State.
5. After consulting the issuing authority, the executing authority may, in accordance with its national law and practice, lay down appropriate conditions in light of the circumstances of the case to limit the period for which the provisional measure referred to in paragraph 1 is to be maintained. If, in accordance with those conditions, it envisages lifting the provisional measure, the executing authority shall inform the issuing authority, which shall be given the opportunity to submit its comments. The issuing authority shall forthwith notify the executing authority that the provisional measure referred to in paragraph 1 has been lifted.

CHAPTER 7**FINAL PROVISIONS****Article 35****Transitional provisions**

(Article 35 of the Directive)

1. Mutual assistance requests received before the publication of this Law shall continue to be governed by L.D. 4218/1961 (a' 171), Law 1129/1981 (A' 42) and the related provisions of Law 2514/1997 (A' 140). Decisions to freeze evidence by virtue of Framework Decision 2003/577/JHA received before the publication of this Law shall also be governed by that Framework Decision.

2. Article 11(1) is applicable *mutatis mutandis* to the EIO issued following a decision of freezing taken under Framework Decision 2003/577/JHA.

Certified exact translation of the attached original in Greek

Athens, 24/10/2017

Translated by: Elena Asimaki, Official MFA Translator