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EVALUATIONS**
on the implementation of the European Investigation Order (EIO)
REPORT ON THE NETHERLANDS

**EVALUATION REPORT ON THE
TENTH ROUND OF MUTUAL EVALUATIONS
on the implementation of the European Investigation Order (EIO)

REPORT ON THE NETHERLANDS**

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1. EXECUTIVE SUMMARY

Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters ('the Directive') has become the core instrument for gathering evidence within the EU. Although frequently used, the 10th round of mutual evaluations shows that several practical and legal challenges need to be addressed, to further improve the smooth and consistent functioning of the European Investigation Order (EIO).

The visit was very well prepared by the Dutch authorities, allowing the evaluation team to meet with the relevant bodies dealing with the EIO. The open and cooperative spirit in which the discussions took place ensured that the evaluation team got a good overview of the Directive's application in the Netherlands. The evaluation team particularly appreciated the opportunity to visit not only the Ministry of Justice, but also the International Legal Assistance Centre (IRC) in the Hague.

The evaluation team established that the EIO generally works well in the Netherlands, with the Dutch practitioners trying to cooperate to the fullest extent possible to assist the issuing State. The Netherlands is to be commended for their flexible and generally pragmatic approach, examples of which are given throughout the report (*see best practice No 4*). Nevertheless, the evaluation team identified some areas for improvement that need to be addressed at both national and EU level (see Chapter 22).

The Netherlands has a unique system of International Legal Assistance Centres (IRCs) throughout the whole country: 10 regional IRCs and two at national level focusing on special types of crimes (see Chapter 4). The IRCs cooperate closely with public prosecutors and police officials and have a high degree of specialisation in international matters. The IRCs perform high-quality monitoring both of outgoing EIOs and of the results of the execution of incoming EIOs (*see best practice No 2*).

The evaluation team identified room for improvement for the Netherlands concerning the time limits and particularly with regard to the complaint procedure after evidence has been seized. The complaint procedure delays the transfer of evidence from the Netherlands to the issuing State and can easily take between several months and up to over a year to complete. In the view of the evaluation team, compliance with time limits is very important to ensure the smooth and effective functioning of the EIO (*see recommendation No 6*).

In addition, the topic of confidentiality was raised during the discussions with the Dutch practitioners. It appears that Member States sometimes experience challenges in complying with the confidentiality obligations when other parties are involved, such as banks or companies informing their clients, as well as issues with internet service providers (see Chapter 12). In the view of the evaluation team, Member States should ensure the confidentiality of the investigation as far as possible and for as long as is required (*see recommendation No 13*).

During the visit, the Netherlands raised a relevant issue i.e. the possibility of signing an EIO anonymously. This new practice in the Netherlands is the direct result of the increased danger from organised crime. However, there is no uniform approach in the Member States on whether or not an EIO can be signed anonymously in certain circumstances (*see recommendation No 17*).

Furthermore, the evaluation team identified a potential need for further clarification or revision at EU level regarding the application of the speciality rule, the relation to Article 40 of the Convention implementing the Schengen Agreement (CISA) and the concept of interception of (tele)communications.

2. INTRODUCTION

The adoption of Joint Action 97/827/JHA of 5 December 1997¹ ('the Joint Action') established a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime.

In line with Article 2 of the Joint Action, the Coordinating Committee in the area of police and judicial cooperation in criminal matters ('CATS') agreed after an informal procedure following its informal meeting on 10 May 2022 that the 10th round of mutual evaluations would focus on the EIO.

The aim of the 10th round of mutual evaluations is to provide added value by offering the opportunity, via on-the-spot visits, to consider not only the legal issues but also – and in particular – relevant practical and operational aspects linked to the implementation of Directive 2014/41/EU. This will allow shortcomings and areas for improvement to be identified, together with best practices to be shared among Member States, thus contributing to ensuring more effective and coherent application of the principle of mutual recognition at all stages of criminal proceedings throughout the EU.

More generally, promoting the coherent and effective implementation of this legal instrument at its full potential could significantly enhance mutual trust among the Member States' judicial authorities and ensure the better functioning of cross-border judicial cooperation in criminal matters within the area of freedom, security and justice. Furthermore, the current evaluation process could provide helpful input to Member States that may not have implemented all aspects of Directive 2014/41/EU.

The Netherlands was the 12th Member State visited during this round of evaluations, as provided for in the order of visits to the Member States adopted by CATS.²

¹ Joint Action of 5 December 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organized crime.

² ST 10119/22 and WK 6508/2023.

In accordance with Article 3 of the Joint Action, the Presidency has drawn up a list of experts for the evaluations to be carried out. Pursuant to a written request sent to delegations by the General Secretariat of the Council of the European Union, Member States have nominated experts with substantial practical knowledge in the field.

Each evaluation team consists of three national experts, supported by one or more members of staff from the General Secretariat of the Council and observers. For the 10th round of mutual evaluations, it was agreed that the European Commission and Eurojust should be invited as observers.³

The experts entrusted with the task of evaluating the Netherlands were Ms Ylenia-Marie Abela (Malta), Mr Mathieu Fohlen (France) and Mr Johannes Martetschläger (Austria). Observers were also present: Ms Lisa Horvatits (Eurojust) together with Ms Anastasia Pryvalova from the General Secretariat of the Council.

This report was prepared by the team of experts with the assistance of the General Secretariat of the Council, based on the Netherlands' detailed replies to the evaluation questionnaire and the findings from the evaluation visit that took place in the Netherlands between 3 and 6 July 2023, where the evaluation team interviewed representatives from the Ministry of Justice, the Public Prosecution Service, the police, the National Training Institute for joint education of judges and prosecutors (SSR), investigating judges and a member of the Dutch Bar Association.

³ ST 10119/22.

3. TRANSPOSITION OF DIRECTIVE 2014/41/EU

Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 on the European Investigation Order in criminal matters (the Directive), has been transposed in the Netherlands in a separate part (book 5, title 4) of the Dutch Code of Criminal Procedure (the Dutch CCP). The International Cooperation Part of the Dutch CCP divides instruments applicable in the EU on the one hand, and those applicable to cooperation that is not covered by existing EU-instruments and with non-EU-countries on the other hand. The other EU instruments based on the principle of mutual recognition are also implemented in line with the system in the Dutch CCP. In the part dealing with the EIO, the implementation law differentiates between the procedure for issuing EIOs and the procedure for executing incoming EIOs. The central authority is neither mentioned in the implementation law nor involved in the procedure of issuing or executing an EIO. When implementing the Directive, rather than following the exact wording of the Directive, the Dutch legislator tried, as far as possible, to adapt the language of the law to the Dutch tradition.

Pending before the Dutch parliament is a legislative proposal to introduce a new CCP. The new CCP will still contain the provisions to implement the EIO Directive. The division between outgoing/issuing EIOs and the execution of incoming EIOs will be retained as will the division between relations inside and outside the EU. In the Book of the CCP dealing with International and European cooperation in criminal matters, there will be a preliminary chapter dedicated to general principles. During the drafting process, the national IRC prosecutor and her legal secretary at the LIRC have been seconded to the legislative department in the Ministry of Justice and Security to better understand the needs of practitioners. The evaluation team considers this is a best practice in the Netherlands (*see best practice No 1*).

It was highlighted that the EIO Directive does not apply to the six islands of the Dutch Caribbean (Curaçao, Sint Maarten and Aruba are considered to be separate countries within the Kingdom of the Netherlands; Bonaire, Sint Eustatius and Saba are part of the Netherlands, but EU instruments are not applicable there).

4. COMPETENT AUTHORITIES

In the Netherlands, the Public Prosecution Service is divided into ten districts which correspond to the ten regional police units. On top of that, there are specialised Prosecutor's Offices for international organised crime with nationwide competence and a National Office for Serious Fraud, Environmental Crime and Asset Confiscation. A separate authority under the umbrella of the Prosecution Service is the Public Prosecution Service's Central Processing Unit which is competent for traffic fine appeals. At the four Courts of Appeal, Prosecutor General's Offices conduct appeal proceedings. The Board of Prosecutors General is tasked with the national management of prosecution, whereas the whole prosecutorial system falls under the political responsibility of the Minister of Justice and Security. In theory, the Minister of Justice and Security has the competence to intervene, i.e. to ask the prosecutor's office to prosecute or not to prosecute an offence,⁴ but this right has never been used. Nevertheless, because of this right, following the CJEU case-law ⁵, the Netherlands had to change the law implementing the European Arrest Warrant (EAW).

The Netherlands follows the principle of opportunity, meaning there is no obligation to prosecute every crime that is committed in the Netherlands. There are policy rules and guidelines on what to prosecute or what to focus on in the fight against crime laid down by the Board of Prosecutor's General. The District Public Prosecutor is independent but if they decide not to follow the policy rules, the advice of the hierarchy has to be sought. The public prosecutor has investigative powers and is responsible for the prosecution until the conviction becomes final – the execution of sentences falls under the competence of the Ministry of Justice and Security.

⁴ A procedure needs to be followed before the Minister could give such an instruction. If the prosecutor is asked to prosecute, as a rule this instruction is added to the case-file, allowing for judicial scrutiny. If the prosecutor is asked not to prosecute then as a rule Parliament needs to be informed. This procedure thus contains important safeguards against misuse and this is not a competence which can be used easily, lightly or arbitrarily.

⁵ CJEU, Case C-510/19 and Cases C-508/18 and C-82/19

At each of the ten District Public Prosecutor's Offices, there is an International Legal Assistance Centre (IRC). At national level, the National Centre for International Legal Assistance (LIRC) in Zoetermeer has a coordinating role. At national level, there is also an IRC attached to the National Office for Serious Fraud, Environmental Crime and Asset Confiscation competent for cases of high impact fraud, vertical fraud and environmental crimes. It cooperates with the special investigation services, be it that these are not part of that IRC unlike the police elsewhere.

