



Brussels, 17 May 2019  
(OR. en)

9365/19

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**Interinstitutional File:**  
**2018/0108(COD)**

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JAI 530  
COPEN 220  
CYBER 170  
DROIPEN 87  
JAIEX 81  
ENFOPOL 253  
TELECOM 231  
DAPIX 185  
EJUSTICE 68  
MI 446  
CODEC 1095

**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council on European production and preservation orders for electronic evidence in criminal matters (Annexes)  
- general approach (supplement)

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1. On 17 April 2018, the Commission adopted and transmitted to the Council and to the European Parliament the above-mentioned proposal which aims to create European 'Production' and 'Preservation' Orders to obtain or preserve e-evidence in another jurisdiction without the involvement of the competent authorities of that jurisdiction.
2. The proposal provides that the production and preservation orders are to be transmitted directly to a service provider offering services in the Union or to a legal representative designated by the service provider and located in a Member State through the use of dedicated forms: European Production Order Certificate (EPOC) and the European Preservation Order Certificate (EPOC-PR), respectively.

3. The templates for those certificates are set out in Annex I and II to the proposed Regulation and aim to provide the information necessary to the addressee in a standardised format, thus minimising sources of errors, allowing easy data identification and avoiding free text as much as possible in order to reduce translation costs. The certificates do not include the grounds for necessity and proportionality or any further details about the case to avoid jeopardising investigations.
4. In addition Annex III to the proposed Regulation sets out the form to be used in case the addressee either does not provide the information at all or does not provide it in an exhaustive or timely manner. In such cases the addressee must inform the issuing authority of the reasons for non-execution using the form set out in Annex III.
5. The certificates and the forms contained in Annexes I, II and III of the proposal strive to ease the execution of the European Production and Preservation Orders.
6. The Commission presented the proposed Regulation to the COPEN Working Party on 27 April 2018 and, given the complexity of the text, the work during both the BG and AT Presidencies focussed entirely on striking a compromise on the normative provisions of the Regulation. Therefore, examination of the annexes started under the RO Presidency after the Council had approved the compromise text of the proposed Regulation in December 2018.
7. The examination of the annexes took place in the COPEN Working Party on 1 March and 6 May 2019 with the aim of aligning the text of the certificates and the forms to the compromised text as approved by the Council and making them user-friendly by improving their readability and clarity.
8. Expert input in this process was provided by the European Judicial Network, the European Judicial Cybercrime Network and Eurojust.

9. Discussions were concluded at technical level on 6 May 2019 which allowed the Presidency to prepare the compromise text of Annexes I, II and III as set out in Annex to this note.
  10. All changes compared to the Commission proposal are indicated in **bold** (new text) or ~~striketrough~~-(deleted text).
  11. On this basis, the Permanent Representatives Committee/Council is invited to agree to supplement the general approach on the proposed Regulation reached in December 2018 with the text of Annexes I, II and III as they appear in the Annex to this note. Those texts will supplement the general approach and together will constitute the basis for the negotiations with the European Parliament in the framework of the ordinary legislative procedure (Article 294 TFEU).
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**EUROPEAN PRODUCTION ORDER CERTIFICATE (EPOC) FOR  
THE PRODUCTION OF ELECTRONIC EVIDENCE**

Under Regulation (EU)...<sup>1</sup> the addressee of ~~the~~ **this** European Production Order Certificate (EPOC) must execute ~~the~~ **this** EPOC and must transmit the requested data **in accordance with deadlines specified in Section B** to the **competent** authority indicated under point (i) of Section G of the EPOC. If the data is not **immediately** produced, the addressee must, upon receipt of the EPOC, preserve the data requested, unless the information in the EPOC does not allow it to identify this data. Preservation shall be upheld until the data is produced or until the issuing authority or where applicable the enforcing authority, indicates that it is no longer necessary to preserve and produce data.

The addressee must take necessary measures to ensure the confidentiality of the EPOC and of the data produced or preserved.

SECTION A:

Issuing State: .....

**Issuing authority:** .....

**Validating authority:** .....

NB: details of issuing authority to be provided at the end (Sections E and F)

Addressee: .....

**File number of the issuing/validating authority:** .....

<sup>1</sup> Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters (*OJ L ...*).

