

Notification by Austria pursuant to Article 33(1) and (2) and Article 34(4) of Directive 2014/41/EU regarding the European Investigation Order in criminal matters

I. ARTICLE 2(C) AND (D) (DESIGNATION OF COMPETENT AUTHORITIES):

I.1. Competent authorities for incoming requests

I.1.a. For criminal proceedings

The competent authorities for incoming requests for the recognition and execution of a European Investigation Order (EIO) are **in principle the public prosecutors' offices** (see the Annex 'Judicial authorities').

However, if the EIO **concerns information from criminal proceedings, the transfer of files or the conducting of hearings, and charges have already been brought**, the **regional courts and district courts ('Landesgerichte' and 'Bezirksgerichte')** are competent (see the Annex 'Judicial authorities').

The certificate (European Investigation Order) must be transmitted to the court before which the proceedings are pending.

In the case of **transit through Austria** for the temporary transfer of a person in custody (**Articles 22 and 23 of Directive 2014/41/EU**), the following body is competent:

Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice,
Department IV 4 for International Criminal Matters,
Museumstraße 7, 1070 Vienna,
Telephone: +43 1 52152-0,
Fax: +43 1 52152-2500,
E-mail: team.s@bmvrjdj.gv.at

I.1.b. For administrative criminal proceedings:

The competent authorities for incoming requests for the recognition and enforcement of a European Investigation Order (EIO) are **in principle the administrative crime authorities**:

- The district administrative authorities (Bezirksverwaltungsbehörden), which are the district authorities (Bezirkshauptmannschaften), the mayor in the case of cities with their own statutes, or the magistrate in the case of Vienna;

- the regional police departments (Landespolizeidirektionen) in their operational areas in municipalities where the regional police department is also the security authority of first instance [Eisenstadt, Rust, Graz, Leoben, Innsbruck, Klagenfurt am Wörthersee, Villach, Linz, Steyr, Wels, Salzburg, Sankt Pölten, Wiener Neustadt, Schwechat, Fischamend, Klein-Neusiedl, Schwadorf, Vienna].

If the EIO concerns information from criminal proceedings (at the appeal stage) pending before an **administrative court** or the transfer of corresponding files, the **administrative courts (the regional administrative courts and the Federal Administrative Court)** are competent.

The certificate (European Investigation Order) must be transmitted to the authority before which the proceedings are pending.

If an authority receiving a European Investigation Order is not competent, it must transmit the EIO ex officio to the competent body.

I.1.c. For criminal fiscal proceedings brought by the administrative authorities

If the EIO concerns a fiscal offence (tax or customs offence) involving an evaded amount below 100,000 euro (50,000 euro in the case of customs offences), the tax and customs offices, as the fiscal crime authorities, are responsible for the recognition and enforcement of the EIO. The EIO is to be transmitted to the central authority within the meaning of Directive 2014/41/EU:

Competence Center for International Cooperation in Fiscal Criminal Investigations (CC ICFI)
Brehmstraße 14
A-1110 Vienna
E-mail: post.sf-rechtshilfe@bmf.gv.at
Fax: +43 50 233 5953021

I.2. Competent authorities for outgoing requests

I.2.a. For criminal proceedings

The competent authorities for outgoing requests for the recognition and enforcement of a European Investigation Order are the public prosecutors' offices and the district and regional courts (see the Annex 'Judicial authorities').

I.2.b. For administrative criminal proceedings

The competent authorities for outgoing requests for the recognition and enforcement of a European Investigation Order are the administrative crime authorities and the administrative courts (see Point I.1.b above).

I.2.c. For criminal fiscal proceedings brought by the administrative authorities

In the case of fiscal offences (tax or customs offences) involving an evaded amount below 100,000 euro (50,000 euro in the case of customs offences), the tax and customs offices (see the Annex 'Fiscal crime authorities') and the Federal Fiscal Court (appeal court) are competent.

II. ARTICLE 5(2) (LANGUAGES):

For all types of proceedings:

A translation into German is to be attached to the certificate ('European Investigation Order'). Annexes must also be translated. Certificates and, where relevant, annexes to the EIO in other languages are accepted on the basis of reciprocity; i.e. on condition that the Member State concerned, as the executing State, also accepts certificates in German.

III. ARTICLE 7(3) (CENTRAL AUTHORITY):

For criminal proceedings:

The

Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Department IV 4 for International Criminal Matters, Museumstraße 7, 1070 Vienna, Telephone: +43 1 52152-0, Fax: +43 1 52152-2500, E-mail: team.s@bmvrjdj.gv.at

provides assistance with transmission.

For criminal fiscal proceedings brought by the administrative authorities (tax and customs offences):

Competence Center for International Cooperation in Fiscal Criminal Investigations (CC ICFI)
Brehmstraße 14
A-1110 Vienna
E-mail: post.sf-rechtshilfe@bmf.gv.at
Fax: +43 50 233 5953021

**IV. ARTICLE 22(4) (DOCUMENTS FOR TRANSIT THROUGH AUSTRIA IN THE CASE OF THE TRANSFER
OF A PERSON IN CUSTODY)**

A written request must be made that indicates the identity and the nationality of the person in custody, the existence of an EIO for the transfer of that person, the nature and legal classification of the offence and the description of the circumstances in which the offence was committed, including the time and place of the offence.