The IRCs cooperate closely with public prosecutors and police officials and have a high degree of specialisation in international matters. The IRCs' main competence is cooperation in criminal matters with the authorities of EU Member States including police-to-police cooperation. All incoming and outgoing EIOs are therefore dealt with by an IRC. The IRCs are also an important link in the chain when it comes to international cooperation in criminal matters with third states. However, the Ministry of Justice and Security is the central authority for matters outside the EU. The Ministry is not involved in international cooperation within the EU except in politically sensitive cases. The IRCs work on a 24/7 basis. The IRCs perform high-quality monitoring both of outgoing EIOs and of the results of the execution of incoming EIOs. The evaluation team considers the system of specialised National Centres for International Legal Assistance as a best practice (*see best practice No 2*).

Issuing authorities

In the Netherlands, the issuing authority may be the public prosecutor, investigating judge or a court (Section 5.4.21 of the Dutch CCP). In practice, the public prosecutor issues most of the EIOs. The drafting of the EIO and the preparation of the EIO form is often delegated to the public prosecutor's clerk (*parketsecretaris*) or to the police but the final responsibility always lies with the public prosecutor. The IRC performs a final check on all outgoing EIOs issued by public prosecutors.

The investigating judge can be involved in issuing an EIO at three stages of the process:

1. If in a similar domestic case permission or an order from the investigating judge is needed before an investigative measure can be used, this permission/order to use the investigative measure also has to be obtained by the prosecutor when preparing an EIO. The public prosecutor issues the EIO once permission/order to use the investigative measure is given.
2. Before the case goes to court, the public prosecutor or the accused person can request the investigating judge to perform investigative measures. The investigating judge prepares the EIO and sends it to the IRC (Section 181 and 182 of the Dutch CCP).
3. Referral from the court to the investigating judge to issue an EIO. This often happens when during the trial the defendant requests the hearing of a witness abroad. In theory, the court could also issue an EIO but in practice this rarely happens.

Executing authorities

The public prosecutor has the competence to recognise and execute an EIO in the Netherlands (Section 5.4.2 of the Dutch CCP). All incoming EIOs, including the mentioned names, companies, bank accounts, etc., are checked first in the national police systems and the Dutch International Assistance System (DIAS) to see if there is a link with a Dutch investigation or previously received EIOs or MLA requests. The evaluation team sees this as a best practice (*see best practice No 3*). DIAS is an electronic file system that replaced the previous register called LURIS in October 2022, offering better search functions and also including police cooperation cases nationwide. The file system is only accessible to authorities with competence for criminal matters and is not open to intelligence services in the Netherlands, who have their own separate file system.

In accordance with the rules of the Dutch CCP (Article 5.4.8. in conjunction with Section 181 of the Dutch CCP), if necessary or desirable, the public prosecutor asks the investigating judge to take over the execution of the EIO. In such cases, the investigating judge has to return the results of the execution to the public prosecutor for their transmission to the issuing State.

In accordance with Article 7(3) of the Directive, EIOs addressed to the Netherlands should preferably be sent to the public prosecutor at one of the specialised IRCs. The IRCs assist the public prosecutor in executing EIOs. Information on which IRC has territorial jurisdiction can be found in the Judicial Atlas of the European Judicial Network (EJN). Where it is not clear which IRC is competent, the EIO can be sent to the public prosecutor at the National Centre for International Legal Assistance (LIRC). The evaluation team commends the Netherlands for having a central point to which an EIO can be sent whenever it is unclear which district is competent (*see best practice No 4*). However, no central authority in line with the concept of the Directive, is involved in the execution of the EIO.

If multiple executing authorities are involved, in principle, there is always one IRC coordinating the investigative acts to be performed in different districts. If the issuing authority requests several investigative measures or measures to be carried out in different districts, the Netherlands still prefer to receive one single EIO to have a better overview. Under such circumstances, the issuing authority can freely choose one of the competent authorities in the Netherlands since the receiving IRC takes over the coordination or asks another IRC to do so. The DIAS system makes it easy for different IRCs to work on the execution of incoming EIOs in parallel.

Right of the suspect/accused/victim to apply for an EIO

In the Netherlands, this right does not exist as such. However, as mentioned above, the suspect/accused person may request the investigating judge to carry out an investigative measure during the investigative stages of the proceedings, not during the trial itself (Section 182 of the Dutch CCP). This may be a measure requiring an EIO. If the request is granted, the EIO is issued by the investigating judge. If the request is refused, the suspect/accused person may appeal the decision within 14 days.

The evaluation team had the opportunity to speak with a member of the Dutch Bar Association and it was explained in this connection that defence lawyers often make use of the possibilities provided for in Section 182 of the Dutch CCP, especially with regard to the hearing of witnesses. The Dutch defence lawyers are content with the procedure and the way the requests are handled by the investigating judges.

In the Netherlands, victims cannot request that an investigative measure is carried out or that an EIO is issued.

5. SCOPE OF THE EIO AND RELATION TO OTHER INSTRUMENTS

Articles 3 and 4 of the EIO Directive have been transposed into Dutch law in Section 5.4.1 of the Dutch CCP. All investigative measures available under Dutch law fall within the scope of the EIO, as long as the purpose of the EIO is to obtain evidence.

According to the Dutch authorities, sometimes it is not clear if an EIO can be executed in another Member State when the measure is addressed to a person who is not (yet) a suspect e.g. a wiretap or banking information concerning the suspect's partner or children.

Generally, the Netherlands issues an EIO solely to obtain evidence. However, the Dutch authorities explained they execute an EIO sent to the Netherlands even where an MLA request would have been the correct instrument, as long as all the requirements for such a request are met. This flexibility on the part of the Dutch authorities does not require resending of a request in a correct format (*see best practice No 5*). Before the Netherlands execute such a request, they also ask the issuing authority if the information is to be used as evidence. The Netherlands also executes EIOs with a combination of requests for both evidence and the notification of procedural acts.

Regarding the relation between the EIO and the EAW, the Netherlands does not issue an EIO with the purpose of locating a person with a view to subsequently sending an EAW. The information on the location is mainly requested via the police. However, the Netherlands would, for instance, still execute an EIO to locate a suspect, arguing that it is for evidence-gathering purposes.

Regarding the enforcement of administrative decisions, the Netherlands occasionally receives these kinds of requests in the context of traffic fines. EIOs are received, inter alia, to receive information about the driver or to hear the holder of the registration. The Netherlands does not send EIOs for traffic offences that are handled under administrative law. Under Dutch law, and in accordance with Article 2 and 4 of the EIO Directive, it is possible to execute an EIO in proceedings conducted by a foreign administrative authority, provided that the EIO has been validated by a judge or a judicial authority and has been instituted in connection with acts that are punishable under the national law of the issuing State, provided that it is possible to appeal the decision in a court with jurisdiction in criminal cases. Punishable traffic offences that are handled under administrative law by the issuing State also fall under this category.

Furthermore, there are cases in which an EIO has been used to cover the use of information and evidence which has been received beforehand from, or has been provided to, police authorities which are not the issuing or executing authorities under the EIO Directive. The Netherlands receives and sends such EIOs. In some cases, challenges were encountered with EIOs to formalise information which the Netherlands had received on a police-to-police basis, such as the results of an observation.

The Netherlands does not require an EIO to set up a JIT (Joint Investigation Team) (Section 5.4.1.3 of the Dutch CCP). As a JIT member, the Netherlands always issues an EIO to receive evidence from a non-participating State. There is a standard article used in JIT agreements with the Netherlands that, if a JIT member gathers evidence from a non-participating State through an EIO, they seek the agreement of the executing State to share the evidence with the other JIT members as well. In parallel investigations, the Netherlands prefer cooperation through other instruments, such as the EIO, to setting up a JIT, if there is no sufficient overlap of the investigations in the Member States concerned or if the investigations in the Member States are not at a similar stage. The Netherlands reports that, in theory, when the JIT also consists of parties from non-Member States, there could be issues due to data protection regulations and possible human rights violations.

5.1. Cross-border surveillance

In the Netherlands, cross-border surveillance based on Article 40 of the Convention implementing the Schengen Agreement (CISA), is considered a police-to-police request. However, under Dutch law, cross-border surveillance in the case of an incoming EIO is a coercive measure that has to be decided upon by a national prosecutor for international cooperation. An outgoing EIO is ordered by the prosecutor in charge of the case. As it is considered international judicial cooperation, the Netherlands expect other Member States to send an MLA request, formalising the information received through Article 40 CISA. Although cross-border surveillance as referred to in Article 40 CISA is (in line with recital 9 of the EIO Directive) not available in the context of an EIO, the Netherlands would still execute an EIO formalising the information received through Article 40 CISA. In these cases, the EIO is considered an MLA request and executed in accordance with the 2000 MLA Convention, since MLA requests do not require a specific format.

Furthermore, the Netherlands has explained that they have a specific agreement with France to consider a request under Article 40 CISA co-signed by an investigating judge as an MLA request for cross-border surveillance.

In practice, when a combination of measures is necessary in an investigation, such as a wiretap and cross-border surveillance, the Netherlands issues an EIO only. Splitting the request into an MLA request and an EIO for the same investigation would be unnecessarily complicated, in the view of the Netherlands. The other way around, the Netherlands accepts this working method from other Member States and the Dutch authorities have not experienced any difficulties with this approach.

The evaluation team notes that Member States have different approaches when it comes to cross-border surveillance and to what extent this constitutes a measure under police cooperation (Article 40 CISA) or judicial cooperation. Recital 9 of the Directive is clear when it comes to the cross-border surveillance referred to in Article 40 CISA. However, it does not regulate the judicial authorities ordering surveillance. The evaluation team would therefore invite the Commission to clarify the application of the EIO Directive in relation to Article 40 CISA with regard to cross-border surveillance (*see recommendation No 16*).

5.2. Procedures in which an EIO may be issued

The Dutch authorities consider that an EIO may be issued at every stage of criminal proceedings, provided the purpose is to collect evidence. This also applies to evidence within the framework of a (separate) confiscation measure.