**SECTION A (bis): Addressee**

**Addressee:**.....

**Address:**.....

**Fax/email (if known):**.....

**Contact person (if known):** .....

**File number of the addressee (if known):**.....

**Service provider concerned (if different from addressee):**.....

**Any other relevant information**.....

**SECTION A (ter): ~~(iv)~~ Relation to a previous preservation request** Please note that (tick and complete if applicable)

the requested data was **totally/partially** preserved in accordance with an earlier request for preservation issued by..... (indicate the authority, and, if available, the date of transmission of request and **file reference** number) and transmitted to ..... (indicate the service provider/ legal representative/ public authority to which it was transmitted and, if available, the **file reference** number given by the addressee)<sup>2</sup>.

<sup>2</sup> Please note that the text has been shifted here from Section D (iv) and only the new additions or deletions to the original text has been marked.

SECTION B: Deadlines (tick the appropriate box and complete, if necessary)

**Upon receipt of the EPOC**, the data requested must be produced ~~(tick the appropriate box and complete, if necessary):~~

- within 10 days at the latest
- within ~~another time~~ a period **shorter than 10 days** (specify):....., ~~because of if~~ **any of the following reasons for an earlier disclosure are indicated:**
  - an imminent danger that the requested data will be deleted
  - other urgent investigative measures
  - an imminent trial date
  - a suspect / accused in custody
  - other reasons: .....
- within 6 hours at the latest in the event of an emergency case involving:
  - an imminent threat to a person's life or physical integrity. ~~Justification, if necessary~~ ..... **(Insert brief details if deemed useful by issuing authority):** .....
  - an imminent threat to a critical infrastructure as defined in Art. 2(a) of Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection.
- ~~within another time period (specify):~~ ..... ~~because of:~~
  - ~~an imminent danger that the requested data will be deleted~~
  - ~~other urgent investigative measures~~
  - ~~an imminent trial~~
  - ~~a suspect / accused in custody~~
  - ~~other reasons:~~ .....<sup>3</sup>

<sup>3</sup> Text moved up as second bullet point in the same section. Only the new additions and deleted text are marked.

SECTION C: ~~User i~~Information to the user

**The addressee shall refrain from informing the person whose data is being sought, unless below box is ticked:**

Please note that ~~(tick, if applicable):~~

- the addressee ~~must refrain from informing~~ **is requested to inform** the person whose data is being sought, **including information on the legal remedies available against this EPOC, which is provided to the addressee in the attachment or separately from this EPOC<sup>4</sup>.**

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<sup>4</sup> **In accordance with Art. 11 of the Regulation (EU), if the addressee is explicitly requested by the issuing authority to inform the person whose data are being sought, the issuing authority shall also provide information to the addressee about available remedies pursuant to Article 17.**

**SECTION C (bis):** ~~(ii)~~ ~~The information is made available to you to allow executing the EPOC on the requested data (complete to the extent this information is known and necessary to identify the data)~~<sup>5</sup>

IP address(es):.....

Telephone number(s):.....

Email address(es):.....

IMEI number(s):.....

MAC address(es):.....

**The user(s) or other unique identifier(s) such as user name(s), ID(s) or account name(s):.....**

Name(s) of the **relevant** service(s): .....

Other: .....

~~(iii)~~ If applicable, the time range requested to be produced:

.....

**Additional information if needed:**

.....

<sup>5</sup> Please note that the text has been shifted here from Section D (ii) and only the new additions or deletions to the original text has been marked.



SECTION D: Electronic evidence to be produced

~~(i)~~ This EPOC concerns (tick the relevant box(es)):

subscriber data, ~~including but not limited to:~~

name, address, date of birth, contact information (email address, phone number) and other relevant information pertaining to the identity of the user/subscription holder

date and time of ~~first~~ registration, type of registration, copy of a contract, means of verification of identity at the moment of registration, copies of documents provided by the subscriber

type of service **and its duration**, including identifier(s) (phone number, IP address, SIM-card number, MAC address) and associated device(s)

profile information (user name, **screen name**, profile photo)

data on the validation of the use of service, such as an alternative email address provided by the user/subscription holder

debit or credit card information (provided by the user for billing purposes) including other means of payment

PUK-codes

**other**:.....

access data - **strictly necessary for identification purposes**, ~~including but not limited to:~~

IP connection records / logs **together with other identifiers**, such as the user ID and the interface used, **in the context of the use of the service, please specify, if necessary:**  
.....

