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

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

REPORT ON LATVIA**

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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 the European Investigation Order (EIO) is used frequently, the 10th round of mutual evaluations has shown that several practical and legal challenges need to be addressed to further improve its smooth and consistent functioning. The evaluation has provided a valuable opportunity to identify areas for improvement and best practices to be shared among Member States.

The Latvian authorities provided well-prepared replies to the questionnaire and to questions asked during the on-site visit, allowing the evaluation team to get a good overview of the Latvian system. The evaluation team left Latvia with a very positive impression of a country keen to ensure smooth and effective judicial cooperation with other Member States, building on the high standards of competence and professionalism already attained in the issuing and execution of EIOs. Morale was high among all practitioners seen, and they showed very good technical awareness and a strong sense of dedication to their work.

Overall, the evaluation team established that the EIO works remarkably well in Latvia. From the open and constructive discussions held with the practitioners during the visit, it was clear that Latvia is to be commended for the generally proactive, open and constructive attitude of its authorities to the execution of EIOs. The evaluation team was particularly impressed by the well-established practice of consulting with the issuing State at an early stage of the execution of the EIO, to resolve issues as far as possible through bilateral consultations. This cooperative attitude manifests itself, *inter alia*, by the good practice of transmitting EIOs when partly executed rather than waiting until they are completely executed, whenever it is in the interest of the case or its urgency and consulting with the issuing authority in this regard. The evaluators were able to identify several other best practices for which Latvia deserves to be commended (*see* Chapter 24.3).

On the other hand, the evaluation team identified some issues that could be further improved in Latvia, resulting in the recommendations made in Chapter 24.2.1.

In particular, the evaluation team considers that Latvia should ensure that all its executing authorities comply with Article 16 of the Directive and always send Annex B, within the time limit provided for by the Directive. The evaluators also recommend that Latvia should reconsider the practice of requesting certified copies from issuing authorities. Regarding the transposition of the Directive, the evaluators found it to be fundamentally complete and accurate, except for Articles 22 and 23 of the Directive, on the temporary transfer of persons held in custody for the purpose of carrying out investigative measure with a view to gathering evidence for which the presence of that person is required: Article 854 of the Latvian Criminal Procedure Law is limited to the temporary transfer of a person to provide or confront testimony, thus narrower than the Directive.

Furthermore, the evaluators consider that it would be beneficial if Latvia would appoint the Ministry of Justice as a central authority for the EIOs to be issued during the trial stage, as it seems that in reality the Ministry is already acting in that capacity.

Discussions between the practitioners and the evaluation team revealed that the potential application of the EIO to ensure that the accused person is present throughout their trial via videoconference is a significant point of interest for Latvian practitioners. Under Latvian law, it is permissible for an accused individual to participate in their trial via videoconference even in a cross-border situation, a measure deemed more proportionate by Latvian authorities than resorting to a European Arrest Warrant to ensure participation in the trial. However, Latvia has encountered varying perspectives among Member States on the feasibility of this practice under an EIO. Consequently, the Ekonomisko lietu tiesa (specialised court in Latvia) has submitted two requests for preliminary rulings to the Court of Justice of the European Union (CJEU) concerning criminal proceedings that contemplate the participation of an accused person via videoconference from another Member State - see *Linte* (C-285/23¹) and *AVVA and Others* (C-255/23²). These cases are currently pending, and the Latvian authorities eagerly await the CJEU's rulings on the matter.

¹ OJ C 271, 31.7.2023, p. 15–16.

² OJ C 235, 3.7.2023, p. 21–21.

Some of the findings of the present report have also resulted in recommendations addressed to the EU and its institutions, as elaborated further in Chapter 24.2.3. Specifically, the evaluators have identified a need for additional clarification of the Directive to provide clarity regarding the speciality principle, the concept of confidentiality and the concept of interception of telecommunications, particularly in relation to measures such as vehicle bugging and GPS tracking without the technical assistance of the other Member State.

2. INTRODUCTION

The adoption of Joint Action 97/827/JHA of 5 December 1997³ ('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 add real value by offering the opportunity, via on-the-spot visits, to consider not only the legal issues but also, in particular, relevant practical and operational matters linked to the implementation of Directive 2014/41/EU. This will help identify both shortcomings and areas for improvement, together with best practices to be shared among Member States, thus contributing to ensuring more effective and consistent application of the principle of mutual recognition at all stages of criminal proceedings throughout the EU.