The Netherlands does not issue EIOs for tracing assets during the confiscation procedure. For purposes of executing a sentence or securing any unlawfully acquired assets with a view to seizure or confiscation, a European Freezing Order is used.

6. CONTENT AND FORM OF THE EIO

6.1. General challenges

As executing State, the Dutch authorities frequently notice that Sections C and G of Annex A are confused. The status of the relevant person (suspect or accused, victim, witness) is not always clearly stated. The investigating judges participating in the evaluation visit, expressed their wish to introduce the possibility to shorten Annex A where necessary, retaining those parts which are relevant to the case and necessary for the executing authority to be able to execute the requested measure.

The EIO should include a summary of the case and mention the requested investigative measure(s). In principle, the Netherlands as executing State trust that there is a necessary degree of suspicion for the requested measure.

The Netherlands reports that incoming EIOs regularly do not include all the relevant information and/or that reference is made to (very large) annexes. In some cases, the description of the facts was not clear enough to request a court order. For example, when a wiretap or house search is requested, it is necessary to inform the investigating judge quickly, requiring an appropriate description in the EIO. If information is missing, the IRC tries to obtain the necessary information via direct contacts with the issuing authority. In some cases, contacts with liaison magistrates or via the EJM provided the necessary help.

As issuing State, the Netherlands experiences problems when a Dutch public prosecutor leads an investigation anonymously and signs the EIO with a 'number', without mentioning their name to protect their identity. This new practice is a direct result of the increased danger coming from organised crime. Some Member States have stated they do not accept this practice. However, it is not clear to the Dutch practitioners whether or not signing an EIO anonymously is in line with the EIO Directive. The evaluation team considers this may also be an issue for other Member States and invites the Commission to look into this and into the possibility of anonymously issuing an EIO (*see recommendation No 17*).

6.2. Language regime

The Netherlands accepts EIOs in Dutch or English (Section 5.4.3 (2) of the Dutch CCP). The Netherlands can accept other languages only in very urgent cases. If the EIO arrives in English, the IRC can usually work directly based on the English version without a translation into Dutch. The evaluation team is of the opinion that all Member States should accept EIOs in English, at least in urgent cases (*see recommendation No 9*).

As executing authority, the Dutch authorities' experience is that translations are often not accurate or sufficiently clear. It helps if the original language version of the EIO is also attached so the EIO can be translated again in the Netherlands if necessary. In the view of the evaluation team, sending the EIO in the original language together with the translation (where possible), could help the executing State whenever issues arise with the translated version (*see recommendation No 10*).

In the Netherlands, a professional translator always translates outgoing EIOs. The Dutch authorities do not rely on machine translation because of the lack of quality and for data protection reasons.

6.3. The issuance of additional EIOs, splitting EIOs, conditional EIOs

The Dutch authorities prefer one EIO, even in cases where the issuing State requests more than one investigative measure or measures to be carried out in different regions of the Netherlands.

Furthermore, additional EIOs can be handled by different districts in the Netherlands. In the case of additional EIOs, the information from the original EIO is not always visible for the IRC handling the follow-up request. For that reason, the Netherlands considers filling in the reference to prior EIOs very important. Moreover, a reference to any other relevant instrument, such as a previous/parallel EAW or JIT, is considered essential for a clear overview of the investigation. The evaluation team recommends that all Member States mention all possible relevant instruments when issuing an EIO (*see recommendation No 11*).

It can happen that the period after which an investigative measure needs to be prolonged is longer in the issuing Member State than in the Netherlands. The Netherlands has made an arrangement with one Member State that, especially in case of interception or wiretapping, if such a situation occurs there is no need for the issuing of a new EIO; a simple email communication on the continued necessity of the measure is deemed sufficient. If the time limit for the investigative measure in the issuing Member State has (also) expired, a new EIO needs to be issued if the investigative measure needs to be prolonged.

In cases of missing or incorrect information in an incoming EIO, e.g. an incorrect address for a house search, the Netherlands tries to retrieve the missing information through direct contacts with the issuing authority but do not require the issuance of a new EIO. Furthermore, if the Dutch police discovers a new address in the national systems, the issuing authority is consulted and a search at the new address can be conducted without a new EIO. The same applies to collecting evidence during a house search. If the Dutch officers find material that may be relevant as evidence but have not been specifically mentioned by the issuing authority, the Netherlands will seize the material after an oral confirmation from the issuing authority. This is an example of the Netherlands' general pragmatic approach to executing EIOs in order to assist the issuing State to the fullest extent possible (*see best practice No 6*).

In the view of the Netherlands, in cases where an EIO needs to be executed in different Member States (for example in the framework of action days) or when an EIO is issued in combination with another instrument, clear arrangements between Member States are very important. After consultation with the foreign authorities, these cases are usually solved and coordinated with the help of Eurojust or EJN if needed.

6.4. Orally issued EIOs

In urgent cases, when it is not possible to wait for a written EIO, the Netherlands will accept an oral request from the issuing authority. A written EIO must always be sent as a confirmation as soon as possible afterwards, within three days, as required by Dutch law. This approach is followed by prosecutors as well as by investigating judges. The evaluation team notes that this is valuable information for other Member States. Therefore, it is recommended to the Netherlands to clearly share the possibilities for cooperation in urgent cases on the EIJN website (*see recommendation No 1*). At the same time, the evaluation team would like to commend the Netherlands for their flexibility and willingness to act fast in urgent cases and to take the necessary measures before the EIO form has been received (*see best practice No 7*).

7. NECESSITY, PROPORTIONALITY AND RECOURSE TO A DIFFERENT TYPE OF INVESTIGATIVE MEASURE

Article 6 of the EIO Directive has been transposed into Dutch law (Section 5.4.21 of the Dutch CCP). As issuing State, the Netherlands examines whether an investigative measure is in the interest of the investigation or whether the measure is urgently required in the interest of the investigation (this criterion applies primarily to the use of more intrusive investigative measures, such as recording confidential communication). The overall assessment is that the Dutch authorities pay attention to proportionality and subsidiarity when issuing EIOs. With regard to proportionality, the Dutch authorities weigh the severity of the offence and the requested measure's infringement of privacy. In general, the following principle applies: the more severe the offence, the more the infringement of privacy as well as the use of more intrusive investigative measures are justified. Furthermore, the issuing authority examines whether the application of less drastic investigative measures could be sufficient. If the issuing authority can expect to reach a similar result using less drastic measures, it has to choose the less intrusive option. Finally, the application of the investigative measure has to be necessary to gather sufficient evidence. If sufficient evidence is already available in a case, the use of investigative measures is not justified. Relevant aspects that may play a role in this check are as follows:

- who is to undergo the infringement (the suspect or accused person or a person concerned who is neither a suspect nor an accused person);
- the location (for instance a dwelling or a public space);
- the duration and extent of the measure.

As executing State, the Netherlands expressed the view that the issuing authorities make a more in-depth check of proportionality in the EIO system than in the previous system of MLA requests. It happens, however, that, in the view of the Netherlands, the EIO is not considered proportionate. As an example, the Netherlands mentioned that they receive EIOs for very old offences which request very intrusive investigative measures. It also happens that the issuing State requests investigative measures that are too intrusive in proportion to the offence under the Netherlands legal framework. In this case, the executing authority in the Netherlands proceeds to the application of a less intrusive measure if possible. Sometimes the issuing authorities do not include sufficient information on proportionality in the EIO.

The Netherlands mentioned a case where the police checked a truck driver with a sports bag full of hashish at the border between Spain and France and took him into custody. After three months, the Netherlands received an EIO for a house search and a car search. Because it was questionable what there was to be found after three months, the Netherlands required an extra explanation to convince the investigating judge to authorise the searches.

The Netherlands execute EIOs also for minor offences unless there is a ground for refusal under Article 11 of the Directive. In minor cases, it often happens that there is a need to use a different type of investigative measure if the thresholds under Dutch law for the required measure are not met.

If there are questions about proportionality, the Netherlands does not always consult the issuing authority when applying a less intrusive measure instead of the measure requested by the issuing authority. During the visits, the example of obtaining documents from banks or other companies was given – the issuing State may have requested a search on the premises of the bank or other company but the Netherlands would send an order from the prosecutor to hand over these records.

In accordance with Article 10(3) of the Directive, the executing authority may have recourse to an investigative measure other than that indicated in the EIO, where the investigative measure would achieve the same result by less intrusive means. Nevertheless, Article 10(4) of the Directive clearly stipulates that the issuing authority shall first be notified. As the Netherlands does not always notify the issuing authority in accordance with Article 10(4), the evaluation team decided to make a recommendation to the Netherlands on this matter (*see recommendation No 2*).

8. TRANSMISSION OF THE EIO FORM AND DIRECT CONTACTS

The Dutch implementing law foresees direct contacts with the executing authority in cases of outgoing EIOs (Section 5.4.23.1 of the Dutch CCP) and entitles the public prosecutor to receive incoming EIOs (Section 5.4.2.1 of the Dutch CCP). If an EIO arrives at a non-competent authority, there is an obligation to forward the EIO to the competent public prosecutor and to inform the issuing authority (Section 5.4.2.3 of the Dutch CCP). The Netherlands frequently use the EIJN Atlas, police liaison officers and the liaison magistrates of the Public Prosecution Service, to determine where to send an EIO abroad.

There may be difficulties in finding the correct executing authority in federal Member States or Member States with a decentralised organisation. In the Netherlands, there is, in principle, always an IRC as the receiving authority and a coordinating IRC that coordinates the investigative acts if they have to be performed in different districts.

For transmitting an EIO, the Dutch authorities predominantly use email. The preference is to receive an EIO digitally and the original documents are not necessary since the file for the execution is processed electronically in the Netherlands. The Netherlands mentioned that no decision has been taken yet about connecting to e-EDES. The evaluation team would like to recommend to the Netherlands that it consider starting preparations to implement e-EDES (*see recommendation No 3*).