V. ARTICLE 34(4) (APPLICATION OF OTHER AGREEMENTS)

The Republic of Austria intends to continue to apply the following agreements, treaties or conventions:

The Treaty of 10 November 2003 and the Treaty of 19 December 2003 between the Federal Republic of Germany and the Republic of Austria concerning cross-border cooperation on threat prevention by police and in criminal law,

The Agreement of 15 December 1997 between the Austrian Federal Government and the Government of the Italian Republic on police cooperation and the Treaty of 11 July 2014 between the Government of the Republic of Austria and the Government of the Italian Republic on police cooperation,

The Treaty of 14 November 2007 between the Republic of Austria and the Republic of Croatia on police cooperation,

The Treaty of 13 February 2004 between the Republic of Austria and the Slovak Republic on police cooperation and the Treaty of 14 February 2014 between the Republic of Austria and the Slovak Republic amending and supplementing the Treaty on police cooperation signed on 13 February 2004 between the Republic of Austria and the Slovak Republic,

The Treaty of 28 October 2003 between the Republic of Austria and the Republic of Slovenia on police cooperation,

The Treaty of 14 July 2005 between the Republic of Austria and the Czech Republic on police cooperation and the Second Additional Protocol to the European Convention of 20 April 1959 on Mutual Assistance in Criminal Matters, and the Treaty of 5 December 2014 between the Republic of Austria and the Czech Republic amending and supplementing the Treaty between the Republic of Austria and the Czech Republic on police cooperation and the Second Additional Protocol to the European Convention of 20 April 1959 on Mutual Assistance in Criminal Matters,

The Agreement of 29 May 2002 between the Austrian Federal Government and the Government of the Republic of Bulgaria on police cooperation,

The Agreements of 5 July 2002 and 29 July 2003 between the Austrian Federal Government and the Government of the Republic of Poland on cooperation in preventing and combatting crime,

The Agreement of 18 March 1999 between the Austrian Federal Government and the Government of Romania on cooperation in combatting international organised crime, the international trade in

illegal drugs, international terrorism, and serving other purposes to promote the administration of criminal justice,

The Convention of 27 May 2005 between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration, together with declarations by Austria and a joint declaration (Prüm Convention),

The Police Cooperation Convention for Southeast Europe of 5 May 2006,

The Protocol of 4 September 2017 between the Republic of Austria and Hungary amending the Treaty between the Republic of Austria and the Republic of Hungary on cooperation in preventing and combating cross-border crime,

The Agreement of 20 January 2004 between the Austrian Federal Government and the Government of the Republic of Latvia on police cooperation,

The Treaty of 27 October 1993 between the Republic of Austria and the Republic of Hungary supplementing the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 as amended by the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 17 March 1978 and facilitating its application,

The Treaty of 27 July 1994 between the Republic of Austria and the Czech Republic supplementing the European Convention on Mutual Assistance,

The Treaty of 14 July 2005 between the Republic of Austria and the Czech Republic on police cooperation and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959,

The Treaty of 5 December 2014 between the Republic of Austria and the Czech Republic amending and supplementing the Treaty between the Republic of Austria and the Czech Republic on police cooperation and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959,

The Treaty of 20 June 1994 between the Republic of Austria and the Slovak Republic supplementing the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and facilitating its application,

The Treaty of 2 June 2003 between the Republic of Austria and the Republic of Poland supplementing the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and facilitating its application,

The Treaty of 27 February 1978 between the Republic of Austria and the Republic of Poland on mutual assistance in criminal matters,

The Treaty of 20 February 1973 between the Republic of Austria and the Italian Republic supplementing the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and facilitating its application,

The Treaty of 18 November 1983 between the Republic of Austria and the French Republic on the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959,

The Treaty of 31 January 1972 between the Republic of Austria and the Federal Republic of Germany supplementing the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and facilitating its application,

The Treaty of 20 November 2003 between the Republic of Austria and the Republic of Croatia supplementing the European Convention on Mutual Assistance in Criminal Matters as amended by the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters and facilitating its application,

The Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations,

The Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol which entered into force on 1 June 2011,

The Treaty of 4 October 1954 between the Republic of Austria and the Federal Republic of Germany on the protection of legal rights and mutual judicial assistance in matters of taxation,

The Treaty of 11 September 1970 between the Republic of Austria and the Federal Republic of Germany on legal and administrative assistance in matters relating to customs, excise duties and monopolies,

The Convention between the Republic of Bulgaria, the Republic of Croatia, Hungary and the Republic of Austria on the facilitation of cross-border cooperation in enforcement of road safety related traffic offences,

The administrative and technical implementing Convention of 5 May 2015 on the Convention between the Republic of Bulgaria, the Republic of Croatia, Hungary and the Republic of Austria on the facilitation of cross-border cooperation in enforcement of road safety related traffic offences,

The Treaty of 31 May 1988 between the Republic of Austria and the Federal Republic of Germany on administrative and legal assistance in administrative matters.