More generally, promoting the consistent and effective implementation of this legal instrument at its full potential could significantly enhance mutual trust among the Member States' judicial authorities and improve 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 any Member States that have not implemented all aspects of Directive 2014/41/EU.

Latvia was the sixteenth Member State to be evaluated during this round of evaluations, as provided for in the order of visits to the Member States adopted by CATS⁴.

³ 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.

⁴ 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 in the evaluations to be carried out. Following a written request sent to delegations by the Secretariat of the Council of European Union, Member States have nominated experts with substantial practical knowledge in the field.

The evaluation team consists of three national experts, supported by one or more members of staff of the General Secretariat of the Council and observers. For the tenth round of mutual evaluations, it was agreed that the European Commission and Eurojust should be invited as observers⁵.

The experts tasked with evaluating Latvia were Ms Ulrika Bentelius Egelrud (Sweden), Ms Marieta Nedelcheva (Bulgaria) and Mr Łukasz Zimicz (Poland). In addition, two observers were present: Mr Jorge Espina (Eurojust) and Ms Filipa de Figueiroa Quelhas from the General Secretariat of the Council.

This report was prepared by a team of experts, with the assistance of the General Secretariat of the Council. The report is based on Latvia's detailed responses to the evaluation questionnaire, as well as the findings of the evaluation visit that took place in Latvia between 20 and 24 November 2023. During the evaluation visit, the team interviewed representatives from the Ministry of Justice, the public prosecution service, the judiciary, the State Police and the bar association.

All the representatives present provided the evaluation team with interesting and detailed presentations on their roles in relation to the EIO. The presentations provided excellent starting points for in-depth discussions between the evaluation team and the practitioners on how the EIO is applied in practice in Latvia.

⁵ ST 10119/22.

3. TRANSPOSITION OF THE DIRECTIVE 2014/41/EU

The Directive was transposed into Latvian law through amendments to the Criminal Procedure Law ('CPL')⁶. The Law underwent three readings, was finally adopted on 30 March 2017, and came into force on 26 April 2017. Even before the implementation of Directive 2014/41/EU, the CPL had outlined procedures for assisting a foreign country in procedural actions (Chapter 82 CPL) and for making requests to a foreign country regarding procedural actions (Chapter 83 CPL). To avoid duplicating certain provisions, exceptions were added to specific sections in those chapters to incorporate the Directive's requirements.

However, as the Directive contains specific rules regarding the EIO, two additional chapters were added to the CPL: Chapter 82.1, which outlines the procedure for the recognition and execution of an EIO, and Chapter 83.1, which details the procedure for issuing an EIO and transferring it for execution. Consequently, the issuing, recognition and execution of an EIO, are now covered by the general rules on assisting a foreign country and requesting the performance of a procedural action, along with the newly created chapters that specifically address the EIO.

Since the addition of Chapters 82.1 and 83.1 to the CPL, this framework has not been amended. Furthermore, in 2017, amendments to Cabinet Regulation No 176 of 17 March 2008 ('Cabinet Regulation') were adopted, incorporating the forms of judicial cooperation documents provided for in the EIO Directive into that Regulation.

The Latvian Criminal Procedure Law consolidates all instruments for international judicial cooperation in criminal matters in the same legislative act, which is considered to be a positive feature of the procedural rules in the field of mutual legal assistance (*see best practice 1*).

⁶ The Latvian Criminal Procedure Law is available at: <https://likumi.lv/ta/id/107820-kriminalprocesa-likums>, and an English translation of the Latvian Criminal Procedure Law (with amendments adopted up to October 2022) can be consulted at: <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law> (the current version of the CPL has not been translated into English).

4. COMPETENT AUTHORITIES

For a better understanding of the competences of the various authorities involved, it will be useful to see an overview of Latvia's judicial organisation and public prosecution office. This can be found in Annex B to the report.

4.1. Issuing authorities

Article 2 of the EIO Directive is transposed in compliance with the Directive in Sections 887.¹, Section 887.² and Section 887.³ CPL.

