



Brussels, 1 December 2015
(OR. en)

14776/15

JAI 935
COPEN 338
EJN 98

NOTE

From:	Finnish Delegation
To:	Working Party on Cooperation in Criminal Matters
Subject:	COPEN Meeting - Mutual Recognition experts - Questions regarding the implementation of Directive 2014/41/EU regarding the European Investigation Order in criminal matters (EIO)

The Finnish delegation has two questions which it would like to discuss:

The first question is whether Article 24 of the EIO Directive on videoconference could be used during the trial phase for hearing of an accused persons (thus not only when an accused person is heard for evidential purposes). In practice there appears to be a need for such hearing in minor cases, where the EAW procedure would be too heavy.

The second question concerns the relationship between the EIO and Naples II Convention (Convention on mutual assistance and cooperation between customs administrations).

According to Article 34, the EIO Directive does not replace the Naples II. Naples II also covers mutual assistance and cooperation in the framework of criminal investigations concerning infringements of national and Community customs provisions, provided that the applicant authority has jurisdiction on the basis of national law of the relevant Member State (Article 3).

Currently Naples II enables authorities to apply also instruments on mutual assistance in criminal matters; para 2 of Article 3 of Naples II stipulates that where a criminal investigation is carried out by or under the discretion of a judicial authority, that authority shall determine whether requests for mutual assistance of cooperation in that connection shall be submitted on the basis of the provisions concerning mutual assistance in criminal matters, or on the basis of Naples II.

Since the EIO Directive will replace the existing instruments on mutual legal assistance, could we assume that the said provision of Naples II be interpreted to allow in future also the application of the EIO Directive, under the discretion of the judicial authority ?