**time range (if different from section C (bis))**:.....

**other**:.....

transactional data:

traffic data, ~~including but not limited to:~~

(a) for (mobile) telephony:

outgoing (A) and incoming (B) identifiers (phone number, IMSI, IMEI)

time and duration of connections

call attempts

base station ID, including geographical information (X/Y coordinates), at the time of initiation and termination of the connection

bearer / teleservice used (e.g. UMTS, GPRS)

**other:.....**

(b) for internet:

routing information (source IP address, destination IP address(es), port number(s), browser, email header information, message-ID)

base station ID, including geographical information (X/Y coordinates), at the time of initiation and termination of the connection

volume of data

**other:.....**

(c) for hosting:

logfiles

tickets

**other:.....**

- purchase history
- other transactional data, ~~including but not limited to:~~
  - prepaid balance charging history
  - contacts list
  - other:.....**
- content data, ~~including but not limited to:~~
  - (web)mailbox dump
  - online storage dump (user generated data)
  - pagedump
  - message log/backup
  - voicemail dump
  - server contents
  - device backup
  - other:.....**

Additional information in case necessary to (further) specify or limit the range of the requested data:.....

(ii) Information below is made available to you to allow executing the EPOC-PR:

- IP address:.....
- Telephone number:.....
- Email address:.....
- IMEI number:.....
- MAC address:.....
- Person(s) whose data is being requested
- Name of the service:.....
- Other:.....

(iii) If applicable, the time range requested to be preserved:.....(iv)<sup>6</sup>

Please note that (tick and complete if applicable):

the requested data was preserved in accordance with an earlier request for preservation issued by..... (indicate the authority, and, if available, the date of transmission of request and reference number) and transmitted to..... (indicate the service provider/legal representative/ public authority to which it was transmitted and, if available, the reference number given by the addressee)

(v)<sup>7</sup> Nature and legal classification of the offence(s) in relation to which the EPOC is issued and the applicable statutory provision/code:  
.....

<sup>6</sup> This text became Section A (ter). Only the changes to the original text are marked.

<sup>7</sup> This text became Section D (bis). Only the changes to the original text are marked.

The current EPOC is issued for transactional and / or content data and concerns (tick the relevant box(es), if applicable):

criminal offence(s) punishable in the issuing State by a custodial sentence of a maximum of at least 3 years;

the following offence(s), if wholly or partly committed by means of an information system:

offence(s) as defined in Articles 3, 4 and 5 of Council Framework Decision 2001/413/JHA;

offence(s) as defined in Articles 3 to 7 of Directive 2011/93/EU of the European Parliament and of the Council;

offence(s) as defined in Articles 3 to 8 of Directive 2013/40/EU of the European Parliament and of the Council;

offences as defined in Article 3 to 12 and 14 of Directive (EU) 2017/541 of the European Parliament and of the Council.

(vi)<sup>8</sup> Please note that (tick, if applicable):

The data sought is stored or processed as part of a corporate infrastructure provided by a service provider to a company or another entity other than natural persons, and the current EPOC is addressed to the service provider because investigatory measures addressed to the company or the entity are not appropriate, in particular because they might jeopardise the investigation.

(vii)<sup>9</sup> Any other relevant information:

.....

<sup>8</sup> This text became Section D (bis). Only the changes to the original text are marked.

<sup>9</sup> This text became Section D (bis). Only the changes to the original text are marked.

**SECTION D (bis): Information on the underlying conditions**

**(v) (i) This EPOC concerns (tick the relevant box(es)):**

**criminal proceedings in respect of a criminal offence(s);**

**execution of a custodial sentence(s) or a detention order(s) of at least 4 months that was not rendered in absentia in case the convict absconded from justice.**

**(ii) Nature and legal classification of the offence(s) in relation to which the EPOC is issued and the applicable statutory provision/code<sup>10</sup>:**

.....  
**(iii) The current EPOC is issued for transactional and / or content data and concerns (tick the relevant box(es), if applicable):**

criminal offence(s) punishable in the issuing State by a custodial sentence of a maximum of at least 3 years;

the following offence(s), if wholly or partly committed by means of an information system:

offence(s) as defined in Articles 3, 4 and 5 of Council Framework Decision 2001/413/JHA;

offence(s) as defined in Articles 3 to 7 of Directive 2011/93/EU of the European Parliament and of the Council;

offence(s) as defined in Articles 3 to 8 of Directive 2013/40/EU of the European Parliament and of the Council;

offences as defined in Article 3 to 12 and 14 of Directive (EU) 2017/541 of the European Parliament and of the Council.