In most cases when issues arise, direct communication through the IRCs is considered sufficient. Due to the system of IRCs, there is a filtering system for cases which have a higher level of complexity and which require assistance from Eurojust. The added value of Eurojust in complex and/or multilateral cases was underlined, as was the complementarity with the EIJN Contact Points in bilateral/simpler cases. The Netherlands has posted three liaison magistrates abroad (Rome, Madrid and London) who can provide valuable support in establishing direct contact and who can coordinate the execution of the EIO or other instruments (*see best practice No 8*).

9. RECOGNITION AND EXECUTION OF EIOS AND FORMALITIES

The Netherlands reported that the issuing authority usually fills in Section I (formalities) of the EIO form when necessary. Under Section 5.4.5.2 of the Dutch CCP, the executing Dutch authority observes formal prescriptions and procedures requested by the issuing authority unless this causes a conflict with the basic principles of Dutch law. No major problems were reported when applying this provision.

The Netherlands reported that, in the case of an EIO in which a hearing of a witness or a suspect or accused person is requested, it is also asked to require the witness or suspect or accused person sign a statement in which it is stated that they are obliged to answer truthfully. Under Dutch law, the suspect or accused person is neither obliged to answer nor to tell the truth. This follows from the prohibition of self-incrimination (*nemo tenetur se ipsum accusare*). After making a deposition, the suspect or accused will be asked to sign the report of his hearing (record of the deposition / '*proces-verbaal*'). If the suspect or accused person refuses to sign such a statement, the Netherlands makes a note of this in the report of the hearing.

In executing an EIO, it is important for the Netherlands for the EIO to mention the existence of the court authorisation for the requested measure, if it is required under the law of the issuing State. It is considered sufficient to state that the authorisation was given, the authorisation itself does not need to be attached. When sending EIOs, the Netherlands remarked that some receiving authorities ask to see the authorisation of the Dutch investigating judge.

10. ADMISSIBILITY OF EVIDENCE

The Netherlands reported that they do not usually face issues when formalities are not complied with when it comes to the admissibility of evidence. The principle of mutual trust and recognition incorporates the trust that the executing State carried out the measures in accordance with Dutch law. For issues to arise regarding the admissibility of evidence, the person who is standing trial would have to prove that the national legislation in the executing State was not followed. If the person standing trial raises a concern such that their fundamental human rights were violated, the presiding judge would go into the merits pertaining to the admissibility of evidence produced. Therefore, a judge would not delve into this issue of their own accord as it is assumed that the evidence produced is, in fact, admissible.

Regarding this topic, the Netherlands raised the point of delegating videoconference hearings to the police. In general, the position of the Dutch authorities is that videoconference hearings should not be delegated to the police. However, because of time constraints, this happens on a rare occasion. In one case (albeit in a non-EIO context) where the Netherlands executed an incoming MLA request by delegating the hearing, the evidence was considered inadmissible in the issuing State and the hearing had to be repeated.

In the Netherlands, it is not legally possible to give permission afterwards to another Member State to record confidential communication on Dutch territory because Article 31 of the EIO Directive – and therefore the national provisions implementing this Article- only relates to the interception of telecommunications and not to the interception of communication. This means that if a foreign car enters the Netherlands with recording equipment and permission has not been asked in advance for recording the confidential communication on Dutch territory, it is not possible to give this permission afterwards for judicial use. This sometimes leads to problems, also because it is not always clear in advance whether the car will enter Dutch territory.

The mutual admissibility of evidence has not been dealt with in Directive 2014/41/EU and nor is it included in the Dutch CCP. The admissibility of evidence is therefore mainly an issue of practice. Article 82(2)(a) TFEU on the possibility of adopting minimum rules in view of the mutual admissibility of evidence has not yet been implemented.

11. SPECIALITY RULE

Neither the EIO Directive, nor the Dutch transposition of the Directive, contain a general rule of specialty, except in relation to the transfer of persons (Article 22(8) of the EIO Directive). However, based on the general principles of legal assistance, the Netherlands assumes that when their authorities provide information and/or data to another authority on the basis of an EIO, the issuing State will not use that information without prior permission from the Netherlands for a different investigation or purpose outside criminal law. The Dutch authorities have learned through contacts from the EJN, that colleagues from other countries are often of the same opinion when it comes to these issues. However, discussions have also been held with Member States arguing that the speciality principle does not apply in the context of the EIO.

Furthermore, when transferring the evidence as the executing State, the Dutch authorities do not feel the need to directly point out the requirement for consent prior to the different use of the material obtained as they consider it to be a basic legal principle.

As issuing State, the Netherlands specifically mention in their EIOs that the received information will only be used for the purpose for which it has been requested, otherwise consent will be sought from the executing State. However, the practitioners reported that, when the Dutch authorities request that consent, some Member States do not reply at all.

This does not mean, however, that if the consent is not given, then consent is presumed. Nevertheless, the Dutch authorities were open to the idea of deeming consent as presumed in the absence of a reply from the executing authority.

As executing State, the Dutch authorities take into consideration the risk of collusion, ne bis in idem and other investigative interests of ongoing investigations in the Netherlands before giving consent for the evidence to be used in other proceedings. These considerations are made with national investigations in mind. The Netherlands also reported that they hardly ever refuse to give consent but that they do not get these types of requests very often. If the evidence that the Dutch authorities obtained as an executing authority is needed for a domestic investigation, they would also request permission from the issuing State, to avoid any irritation. The Dutch authorities further noted that domestic investigations in the executing State are also started based on Dutch EIOs, sometimes without prior notice. In order to avoid ne bis in idem infringements, the evaluation team recommends to all Member States, when acting as executing State, to inform the issuing State if a national investigation has started based on the EIO (*see recommendation No 12*).

On the matter of speciality, the evaluation team notes that there are different opinions between Member States regarding its application in the context of the EIO. While some Member States assume it is a general principle in international cooperation, others interpret the absence of a specific provision in the Directive as permission to use the evidence for other purposes as well. The evaluation team is of the opinion that it would be useful to clarify the application of the speciality rule in the context of the EIO (*see recommendation No 18*).

12. CONFIDENTIALITY

The Netherlands reported that they have experienced issues with confidentiality both as an issuing State and an executing State. As executing State, the Dutch authorities have experienced instances whereby a few internet service providers informed their client of an inquiry. The issues involved in reseller hosting were specifically mentioned by the Dutch authorities as a challenge for confidentiality; the relevant information needs to be “re-ordered” from the reseller because the Internet Service Provider (ISP) cannot access the information without the help of a reseller. When it becomes clear that a reseller is involved, the Netherlands always consults the issuing State on how to proceed.

As an issuing authority, the Dutch authorities have noticed that suspects or accused persons have been informed by their bank of a request for information about bank transactions. However, the Dutch authorities have not received or sent notifications as referred to in Article 19(2) EIO Directive.

When the evaluation team asked whether the service providers could be asked not to disclose the inquiry to the person concerned, the Dutch practitioners reported that the order sent to the service providers to provide information actually states that they may not disclose any information. Nonetheless, some banks and/or ISPs still do so. This is in breach of Article 19(4) of the EIO Directive which expressly mentions that ‘necessary measures’ should be taken to ensure that this does not happen.

The Netherlands also reported that, when an EIO is issued by their authorities, standard practice is that this document is not added to the Dutch case file because the EIO is considered *a confidential document between Member States*. Nonetheless, there are cases whereby the public prosecutors decide to add the EIO, as issued by the Netherlands, to the case file. When the Netherlands is the executing State, the EIO is normally not supplied to the accused/suspect or person concerned, because of the same principle of confidentiality between Member States as mentioned above. If the EIO is shared at all, prior permission from the issuing State is requested. Notification, when applicable, is generally carried out after the investigations have been concluded. The executing State will be asked to take care of this itself.

In cases where, in the course of executing an EIO, a person has been the subject of;

- i) items seized from him; or
- ii) data demanded; or
- iii) if data has been recorded during a search or during a search in an automated work; or
- iv) a demand for the decryption of data has been made;
- v) received a demand to store and keep available data; and
- vi) data found in an automated work made inaccessible.

then, solely if confidentiality is not deemed to be compromised and the issuing authority gives its consent, the Dutch authorities inform the person concerned of their right to submit a complaint to the district court. However, if the issuing authority provides information that it is still necessary to keep this material confidential, no information is supplied about the facts and the contents of the EIO. This also applies in cases whereby a person may be aware of the existence of the EIO (such as cases where a search has been carried out). This is in accordance with Section 5.4.11 of the Dutch CCP dealing with the notification of legal recourse (see also Chapter 15: Legal Remedies).

Confidentiality of the investigation is an important pillar of mutual trust. Based on the abovementioned issues the Netherlands encounters, the evaluation team sees it fit to make a recommendation to all Member States to ensure the confidentiality of an EIO and the related investigation, for as long as is required, especially with regard to the issues identified with banks and internet service providers (*see recommendation No 13*).

13. GROUNDS FOR NON-EXECUTION

13.1. General

Article 11 of the EIO Directive has been transposed in the Netherlands in Section 5.4.4. of the Dutch CCP. Although the EIO lists the grounds for refusal in Article 11 as optional, they are considered mandatory under Dutch law. During the visit, the Dutch authorities explained that when transposing the EIO Directive into Dutch law, the understanding was that the Member State could choose whether to make the grounds for refusal optional or mandatory. In addition, according to the Dutch authorities, the listed grounds for refusal in Article 11 of the Directive are such that, once it is determined that one of them is applicable, execution is not possible. On the other hand, the additional grounds for refusal provided for in the Directive regarding the specific investigative measures (such as the hearing via videoconference), are transposed as optional by the Netherlands in line with the Directive. The evaluation team would like to encourage the Netherlands to reconsider the mandatory grounds for refusal and make them optional in national law, in line with the Directive (*see recommendation No 4*).