At pre-trial stage (Sections 887.¹ and 887.² CPL)

Paragraph 5 of Section 887.¹ CPL provides that the authorities competent in the process of issuing an EIO, up to the commencement of criminal prosecution, are: the State Police (if the person directing the proceedings is an investigator of the State Police), or the Prosecutor General's Office (PGO) (if the criminal offence falls within the jurisdiction of another investigating authority).

Latvia has chosen to use the option provided for in Article 2, point (c)(ii) of the Directive: allowing an investigating authority to issue an EIO, if it has been validated by a judge, court, investigating judge or public prosecutor. As mentioned above, the State Police is one of the competent authorities up to the commencement of criminal prosecution. Section 887.¹ CPL, on issuing an EIO up to the commencement of criminal prosecution, provides that the person directing the proceedings is to send the prepared EIO, together with the materials for the criminal case, to the supervising prosecutor for approval. In turn, the supervising prosecutor must, within five working days of the date of receipt of the EIO, verify the conformity of the procedural action requested from the Member State with the requirements of its Law and assess its necessity and proportionality in relation to the criminal offence to be investigated.

When issuing an EIO during criminal prosecution (Section 887.² CPL), a prosecutor is competent to issue an EIO and send it to the PGO. After that, the PGO sends the received EIO to a competent authority of the EU Member State. The PGO ensures that the EIO is translated into the official language of the relevant EU Member State or into the language indicated for receipt of the EIO by the Member State.

At trial stage (Section 887.³ CPL)

The court where the case is pending is competent to issue an EIO during the trial. After issuing an EIO, the court must use the website of the European Judicial Network (EJN) to find a competent authority of the EU Member State to which the EIO is addressed and send the EIO to that authority. The court administration ensures that the EIO is translated into the official language of the executing Member State.

If the court cannot find a competent authority or executing authority of the EU Member State, it must send the EIO to the Ministry of Justice to be forwarded to the competent authority of the relevant EU Member State. In such cases, the Ministry of Justice takes care of the translation of the EIO.

Under Latvian law, administrative authorities have no power to issue EIOs. Only authorities empowered to conduct criminal proceedings have that power.

4.2. Executing authorities

At pre-trial stage (Section 875.¹, paragraph 1 CPL)

The Latvian executing authorities for EIOs during pre-trial proceedings can be any investigating institution or unit of the prosecutor's office.

Section 875.² CPL provides that in pre-trial criminal proceedings, the PGO is responsible for examining and recognising an EIO, as well as the state police (up to the commencement of criminal prosecution). As the executing authority, the state police is authorised to receive an EIO, decide on its recognition, execute it, or entrust its execution to another unit of the State Police and send the requested materials to the issuing authority after execution. The competent executing authority is determined by the type of the requested investigative measure and Article 387 of the CPL, which defines institutional justification.

At trial stage (Section 875.², paragraph 2 CPL)

After a case has been transferred to the court, the *purely formal criteria* for recognition of an EIO must be examined and verified by the Ministry of Justice. The decision on recognition and execution is to be taken by the court. The Ministry of Justice, after verifying the EIO, sends it for recognition and execution to the better located court where the requested investigative measure will be executed (e.g. the residence of the witness who must be interrogated).

4.3. Central authority

At pre-trial stage

In Latvia, the State Police and the PGO are the central authorities responsible for receiving and transmitting EIOs. At the investigation stage, the State Police and the PGO are involved, while at the criminal prosecution stage, the PGO takes over.

The State Police has designated Unit 3 of the International Cooperation Division of the Main Criminal Police Department as the central authority. All State Police investigators send their prepared EIOs, along with a proposal, to this central authority. Upon review, if no significant gaps are found in the submitted documents, and it is established that it is necessary and proportionate in the case to issue an EIO, the State Police sends the EIO for translation. Subsequently, the State Police checks the translation and, as one of the competent authorities designated by the State, determines the EIO executing authority. The EIO is then forwarded to the relevant national competent authority for execution, along with an accompanying document, and the investigator is notified about the EIO being forwarded.

As the central authority, the State Police coordinates cooperation between the executing and issuing authorities and assists in establishing direct contacts to facilitate faster and accurate execution of the EIO. Latvian practitioners have said that this centralised approach to international judicial cooperation in criminal matters leads to more accurate and better-quality preparation of EIOs, faster issue resolution and production of necessary statistical data. Methodological assistance is provided to investigators on a regular basis.