**(vi) (v) Please note that (tick if applicable):**

The data sought is stored or processed as part of a corporate infrastructure provided by a service provider to a company or another entity other than natural persons, and the current EPOC is addressed to the service provider because investigatory measures addressed to the company or the entity are not appropriate, in particular because they might jeopardise the investigation.

**(vii) Any ~~o~~ (vi) Other relevant information:**.....

<sup>10</sup> **For execution of a custodial sentence or detention order for transactional or content data, please indicate in (ii) and (iii) the offence for which the sentence was imposed.**

SECTION E: Details of the **issuing** authority ~~which issued the EPOC~~

The type of **issuing** authority ~~which issued this EPOC~~ (tick the relevant box/**boxes**):

- judge, court, or investigating judge
- public prosecutor ~~(for subscriber and access data)~~
- ~~public prosecutor (for transactional and content data)~~ → please complete also Section (F)
- ~~any other competent authority as defined by the issuing State~~ → please complete also Section (F)

**If validation is necessary, please fill in also Section F.**

**Please note that (tick if applicable):**

- This EPOC was issued for subscriber and/or access data in a validly established emergency case without prior validation, because the validation could not have been obtained in time. The issuing authority confirms that it could issue an order in a similar domestic case without validation, and that ex-post validation will be sought without undue delay, at the latest within 48 hours (please note that the addressee will not be informed).**

Details of the issuing authority and/or its representative certifying the content of the EPOC as accurate and correct:

Name of authority:.....

Name of its representative:.....

Post held (title/grade):.....

File number:.....

Address:.....

Tel. No: (country code) (area/city code).....

Fax No: (country code) (area/city code).....

Email:.....

**Language(s) spoken:.....**

**If different from above, authority/contact point which can be contacted for any question related to the execution of the EPOC:**

**Name and contact details.....**

Date: .....

Official stamp (if available) and signature:.....

SECTION F: Details of the **validating** authority (**complete if applicable**) ~~which validated the EPOC~~

The type of **the validating** authority ~~which has validated this EPOC (tick the relevant box, if applicable)~~:-

- judge, court or investigating judge
- public prosecutor (~~for subscriber and access data~~)

Details of the validating authority and/or its representative certifying the content of the EPOC as accurate and correct:

Name of authority:.....

Name of its representative:.....

Post held (title/grade):.....

File **number** ~~No~~:.....

Address: .....

Tel. No: (country code) (area/city code).....

Fax No: (country code) (area/city code).....

Email:.....

Date: .....

Official stamp (if available) and signature:.....

SECTION G: Transfer of data ~~and contact details~~

(i) Authority to whom the data has to be transferred (~~tick and complete, if necessary~~):

- issuing authority,
- validating authority
- other competent authority (**e.g. central authority**) ~~as defined by the issuing State:~~

**Name and contact details:.....**

~~(ii) Authority/contact point which can be contacted for any question related to the execution of the EPOC:.....~~

**(ii) Preferred format in which the data has be transferred:.....**  
.....



**EUROPEAN PRESERVATION ORDER CERTIFICATE (EPOC-PR) FOR  
THE PRESERVATION OF ELECTRONIC EVIDENCE**

Under Regulation (EU) ...<sup>11</sup> the addressee of ~~the~~ **this** European Preservation Order Certificate (EPOC-PR) must, without undue delay after receiving the EPOC-PR preserve the data requested. The preservation will cease after 60 days, unless the issuing authority confirms that a subsequent request for production has been launched. If the issuing authority confirms within those 60 days that a subsequent request for production has been launched, the addressee must preserve the data for as long as necessary to produce the data once the subsequent request for production is served.

The addressee must take necessary measures to ensure the confidentiality of the EPOC-PR and of the data preserved or produced.

SECTION A:

Issuing State: .....

**Issuing authority:** .....

**Validating authority:** .....

NB: details of issuing authority to be provided at the end (Sections D and E)

Addressee: .....