The Netherlands reported that the grounds for refusal are very rarely invoked. Execution is refused in cases where an EIO would be issued for an offence which is not punishable in the Netherlands and does not concern a listed offence (Annex D). An example of such an offence is the non-payment of child support. Furthermore, the Netherlands would refuse an EIO where a psychological report is requested since this is not considered as evidence. Since the Dutch authorities do not keep a record of the grounds for refusal in the DIAS system, they could not report the most frequent grounds of refusal. In the view of the evaluation team, it would be good to consider creating this possibility in the DIAS system, in order to have an overview of refusals in the Netherlands (*see recommendation No 5*).

When necessary, the Dutch authorities will consult the issuing State, asking for additional information to further assess whether a ground for refusal actually exists. The evaluation team considers this a best practice (*see best practice No 9*). When the execution of an EIO is refused, the issuing authority is notified immediately and also the ground for refusal of the execution is given. As issuing State, the Netherlands have stated that they could not recall an EIO being refused and that this is because the IRC ensures the quality of all outgoing EIOs.

The Netherlands did not report any issues with regard to fundamental human rights when co-operating with EU Member States.

13.2. Dual criminality

The Netherlands reported that, both as issuing State and executing State, they have never encountered cases where the dual criminality test was invoked in relation to listed offences (Annex D). The Dutch authorities still execute EIOs in relation to designer drugs which may not be punishable in the Netherlands. As an example, the Netherlands mentioned a case involving laughing gas, which is not illegal in the Netherlands. In this case, the issuing State had sent an EIO to the Netherlands for the purpose of conducting a house search and the box for drug trafficking was ticked. After consultations, the issuing State maintained the request for a house search and it was executed by the Netherlands.

Furthermore, the Netherlands can apply a flexible approach for the interpretation of a listed fact. For example, an occupational accident is a separate offence in the Netherlands but is regarded as ‘grievous bodily harm’ for the purposes of an EIO.

The Netherlands has not encountered cases, as issuing or executing State, in which the dual criminality test was invoked in relation to investigative measures listed in Article 10(2) of the EIO Directive.

13.3. Ne bis in idem

As per Section 5.4.4. of the Dutch CCP, an infringement of the ne bis in idem principle would lead to a refusal to execute an EIO. However, the Netherlands reported that they have never refused to execute an EIO based on the ne bis in idem principle because, under international law, an infringement of ne bis in idem occurs only when a person has served their sentence completely. That said, it is not standard practice for the Dutch authorities to check that.

13.4. Immunities or privileges

The Netherlands has not included a definition of immunities and privileges as such in national law pursuant to recital 20 of the EIO Directive. However, in provisions on investigative measures, rules about privileged persons are included (see for example: Sections 96a(3), 125l and 126aa(2) CCP).

Also, there are legally binding Directives on this matter (e.g. how to deal with investigative measures against defence lawyers). The public prosecutor's office is in charge of creating these guidelines, but advice is also sought from the legal department at the Ministry of Justice and Security. All Directives (*aanwijzingen*) are listed on www.overheid.nl. Instructions for the police also exist, but they are not published. Doctors, relatives, client/lawyers, midwives, politicians and diplomats are considered to have immunity/privilege. Nonetheless, in certain cases, a privilege or immunity may be lifted. This is at the discretion of the courts. According to the practitioners, it has happened that an immunity or privilege has been lifted by the court, before an EIO was executed.

14. TIME LIMITS AND GROUNDS FOR POSTPONEMENT OF RECOGNITION OR EXECUTION

Time limits and grounds for postponement, as covered by Articles 12 and 15 of the EIO Directive, are transposed in Sections 5.4.2., 5.4.5., and 5.4.6. of the Dutch CCP. During the visit, the Dutch authorities explained that time limits are not always complied with when executing an EIO, due to capacity issues. IRC Amsterdam has been dealing with a high backlog because big companies and banks often have their headquarters in Amsterdam, creating a huge workload for that IRC. Recently, initiatives have been taken to reduce the workload in Amsterdam. Some companies (like Uber), for example, have created an online portal through which information can be requested. Now every IRC can execute an EIO related to Uber, by using the electronic portal.

The Netherlands considers that a court date or an action day may be a reason for urgency. This also applies to volatile data (this refers to data that are not kept or stored for long) or an urgent reason that requires an investigative measure, e.g. a subject will travel to a foreign country soon and investigative measures will have to be taken there during the stay. When the Netherlands receive an urgent EIO, the public prosecutor and the police decide together on what can be done. If there are capacity issues, the IRC contacts the issuing authority to discuss what should be done first. IRCs can be contacted 24/7 so if the urgency is imminent and well explained, action can be taken very fast. In the view of the evaluation team, the Netherlands is to be commended for the 24/7 availability of prosecutors and police (*see best practice No 10*).

When asked by the evaluation team about the postponement of recognition or execution, the Netherlands stated that execution may be postponed when national investigations are ongoing in the Netherlands so as not to affect the outcome of the national investigations. This fact is always communicated to the issuing authority.

15. LEGAL REMEDIES

Section 5.4.10 of the Dutch CCP has been included in order to implement Article 14 of the EIO Directive.

Executing State

As mentioned in Chapter 12 on confidentiality, when a person, in the context of executing an EIO, has been the subject of:

- i) items seized from him; or
- ii) data demanded; or
- iii) if data has been recorded during a search or during a search in an automated work; or
- iv) a demand for the decryption of data has been made;
- v) received a demand to store and keep available data; and
- vi) data found in an automated work made inaccessible.

they will be informed of their right to submit a complaint in accordance with Section 552a of the Dutch CCP to the district court, within 14 days of the notification. Section 552a provides for the complaint procedure in domestic cases and, in accordance with the Directive, the legal remedies equivalent to those available in a domestic case are applicable in the context of the EIO. In accordance with Article 14(2) of the Directive, no complaint can be made in the Netherlands as executing State, regarding the substantive reasons for issuing an EIO.

During the visit, the practitioners explained that most complaint cases are about seizure. Section 5.4.10. of the Dutch CCP stipulates that the district court is to decide within 30 days of receiving the complaint. An appeal may be lodged with the Supreme Court, which is to decide within 90 days. In practice, however, the complaint procedure can take a very long time. Practitioners have reported that with some district courts it can take as long as six months to get the case onto the court calendar. An appeal with the Supreme Court can easily take another year. All this time, the evidence cannot be transferred to the issuing State. The Dutch authorities, realising this is undesirable, have provided for the option to share the results provisionally, pending the complaint procedure, for intelligence purposes only (Section 5.4.9. (3) of the Dutch CCP). Still, the issuing authority has to await the outcome of the procedure before being able to use the information as evidence.

Respecting the time limits in the Directive is crucial for smooth cooperation and the effectiveness of the EIO. Therefore, the evaluation team would like to make a recommendation to the Netherlands to respect the time limits set in the Directive, especially in light of the complaint procedure when evidence is seized (*see recommendation No 6*).

During the discussions with the defence lawyer, he explained that there is good access to case-law online in the Netherlands. Most of the case-law on the complaint procedures is related to seizures. However, many lawyers do not seem to know about the legal remedy mentioned in Section 5.4.10. Some issues also arise when it is not immediately clear which instrument is the legal basis for the measure used and with the two-week limit to seek a legal remedy there is a certain amount of time pressure. The ability to appeal the seizure is in fact communicated in the letter given when a seizure is affected but no information is given on the issuing authority (the issuing State is mentioned, however). Furthermore, in the experience of the defence lawyer, Member States have different approaches as to whether the EIO is part of the judicial file. In the Netherlands it is not (see also Chapter 12). In the view of the defence lawyer, there is still room for improvement in the way access to an effective legal remedy is ensured in the Netherlands. In the opinion of the defence lawyer, a solution could be to provide at least basic information, such as the authorities involved and basic elements of the case.

In reply, the prosecutors argued that the Dutch authorities always take maximum efforts to trace the persons affected (where necessary) and to make them aware of their right to file a complaint against the seizure within 14 days. The person affected by the seizure receives a short letter with, among other information, a number to be called for more information on filing the complaint. In the view of the evaluation team, the Dutch authorities pay sufficient attention to ensuring the right to a legal remedy.

Issuing State

In the Netherlands, a suspect who is being prosecuted has the right during the proceedings to object to the legality of, and the need for the applied investigative measures (Section 359a of the Dutch CCP). Under that section, it is also possible to object to the issuing of an EIO. If it turns out that a preliminary inquiry has not met the procedural requirements which cannot be corrected, and the legal consequences do not emerge from the law, under this section the court can determine that:

- a. the level of the sentence in relation to the gravity of the omission will be decreased in case the disadvantage caused by the omission can be compensated this way;
- b. the results of the inquiry resulting from the omission cannot contribute to proving the criminal offence;
- c. prosecution can be barred in a case due to the omission; in accordance with the principle of due process of law, the case cannot be tried.

The possible consequence depends on the interest that is served by the violated rule, the severity of the omission and the disadvantage caused by it.

In addition, ex-suspects, witnesses, persons filing a report and other parties involved can start a civil action in the Netherlands if, in their opinion, the State committed an unlawful act against them by issuing an EIO and/or applying the measure. In case of seizure of objects or certain investigative measures concerning data, the persons concerned can also file a complaint on the basis of Article 552a CCP.

Under Dutch legislation, any person (or State) who commits an unlawful act towards another person and for which they (or it) can be held liable, is also obliged to compensate the damage.

As far as the hearing of a witness is concerned, it is noteworthy that, in the Netherlands, a witness who does not have the right to refuse to give evidence (because of a privilege for example), is obliged to make a witness statement if summoned before an investigating judge or court. However, if the witness finds that their summons to a hearing was unlawful in a specific case since it would violate their rights (among other things based on Section 7 of the Charter/Article 8 of the ECHR) preliminary relief proceedings (*kort geding*) can be launched before a civil court. The judge can thus examine if the government's involvement in the case was lawful in order to detect the criminal offences.

Within these special proceedings, the civil court is requested to make a quick (provisional) decision on the matter. It does not have to be understood as a final judgment. After the decision in the preliminary relief proceedings, the parties may accept the outcome as a final judgment, start a ‘normal’ procedure on the merits, or appeal the provisional decision. In practice, the provisional decision is often accepted as the final judgment and no further proceedings are initiated.

