

European Investigation Order in criminal matters. Initiative Belgium, Bulgaria, Estonia, Spain, Austria, Slovenia and Sweden

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The Council held a **first orientation debate** regarding the creation of a European Investigation Order (EIO) in criminal matters. The EIO is an initiative which was presented in May 2010 by seven Member States.

Mutual recognition as the basis to allow one EU Member State to carry out investigative measures at the request of another EU Member State - with this goal in mind ministers held a **first policy debate** regarding the creation of a European Investigation Order (EIO) in criminal matters.

On the basis of a working document (see Council doc. [15531/10](#)), ministers focused their debate on the following key issues which touch upon the core of the principle of mutual recognition:

- **how to limit as much as possible grounds for refusal:** most Member States supported the suggestion of the presidency to move away from a general ground for refusal and, instead, take a differentiated approach according to the intrusiveness of an investigative measure. Following this idea, a wide flexibility would be maintained for the most intrusive measures such as interception of telecommunications;
- **how to safeguard the proportionality of a request without hampering cooperation:** most Member States supported that it should be the issuing state which assesses the proportionality of a request. Some estimated, however, that the executing state should also have the right to do so;
- **how to deal with the costs for the executing state, including the impact on its human resources:** one possibility discussed is to consider the sharing of costs between the issuing and executing states in well-defined circumstances. Besides that, a majority of member states considered that the costs should not constitute a ground for refusal.

The main goal of this initiative is to allow one EU Member State ("the issuing state") to issue a European Investigation Order and forward it to another Member State ("the executing state") in order to have one or several specific investigative measure(s) carried out with a view to gathering evidence. The investigative measures would, for example, include the hearing of witnesses, searches and seizures as well as, with additional safeguards, interceptions of telecommunications, observation, infiltration and monitoring of bank accounts.

The United Kingdom decided to participate in the EIO by using the opt-in option provided for in Protocol 21 of the Lisbon Treaty. Ireland and Denmark are not taking part.