**File number of the issuing/validating authority:** .....

<sup>11</sup> Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters (*OJ L ...*)

**SECTION A (bis): Addressee**

**Addressee:**.....

**Address:** .....

**Fax/email (if known):** .....

**Contact person (if known):** .....

**File number of the addressee (if known) :**.....

**Service provider concerned (if different from addressee):** .....

**Any other relevant information**.....

**SECTION B: User information to the user**

**The addressee shall refrain from informing the person whose data is being preserved, unless below box is ticked:**

Please note that (tick, if applicable):

~~the addressee must refrain from informing~~ **is requested to inform** the person whose data is being sought preserved of the EPOC **including on whether legal remedies are available against this EPOC-PR under the domestic law of the issuing State<sup>12</sup>, which is provided to the addressee in the attachment to this EPOC-PR or separately from this EPOC-PR.**

**SECTION B (bis): Information on the data requested to be preserved (complete to the extent this information is known and necessary to identify the data)**

ii) ~~<sup>13</sup> The information below is made available to you to allow executing the EPOC:~~

IP address(es):.....

Telephone number(s):.....

Email address(es):.....

IMEI number(s):.....

MAC address(es):.....

<sup>12</sup> **In accordance with Art. 11 of the Regulation (EU), if the addressee is explicitly requested by the issuing authority to inform the person whose data are being preserved, the issuing authority shall also provide information to the addressee about available remedies.**

<sup>13</sup> **This text is shifted from Section C, ii). Only the changes to the original text are marked.**

~~Person(s) whose data is being requested~~ **The user(s) or other unique identifier(s) such as user name(s), ID(s) or account name(s)** .....

Name(s) of the **relevant** service(s): .....

Other: .....

(iii) If applicable, the time range requested to be preserved:

.....

**Additional information if needed:**.....

### SECTION C: Electronic evidence to be preserved

(i) The EPOC-PR concerns (tick the relevant box(es)):

subscriber data, ~~including but not limited to:~~

name, address, date of birth, contact information (email address, phone number) and other relevant information pertaining to the identity of the user/subscription holder

date and time of ~~first~~ registration, type of registration, copy of a contract, means of verification of identity at the moment of registration, copies of documents provided by the subscriber

date and time of registration and duration of a registration or duration of a use of service

type of service **and its duration**, including identifier (phone number, IP-address, SIM-card number, MAC-address) and associated device(s)

profile information (user name, **screen name**, profile photo)

data on the validation of the use of service, such as an alternative email address provided by the user/subscription holder

debit or credit card information (provided by the user for billing purposes) including other means of payment

PUK-codes

**other:**.....

access data - **strictly necessary for identification purposes**, ~~including but not limited to:~~

**IP connection records / logs together with other identifiers , such as the user ID and the interface used in the context of the use of the service strictly necessary for identification purposes; please specify, if necessary: .....**

**time range (if different from section C(bis)):** .....

**other:** .....

**transactional data:**

**traffic data, including but not limited to:**

(a) for (mobile) telephony:

outgoing (A) and incoming (B) identifiers (phone number, IMSI, IMEI)

time and duration of connections

call attempts

base station ID, including geographical information (X/Y coordinates), at the time of initiation and termination of the connection

bearer / teleservice used (e.g. UMTS, GPRS)

**other:**.....

(b) for internet:

routing information (source IP address, destination IP address(es), port number(s), browser, email header information, message-ID)

base station ID, including geographical information (X/Y coordinates), at the time of initiation and termination of the connection

volume of data

**other:**.....

(c) for hosting:

logfiles

tickets

**other:**.....

- purchase history
- other transactional data, ~~including but not limited to:~~
  - prepaid balance charging history
  - contacts list
  - other:.....**

- content data, ~~including but not limited to:~~
  - (web)mailbox dump
  - online storage dump (user generated data)
  - pagedump
  - message log/backup
  - voicemail dump
  - server contents
  - device backup
  - other:.....**

**Additional information in case necessary to (further) specify or limit the range of the requested data:**.....

(ii) <sup>14</sup> ~~Information below is made available to you to allow executing the EPOC-PR:~~

~~IP address:~~.....

~~Telephone number:~~.....

~~Email address:~~.....

~~IMEI number:~~.....

~~MAC address:~~.....

~~Person(s) whose data is being requested:~~.....

~~Name of the service:~~.....

~~Other:~~.....