Furthermore, the Netherlands has also noted that it is not mandatory to introduce a legal remedy prior to issuing an EIO or applying a measure. The nature of the investigative measure often prohibits informing the person concerned beforehand (Gavanozov II, recitals 64 and 65⁶).

The information provided above indicates that in the Netherlands there is a legal basis (for the suspect prosecuted as well as for all other persons concerned) providing a legal remedy to oppose the issuance of the EIO and the use of an investigative measure. By means of these legal remedies, the legality of the requested measure can be objected to and appropriate redress can be obtained if a measure was ordered unlawfully.

⁶ CJEU, Case C-852/19

16. TRANSFER OF EVIDENCE

Article 19 of the EIO Directive is transposed in Section 5.4.9 of the Dutch CCP, which deals with the transfer of results.

During the visit, the Netherlands stated that they give priority to important cases when deciding how fast the evidence is transferred. It has happened that the transfer of evidence was postponed because there was a risk it could jeopardise an ongoing Dutch investigation. The most common issue with the transfer of evidence however, is the delay created by the complaint procedure after seizure. It may take more than a year to complete the procedure and transfer the results to the issuing State. However, in these situations, it is possible to share the results provisionally, while the complaint procedure is pending in court (see Chapter 15 for more information).

17. OBLIGATION TO INFORM - ANNEX B

The Netherlands reported that, as issuing State, they often do not receive acknowledgement of receipt (Annex B) when the public prosecutor or the investigation team asks for an update – in that case, a reminder is sent to the executing State. As executing State, the Netherlands do their best to send Annex B. However, it can be forgotten when the authorities are busy with other work.

Regarding possible improvements to Annex B, the Netherlands indicated that the form could be more concise. For example, the text could be changed to: *‘Your EIO with reference X has been received by authority Y. The reference is ... + contact information.’* Or: *‘received by X, but forwarded to Y + contact information.’* In the view of the practitioners, the addition of a signature on this form has no additional value and only causes additional work (upload or print a digital signature, sign and scan again).

The evaluation team notes that Annex B has an important function in letting the issuing State know their EIO has been received and taken care of. Annex B is also crucial to enable direct contact between authorities. Therefore, the evaluation team recommends to the Netherlands and all Member States to identify potential improvements to the practice of sending Annex B in reply to all EIOs (see recommendations No 7 and No 14).

18. COSTS

Article 21 of the EIO Directive has been transposed in Section 5.4.12. of the Dutch CCP. The Netherlands reported that, generally speaking, they do not consult about costs. The executing authority pays the costs of executing an EIO. In the view of the Netherlands, it is unclear what the Directive considers exceptionally high costs. For example, the Netherlands does not consider that the costs of appointing a mandatory defence lawyer should be paid by the executing State.

The Dutch authorities have no experience with a delay/refusal in the execution due to exceptionally high costs. In one case, as the executing authority the Netherlands warned the issuing authority about the costs of a very long period of wiretapping. Through consultations, the period of wiretapping was shortened. The Netherlands would only ask to share costs if they were extremely high but such a scenario has not happened yet.

The Netherlands mentioned another case in which a neighbouring Member State asked the Netherlands via an EIO that the Dutch Forensic Institute exploit the content of a mobile phone. Since the case had no other connection with the Netherlands, the requesting Member State had to bear the costs for this technical assistance.

19. SPECIFIC INVESTIGATIVE MEASURES

19.1. Temporary transfer

When a person is to be transferred to another Member State for the purposes of prosecution, including bringing that person before a court for trial, an EAW should be issued in accordance with Framework Decision 2002/584/JHA. An EIO is issued in accordance with the EIO Directive only when a person is to be transferred to another Member State for the purposes of gathering evidence.

The temporary transfer of persons held in custody is a specific investigative measure transposed in Sections 5.4.14 and 5.4.15 of the Dutch CCP and Section 5.4.26 and 5.4.27 CCP if the Netherlands is the issuing authority.

Under Dutch legislation, the public prosecutor is empowered to execute an EIO that refers to the temporary transfer of a Dutch detainee to the issuing State, but also for the temporary transfer of a foreign detainee to the Netherlands to execute a power for the benefit of the foreign authority. The execution of the order may be refused if the detainee refuses the transfer. The public prosecutor determines the period within which the person must be sent back.

If the Netherlands is the issuing State, the order is given by the investigating judge. In such a case, the person to be made temporarily available must agree if they are already detained in the Netherlands and need to be transported to another State at the request of the Netherlands.

According to the Dutch public prosecutors that the evaluation team met, temporary transfer is not often used. Hearing by videoconference is a more common measure.

19.2. Hearing by videoconference

Under Section 5.4.25 of the Dutch CCP, an EIO may be issued to hear a witness or expert abroad by videoconference. An order may also be issued to hear a suspect or accused person by videoconference, but only for investigative measures, not to stand trial.

The hearing is normally conducted by the investigating judge, but in one case (albeit in a non-EIO context) an investigating judge delegated the hearing of a witness in connection with an incoming MLA request to the police because of the impossibility of having the hearing carried out by the investigating judge on the required date. However, the evidence in this case was considered inadmissible in the issuing State and the hearing had to be conducted again (see Chapter 10).

The practical arrangements for its application or the videoconference are agreed between the investigating judge or the court that has issued the order and the executing authority. In the Netherlands, hearings via videoconference take place in the cabinet of the investigating judge.

Videoconference may be used during the trial phase, for example to hear a witness residing abroad. The Netherlands can also execute an EIO to hear a suspect or accused person via videoconference in the trial phase but only for evidence purposes and not during their own trial. The provisions in Dutch law which implement article 24 of the EIO Directive do not allow for the use of videoconference in relation to a suspect or accused person for the purpose of attending their trial. In such cases, an EAW should be issued to bring him/her physically to court. It is unlikely that the Dutch position on this will change in the near future.

Also, children or people who are traumatised, impaired or otherwise vulnerable are not heard via videoconference.

It was reported to the evaluation team that some Dutch suspects had to stand trial via Skype in other Member States, without the issuance of an EIO. The Netherlands does not agree with this practice.

The Dutch authorities mentioned cases where the issuing State requests to conduct a witness hearing for someone who is already a suspect or accused person under Dutch legislation and regulations based on the facts in the EIO. There are countries where someone, in spite of already being a suspect or accused person, must nevertheless be heard as a witness at certain stages of the proceedings. Hearing such a person as a suspect or accused person in the Netherlands, despite the request from the issuing authority, may lead to problems surrounding the admissibility of evidence in the issuing Member State. In such cases, the Netherlands consults the issuing authority to ask whether a person can be heard as a suspect or accused person.

When the Netherlands is the issuing State, it also happens that someone is still a witness in the Netherlands while they are already a suspect or accused person abroad. In that case, too, the Dutch authorities believe that there should be consultation to see whether it is possible to hear the person as a suspect or accused person.

In the Netherlands it is not uncommon to hear a fellow suspect or accused person as a witness in the case against another suspect or accused person. However, the possibilities to do this are not regulated in the same way in all Member States. Timely consultations are important to ensure that the EIO can be executed successfully.

Regarding the practicalities of conducting a hearing via videoconference, the Dutch authorities mentioned that not all Member States and their different executing authorities seem to have safe and adequate equipment to set up a hearing. The evaluation team finds it important to recommend to all Member States to ensure safe conditions and adequate equipment for their authorities to conduct a hearing via videoconference (*see recommendation No 15*).

19.3. Hearing by telephone conference

A request asking for a hearing by telephone is ruled out by the Netherlands because this measure does not exist under Dutch law. Another measure (videoconference for instance) is suggested by the IRCs, if the Netherlands receives a request for a hearing via telephone.

19.4. Information on bank and other financial accounts and banking and other financial operations

The provisions of Article 26 of the Directive were not specifically transposed in the Dutch implementation of the legislation on the EIO, since that already provides a framework for obtaining bank documents including information on financial accounts (Section 126nd of the Dutch CCP).

As part of the investigation of an offence, a non-suspect may be ordered by the public prosecutor to produce or hand over documents or information, if these documents have to be used in the context of a criminal investigation or as evidence before a court or to determine illegally obtained profits. Bank information can also be ordered regarding a witness account, as long as there is adequate justification for this.

To facilitate the identification of bank accounts, the Netherlands has a **central bank register** which lists the holders of bank accounts. The portal gives basic information and then an order can be sent to the bank to receive more detailed information.

No problems were reported with regard to the gathering of banking information. This measure can be ordered by public prosecutors. In certain cases, as provided for in Section 126nd (6) of the Dutch CCP, the public prosecutor needs to gain the approval of the investigating judge before being allowed to give the order.

19.5. Covert investigations

Article 29 of the EIO Directive has been transposed into Section 5.4.19. of the Dutch CCP. Covert investigations refer to investigative measures taken by investigating officers without disclosing their identity. In the Netherlands, covert investigations can only be ordered for **serious offences** (Article 67 of the Dutch CCP), i.e. crimes punished by at least four years of imprisonment. Moreover, a serious breach of the legal order is required to justify infiltration measures.

Dutch law defines **three categories** of undercover investigations: systemic undercover gathering of information (Section 126j of the Dutch CCP), pseudo purchases or services (Section 126i of the Dutch CCP) and infiltration (Section 126h of the Dutch CCP).

In the event of **systematic information collection**, an investigating officer will be present in the immediate vicinity of the suspect or a person concerned, in order to collect information. A written warrant from the public prosecutor is required. The warrant is issued for a period of maximum three months. It may be extended if necessary.

The public prosecutor may also, in the interest of the investigation, order an investigating officer to purchase goods, data or services from a suspect.

In the **infiltration** procedure, the public prosecutor may order an investigating officer to join or assist a group of persons who are planning or committing serious offences. In the execution of the warrant, the undercover agent may not incite a person to commit criminal offences other than those they already intended to perpetrate.