(iii) ~~If applicable, the time range requested to be preserved:~~

.....

~~(iv)<sup>15</sup> Nature and legal classification of the offence(s) for which the EPOC-PR is issued and the applicable statutory provision/code:~~

.....

(v) ~~Any other relevant information:~~.....

<sup>14</sup> This text became Section B(ter). Only the changes to the original text are marked.

<sup>15</sup> This text is moved to Section C (bis). Only the changes to the original text are marked.

**SECTION C (bis): Information on the underlying conditions**

~~(iv)~~ **(i) This EPOC-PR concerns (tick the relevant box(es)):**

- criminal proceedings in respect of a criminal offence;**
- execution of a custodial sentence or a detention order of at least 4 months that was not rendered in absentia in case the convict absconded from justice.**

**(ii) Nature and legal classification of the offence(s) for which the EPOC-PR is issued and the applicable statutory provision/code<sup>16</sup>:**

.....

**SECTION D: ~~Details of the Issuing authority which issued the EPOC-PR~~**

The type of **issuing** authority ~~which issued the EPOC-PR (tick the relevant box):~~

- judge, court, or investigating judge
- public prosecutor
- ~~any other competent authority as defined by the law of the issuing State → please complete also Section (E)~~

**If validation is necessary, please fill in also section E.**

<sup>16</sup> For execution of a custodial sentence or detention order, please indicate the offence for which the sentence was imposed.

**Please note that (tick if applicable):**

**This EPOC-PR was issued for subscriber and/or access data in a validly established emergency case without prior validation, because the validation could not have been obtained in time. The issuing authority confirms that it could issue an order in a similar domestic case without validation, and that ex-post validation will be sought without undue delay, at the latest within 48 hours (please note that the addressee will not be informed).**

**This emergency case refers to an imminent threat to a person's life or physical integrity or an imminent threat to a critical infrastructure as defined in Art. 2(a) of Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection.**

Details of the issuing authority and/or its representative certifying the content of the EPOC-PR as accurate and correct:

Name of authority:.....

Name of its representative:.....

Post held (title/grade):.....

File number No:.....

Address:.....

Tel. No: (country code) (area/city code).....

Fax No: (country code) (area/city code).....

Email:.....

**Language(s) spoken: .....**

~~The authority which can be contacted for any question related to the execution of the EPOC PR:~~  
.....



**If different from above, authority/contact point (e.g. central authority) which can be contacted for any question related to the execution of the EPOC-PR:**  
.....

**Name and contact details**.....

Date: .....

Official stamp (if available) and signature:.....

**SECTION E: Details of the validating authority which validated the EPOC-PR**

The type of **validating** authority which has validated this EPOC-PR (tick the relevant box):

- judge, court or investigating judge
- public prosecutor

Details of the validating authority and/or its representative certifying the content of the EPOC-PR as accurate and correct:

Name of authority:.....Name  
of its representative:.....

Post held (title/grade):.....  
File number No:.....  
Address: .....  
Tel. No: (country code) (area/city code).....  
Fax No: (country code) (area/city code).....  
Email:.....  
Date: .....  
Official stamp (if available) and signature:.....

**SECTION F: Contact details**  
~~The authority which can be contacted for any question related to the execution of the EPOC PR:~~  
.....

\_\_\_\_\_

**INFORMATION ON THE IMPOSSIBILITY TO EXECUTE THE EPOC / EPOC-PR**

**In case the addressee cannot comply with its obligation to preserve the requested data under an EPOC-PR or to produce it under an EPOC, cannot respect the specified deadline or does not provide the data exhaustively, this form should be completed by the addressee and sent back to the issuing authority without undue delay.**

**Where possible the addressee shall preserve the data requested even where additional information is needed to identify it precisely, unless the information in the EPOC/EPOC-PR is insufficient for that purpose. If clarifications by the issuing authority are needed, the addressee shall seek it without undue delay using this form.**

**SECTION A:**

The following information concerns:

- ~~the~~ **a European Production Order Certificate (EPOC)**
- ~~the~~ **a European Preservation Order Certificate (EPOC-PR)**

**SECTION B-~~C~~: Relevant authority(ies)<sup>17</sup>**

**Issuing authority:** .....

~~File reference of the addressee of the EPOC / EPOC-PR:~~ .....

File **number** ~~reference~~ of the issuing authority: .....

If applicable, validating authority: .....

If applicable, file **number** ~~reference~~ of the validating authority:.....

If available, date of transmission of the EPOC / EPOC-PR: .....

<sup>17</sup> The text is moved here from Section C. Only the changes to the original text are marked.

**SECTION C B: Addressee of the EPOC/EPOC-PR<sup>18</sup>**

Addressee of the EPOC / EPOC-PR: .....

Authority which issued the EPOC / EPOC-PR: .....

If applicable, authority which validated the EPOC / EPOC-PR: .....

**File number of the addressee:** .....

**SECTION D: Reasons for non-execution**

(i) The EPOC / EPOC-PR cannot be executed or cannot be executed within the requested deadline for the following reason(s):

- ~~the EPOC / EPOC-PR~~ it is incomplete
- ~~the EPOC / EPOC-PR~~ it contains manifest errors
- ~~the EPOC / EPOC-PR~~ it does not contain sufficient information
- it does not concern data stored by or on behalf of the service provider at the time of receipt of the EPOC / EPOC-PR**
- ~~force majeure or~~ **other reasons of de facto impossibility not attributable to the addressee or the service provider due to circumstances not created by the addressee or the service provider at the time the EPOC / EPOC-PR was received**
- the European Production Order / **European Preservation Order** has not been issued or validated by an issuing authority as specified in Article 4 of Regulation (EU) ...
- ~~the European Preservation Order has not been issued or validated by an issuing authority as specified in Article 4 of Regulation (EU)...~~
- the European Production Order **to produce transactional data or content data** has not been issued for an offence provided for by Article 5(4) of Regulation (EU)...
- the service is not covered by ~~the scope of~~ the Regulation (EU)....

<sup>18</sup> The text is moved here from Section B. Only the changes to the original text are marked.

- ~~the European Production Order / the European Preservation Order does not concern data stored by or on behalf of the service provider at the time of receipt of the EPOC / EPOC-PR~~
- ~~based on the sole information contained in the EPOC / EPOC-PR, it is apparent that the EPOC / EPOC-PR manifestly violates the Charter or is manifestly abusive~~
- compliance with the European Production Order would conflict with the applicable law(s) of a third country ~~prohibiting disclosure of the data concerned.~~ **Please complete also Section E.**

(ii) Please explain further the reasons for non-execution in this case **referred to in point (i), including, and**, where necessary, ~~an indication and explanation of~~ **any** other reasons not listed under point (i) of this Section:

.....

**SECTION E: Conflicting obligations, arising from a third country law**

In case of conflicting obligations arising from a third country law, please include the following information:

- title of the law(s) of the third country, ~~including the relevant provision(s):~~

.....

- **applicable statutory provision(s) and** text of the relevant provision(s):

.....

- nature of the conflicting obligation, including the interest protected by the law of the third country:

fundamental rights of individuals (please specify):

.....

fundamental interests of the third country related to national security and defence (please specify):

.....

other interests (please specify):

.....

- explain why the law is applicable in this case:

.....

- explain why you consider there is a conflict in this case:

.....

- explain the link between the service provider and the third country in question:

.....

- possible consequences for the addressee of complying with the European Production Order, including the sanctions that may be incurred:

.....

SECTION F: Information that is requested **(complete, if applicable)**

Further information is required from the issuing authority for the EPOC/ EPOC-PR to be executed **(complete, if applicable)**:

.....

SECTION G: Preservation of data

The requested data (tick the relevant box and complete ~~if applicable~~):

~~was~~ **being** preserved until data is produced or until the issuing authority, or where applicable, the enforcing authority, informs that it is no longer necessary to preserve and produce data **or until the necessary information is provided by the issuing authority to allow to narrow down the data to be preserved/produced**

~~was~~ not being preserved **(this should only be the case exceptionally, e.g. if the service provider does not have the data upon receipt of the request or cannot identify the requested data sufficiently) since the information provided in the EPOC / EPOC PR does not allow to identify it**

**SECTION H: Contact details of the service provider / its legal representative**

Name of the service provider/ legal representative:.....

**Name of the contact person:** .....

**Post held:**.....

**Address:**.....

**Tel. No: (country code) (area/city code)**.....

**Fax No: (country code) (area/city code)**.....

**Email:**.....

Name of the authorised person:.....

Official stamp (if available) and signature:.....

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