All three powers may also be implemented by a **civilian** upon an agreement with the public prosecutor, but only if the specific measure cannot be performed by an investigating officer. It was made clear to the evaluation team that the use of civilians is only allowed as a last resort.

All incoming EIOs for infiltration go to the LIRC. The National Public Prosecutors' Office (*Landelijk Parket*) is competent. There is a special team in the Netherlands in charge of undercover operations. The PPO always schedules a meeting with the issuing authority to discuss the details and determine who will act as undercover agent.

In Dutch law, there is a general obligation to inform a person that a secret measure has been performed in respect of them as soon as the interest of the investigation permits. However, as a country executing an EIO, the Netherlands asks the issuing State to inform the person to be sure that the notification does not jeopardise the investigation.

The Dutch practitioners have not reported any difficulties in relation to EIOs issued for covert investigations.

19.6. Interception of telecommunications

Article 30 of the EIO Directive has been transposed into Section 5.4.17. of the Dutch CCP and in Section 5.4.28 CCP for outgoing EIOs. Interception of telecommunications is allowed only for **serious crimes** and the investigating judge can give an authorisation for a maximum period four weeks. The term of validity may be extended for a maximum period of four weeks each time.

When the interception of telecommunications is implemented on the grounds of an incoming EIO, the renewal of the measure can be asked based on a request explaining the need for the measure (see also Chapter 6.3).

When receiving such an EIO, the Netherlands tests whether there could be a wiretap for the offence listed in the EIO in a similar domestic case. The investigation must also urgently require the wiretap in the Netherlands. Within the framework of the EIO, this last-mentioned aspect is not tested (intensively) either by the IRC or subsequently by the investigating judge, because the issuing Member State is better able to assess this.

Interception of telecommunications can be ordered in the Netherlands to users who are not necessarily suspects. This possibility is not always accepted in other Member States and some EIOs issued by the Dutch authorities regarding non-suspects have been refused.

In urgent cases, **authorisation from the investigating judge may be first granted verbally**, which means that the measure can be affected in a very short period of time, even when requested from another Member State to the IRC. In general, the Netherlands is capable of immediately transmitting the intercepted telecommunications to the issuing State, depending on the technical possibilities in the issuing State.

In the Netherlands, the term ‘interception of telecommunications’ used by the Directive under Chapter V only covers wiretaps. The other forms of interception, such as using a technical device to record private and confidential communication in an enclosed place, have been regulated separately (Section 126l of the Dutch CCP: **Recording Confidential Communications by means of a technical device**).

The explanation given by the Dutch authorities for the distinction, is that the Articles 30 and 31 EIO only relate to the interception of telecommunications (and not to (other) communication). Under Dutch law the appreciation of the infringement of privacy at stake for the different investigative measures also differs.

The main consequence of the distinction is that, under Dutch law, **the investigating judge has to order the measure** (or the continuation of the measure if it was already ordered in the issuing State) **before the recording** of private communications that are not telecommunications. For instance, in the case of a car already equipped with a recording device, the foreign authority should issue an EIO asking for the recording of Confidential Communications by means of a technical device before the arrival of the vehicle on Dutch territory. Nevertheless, it can be difficult to anticipate the move of a suspected car.

However, during the visit, it was underlined that an investigating judge in the Netherlands is always on duty 24/7 and can arrange authorisation very quickly, even within half an hour (*see best practice No 10*).

This understanding of the concept of telecommunications is not necessarily shared by the judicial authorities of other Member States. As there are differences between Member States on defining what falls under interception of telecommunications, the evaluation team invites the Commission to clarify this concept in the context of the EIO (*see recommendation No 19*).

Ex-post notification – Annex C

Article 31 of the EIO Directive has been transposed into Section 5.4.18. of the Dutch CCP and Section 5.4.29 for outgoing EIOs. Under Dutch legislation, Annex C can only be issued to inform the other State of a cross-border interception of a telecommunications call. This can also be done during or after the wiretap, if it only becomes known then that the telephone/device is/was in the Netherlands. The Dutch authorities are unsure whether Annex C is sent in all cases for which it is required. This applies to both incoming requests and outgoing requests.

A notification about the intention to intercept or the interception of telecommunications of a user who is in the territory of the Netherlands must be forwarded to the public prosecutor of the LIRC. This public prosecutor places the notification in the hands of the investigating judge. The investigating judge takes a decision on the application within 48 hours. If the authorisation is granted, the public prosecutor informs the authorities from whom the notification was received – within 96 hours – that permission is granted for the intended interception or the interception of telecommunications of a user who is in the territory of the Netherlands.

This procedure is quite long and may explain why Annex C is not always forwarded where no technical assistance of the other State to conduct the interception is needed.

Annex C is not accepted in the Netherlands to inform the Dutch authorities of the recording of confidential communications by means of a technical device. For this, Annex A should be used.

19.7. The other investigative measures (e.g. house search)

House searches in the Netherlands are conducted by the investigating judge in person. There are judges on call 24/7. House searches can be done 24/7, also at night when necessary, and can be arranged even within one hour of receiving the EIO (*see best practice No 10*). Searches of non-residential premises can be done by the public prosecutor themselves.

The IRC provides a dedicated police team (*team rechtshulp*) and public prosecutors to execute the house searches requested in an EIO. This structure offers a remarkable advantage to execute the EIOs in a prompt and flexible way, for instance if the address mentioned in the EIO is incorrect (*see best practice No 2*). The investigating officers and public prosecutors who work together in IRCs are specialised in European and international cooperation and help the issuing State to execute the EIO properly. The public prosecutor at the IRC does not hesitate to directly contact the issuing authority, by email or by phone.

20. STATISTICS

The Netherlands provided the following statistics on incoming and outgoing EIOs, which were gathered automatically via the DIAS system:

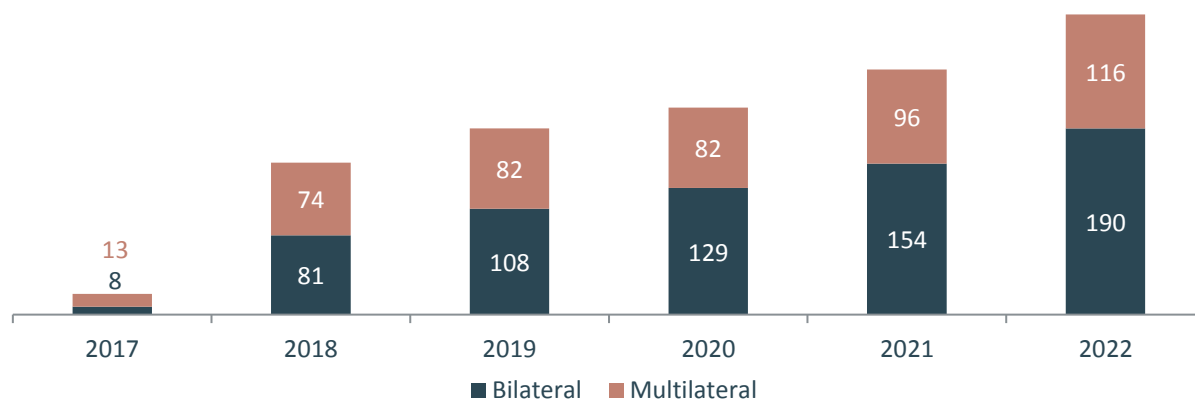
EIOs	2018	2019	2020	2021	2022
incoming	3 150	4 087	3 830	4 033	4 093
outgoing	2 407	2 207	1 860	1 676	1 735

DIAS does not collect central statistics on the number of refusals or the grounds for refusal (see Chapter 13.1 and *recommendation No 5*).

Furthermore, Eurojust has shared the following statistics on Eurojust cases involving the Netherlands, in which EIOs have been issued/received.

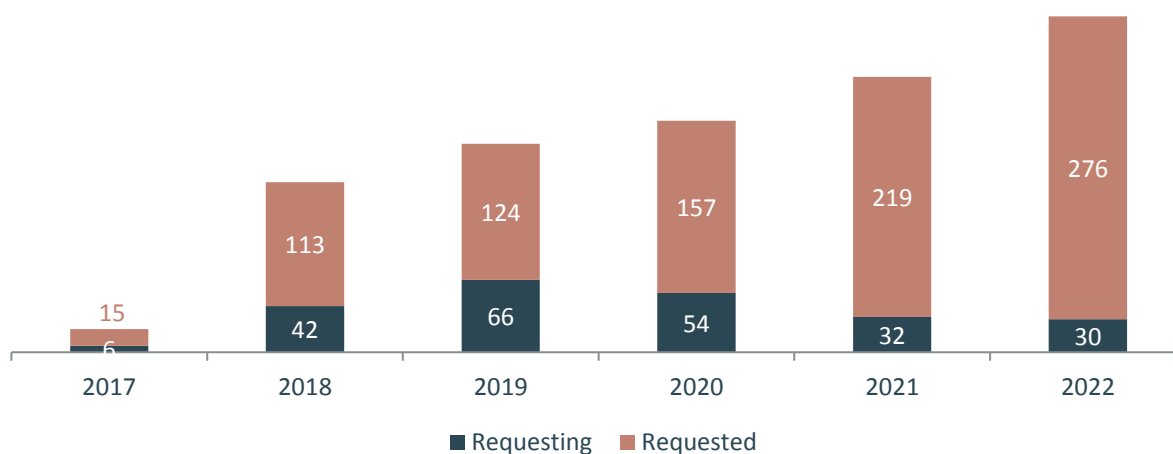
EIO Netherlands	2017	2018	2019	2020	2021	2022	Total
Bilateral cases	8	81	108	129	154	190	670
Multilateral cases	13	74	82	82	96	116	463
Total cases	21	155	190	211	250	306	1 133

Bilateral and multilateral EIO cases involving the Netherlands



EIO Netherlands	2017	2018	2019	2020	2021	2022	Total
Requesting cases	6	42	66	54	32	30	230
Requested cases	15	113	124	157	219	276	904
Total cases	21	155	190	211	250	306	1133

EIO cases involving the Netherlands



21. TRAINING

The Netherlands has a national training institute for joint education of judges and prosecutors (SSR). For prosecutors, training on judicial cooperation is strongly advised, but is not obligatory. There are also more specialised courses on international cooperation (EIO, EAW and international police cooperation). Investigating judges need to follow obligatory courses, in which a half day is devoted to international cooperation. There is also an e-learning course on the EIO and a handbook on how to fill in an EIO on the intranet. The National Public Prosecutor for Mutual Legal Assistance and other IRC prosecutors give a training course every year where the EIO is an important topic. These courses are open to all (new) public prosecutors, clerks of the Public Prosecution Service and the investigating judges. Some initiatives are in place to provide training to police at local level (e.g. at IRC The Hague). Unfortunately, training courses on international cooperation have stopped at the police academy and there are no other national training courses for police to keep their knowledge updated.

Furthermore, as stated above, every District Public Prosecutor's Office has a Centre for International Legal Assistance (IRC). The IRCs are specialised in legal assistance and advise colleagues on preparing and executing EIOs. All incoming and outgoing EIOs pass through the IRCs and their expertise has a knock-on effect on their quality. The IRCs also provide training within their own public prosecutor's office and to the investigating judges of their own unit (*see best practice No 2*).

Furthermore, the Netherlands offers participation at the training courses of the EJTN, The Bureau for EU Regional Cooperation (BES) and the European Academy of Law (ERA) offered within the EU.

Regarding police training, the evaluation team welcomes the initiatives being taken at local level. However, given the important role the police play in the EIO process, the evaluation team recommends to the Netherlands that it reintroduce a more structured approach to training on international cooperation (*see recommendation No 8*).

22. FINAL REMARKS, RECOMMENDATIONS AND BEST PRACTICES

22.1. Suggestions by the Netherlands

The Netherlands informed the evaluation team that the complaint procedure following the seizure of items is a challenge they encounter when executing an EIO. The decision on such complaints can take a long time, especially for cases dealt with by the National Office for Serious Fraud, Environmental Crime and Asset Confiscation of the Dutch Public Prosecutor's Office, (see also Chapter 15 and *recommendation No 6*).

Furthermore, the issue of holders of confidential information can cause obstacles. Transfer of such confidential information to a foreign country is not permitted in the Netherlands. The proceedings against seizure and reliance on confidentiality have a delaying effect in comparison with the situation in other Member States. Therefore, it takes a long time before the results of a seizure can be transferred to a foreign country.

During the visit, the Netherlands raised the issue of the increased danger from organized crime and the need to protect the personal information of judges, prosecutors, etc. The Netherlands reported that, in some cases, it is necessary to sign EIOs anonymously (see also *Chapter 6.1 and recommendation No. 17*).

The Dutch system of IRCs, as mentioned throughout the report, is a fundamental aspect in dealing with international cooperation. The Netherlands informed the evaluation team that representatives from all IRCs hold periodic meetings with each other, enhancing the effectiveness of international cooperation and ensuring a uniform approach (*see best practice No 2*).

22.2. Recommendations

Regarding the application and implementation of Directive 2014/41/EU, the team of experts involved in assessing the Netherlands found the Dutch system to be satisfactory.

The evaluation team sees fit to make a number of suggestions for the attention of the Dutch authorities. Furthermore, based on the various good practices identified, related recommendations are made for the attention of the EU. The Netherlands should conduct an 18-month follow-up to the recommendations referred to below after this report has been agreed by COPEN.

22.2.1. Recommendations to the Netherlands

Recommendation No 1: The Netherlands is invited to clearly indicate the possibilities on cooperation in urgent cases, such as the possibility to act on an oral EIO, on the EJM website (*Chapter 6.5*).

Recommendation No 2: The Netherlands should, in line with Article 10(4) of the Directive, notify the issuing authority before having recourse to another investigative measure (*Chapter 7*).

Recommendation No 3: The Netherlands is invited to consider starting preparations to implement e-EDES (*Chapter 8*).

Recommendation No 4: The Netherlands is encouraged to reconsider the mandatory grounds for refusal and make them optional in national law, in line with the Directive (*Chapter 13.1*).

Recommendation No 5: The Netherlands could consider creating the possibility in the DIAS system to collect statistics on the grounds for refusal (*Chapters 13.1 and 20*).

Recommendation No 6: The Netherlands should make sure that time limits are respected, especially in light of the complaint procedure when evidence is seized (*Chapter 15*).

Recommendation No 7: The Netherlands should improve the practice of sending Annex B (*Chapter 17*).

Recommendation No 8: The Netherlands should consider reintroducing structured training to the police on international cooperation (*Chapter 21*).

22.2.2. Recommendations to the other Member States

Recommendation No 9: Member States should accept EIOs in English, at least in urgent cases (*Chapter 6.2*).

Recommendation No 10: Member States are recommended to send both the original and the translated version of the EIO, if possible (*Chapter 6.2*).

Recommendation No 11: Member States should mention all relevant instruments (previous EIOs, EAWs, Freezing Orders, JITs, etc.) in Section D of the EIO form (*Chapter 6.3*).

Recommendation No 12: Member States, when acting as executing State, should inform the issuing State if a national investigation has started based on the EIO (*Chapter 11*).

Recommendation No 13: Member States should ensure the confidentiality of the investigation as far as possible and for as long as required when executing incoming EIOs, especially with regard to the issues identified with banks and internet service providers (*Chapter 12*).

Recommendation No 14: Member States should always send Annex B when they receive an EIO (*Chapter 17*).

Recommendation No 15: Member States should take the necessary steps to ensure safe conditions and adequate equipment for conducting hearings by videoconference (*Chapter 19.2*).

22.2.3. Recommendations to the European Union and its institutions

Recommendation No 16: The Commission is invited to clarify the application of the EIO Directive in relation to Article 40 CISA with regard to cross-border surveillance (*Chapter 5*).

Recommendation No 17: The Commission is invited to look into the possibility of signing an EIO anonymously (*Chapter 6.1*).

Recommendation No 18: The Commission is invited to clarify the application of the speciality rule in relation to the EIO (*Chapter 11*).

Recommendation No 19: The Commission is invited to clarify the concept of interception of (tele)communications (*Chapter 19.6*).

22.3. Best practices

The Netherlands is to be commended for:

1. When implementing the EIO Directive and when amending the implementing law, the Netherlands seconded the national IRC public prosecutor and her legal secretary working at the LIRC to the Ministry of Justice and Security, in order to understand the needs of practitioners at the time of the drafting of the law (*Chapter 3*).
2. The system of specialised National Centres for International Legal Assistance (IRCs), where police and prosecutors work in close collaboration and training is provided. The IRCs perform high-quality monitoring both to outgoing EIOs and to the results of an execution of incoming EIOs. Furthermore, representatives from all IRCs hold periodic meetings with each other, enhancing the effectiveness of international cooperation and ensuring a uniform approach (*Chapters 4, 19.7, 21 and 22.1*).
3. Checking all incoming EIOs in the national police systems and the DIAS system, for a possible link with a national investigation, a previously received EIO or MLA request (*Chapter 4*).
4. Having a central point to send an EIO whenever it is unclear which district is competent (*Chapter 4*).
5. Its flexible approach in executing an EIO as an MLA request, in cases where the EIO was not the correct instrument (*Chapter 5*).
6. The general pragmatic approach to executing EIOs and assisting the issuing State to the fullest extent possible (*Chapter 6.3*).
7. Its flexibility and willingness to act fast in urgent cases and to take the necessary measures before the EIO form has been received (*Chapter 6.4*).
8. Having three liaison magistrates abroad (Rome, Madrid and London) who can provide valuable support in establishing direct contact and in coordinating the execution of the EIO or in relation to other instruments (*Chapter 8*).
9. When necessary, the Dutch authorities consult the issuing State, asking for additional information to further assess whether a ground for refusal actually exists (*Chapter 13.1*).
10. The 24/7 availability of police, prosecutors and investigating judges (*Chapters 14, 19.6 and 19.7*).

4 July 2023 – Ministry of Justice and Security, The Hague, the Netherlands

10.00-11.00	Informal introduction and welcome by the Deputy Director of the Law Enforcement Department at the Ministry of Justice and Security.
11.00-12.00	Presentation by the Public Prosecution Service, followed by a discussion.
12.00-13.00	Lunch
13.00-14.00	Meeting with the Dutch national training institute for joint education of judges and prosecutors (SSR)
14.00-16.00	Meetings with practitioners <ul style="list-style-type: none"> - Investigating judges - Public Prosecution Service

5 July 2023 – IRC The Hague (morning) – Ministry of Justice and Security (afternoon)

09.30-12.00	Visit to IRC the Hague
12.00-13.30	Lunch
13.00-14.00	Meeting with practitioners <ul style="list-style-type: none"> - Defence lawyer - Public Prosecution Service
14.00-16.30	Meeting with practitioners <ul style="list-style-type: none"> - Ministry of Justice, legal department - Public Prosecution Service

6 July 2023 – Ministry of Justice and Security

10.00-12.00	Presentation of the initial findings of the evaluation team.
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ANNEX B: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	ENGLISH
BES	Bureau for regional cooperation between the Netherlands, Belgium and Germany in criminal matters
CATS	Coordinating Committee in the area of police and judicial cooperation in criminal matters
CCP	Code of Criminal Procedure
CJEU	Court of Justice of the European Union
Directive	Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters
EAW	European Arrest Warrant
e-EDES	e-Evidence Digital Exchange System
EIO	European Investigation Order
EJN	European Judicial Network in criminal matters
EJTN	European Judicial Training Network
ERA	European Academy of Law
IRC	International Legal Assistance Centre
ISP	Internet Service Provider
JIT	Joint Investigation Team
LIRC	National Centre for International Legal Assistance
MLA	Mutual Legal Assistance
SSR	National Training Institute for Joint Education of Judges and Prosecutors