During the on-site visit, several best practices were identified from the State Police's execution of EIOs. These include keeping records of EIOs received and sent and registering them in the information system for requests for international judicial cooperation in criminal matters (*see best practice 3*). Additionally, the State Police maintain a contact point for cooperation with Eurojust and the EJN, facilitating swift contact and exchange of additional information between the State Police and issuing or executing Member States (*see best practice 2*).

At trial stage

At the trial stage, the Ministry of Justice (MoJ) serves as the central authority for incoming EIOs and acts as de facto central authority for outgoing EIOs.

Under Section 875.⁴ CPL for an EIO received at the trial stage, the MoJ acts as central authority and checks the formal criteria for recognition. It is required to notify the competent authority of the EU Member State within seven days of receiving the EIO (*see recommendation 3*) and verify receipt of all necessary documents/information within 10 days of the date of receipt of an EIO (or within 30 days, if the amount of documents/information is very voluminous). Subsequently, the EIOs and documents are sent to the district (city) court for a decision on the recognition and execution of the EIO in Latvia. The MoJ's involvement is intended not to delay the execution of EIOs received but to assist judges. It is important to note that it was explained to the evaluation team that the MoJ does not intervene in the work of judges but only assesses the fulfilment of *formal criteria* and the receipt and translation of all necessary documents.

Under the CPL, there is no designated central authority for sending an EIO at the trial stage. The courts themselves send the EIO to the competent authority of the EU Member State. However, the court usually consults the MoJ, particularly if the court is unable to determine the competent authority of the executing State through the EJN website. Paragraph 2 of Section 887.³ CPL, on issuing an EIO during a trial, provides that the court must ascertain the competent executing authority by using the website of the EJN (*see best practice 6*) and send the issued EIO to it. Paragraph 3 of Section 887.³ CPL provides that if the court cannot ascertain the competent authority, the EIO should be sent to the MoJ. When the EIO is sent to the MoJ, the Ministry acts in practice as central authority and ensures that all necessary procedures have been completed and all required documentation is attached before forwarding it to the competent authority of the EU Member State. In the view of the evaluation team, it would be beneficial if Latvia would appoint the MoJ as a central authority for EIOs to be issued during the trial stage, as it seems that in practice the Ministry is already acting in that capacity (*see recommendation 6*).

4.4. The right of the suspected or accused person or victim to apply for an EIO

The CPL does not expressly establish the right of a suspect, an accused person or a lawyer or representative acting on their behalf to apply for an EIO. However, the general provisions of the Latvian CPL grant the right to any person involved in proceedings to submit an application or request to the person directing the proceedings or to another authorised official. Under Section 334(4) CPL, a decision rejecting such an application, submission or request may be appealed against in accordance with the procedures laid down in the CPL. This allows individuals to apply for an EIO. Nevertheless, Section 887.¹ CPL mandates that the person directing the proceedings assess the necessity and proportionality of the EIO concerning the criminal offence under investigation.

The submission of a complaint regarding the basis for the issuing of an EIO and the requested procedural action will not suspend its execution, except when provided for under the national legislation of the issuing Member State, and when a competent authority of the issuing Member State has informed the executing authority. Any complaint regarding the basis for issuing an EIO is to be submitted to the competent authority of the issuing Member State, which is then responsible for examining and deciding on the complaint. Additionally, the right exists to submit a corresponding request to the court.

During the on-site visit, Latvian defence lawyers explained that they were aware of the option to request that an EIO be issued to obtain evidence abroad. However, they lack experience in using this option.

5. SCOPE OF THE EIO AND RELATION TO THE OTHER INSTRUMENTS

Under Latvia's legislation, an EIO covers any investigative measure except the establishment of a joint investigation team and the taking of evidence within the framework of that team. This means that Latvia's law on the scope of the EIO is in compliance with Article 3 of the EIO Directive.

Section 875.⁸ CPL provides that the execution of a procedural measure requested in an EIO must take place in compliance with the procedures laid down in the CPL regarding execution of procedural measures and international cooperation in the field of criminal law.

Under Part A of the CPL, the following investigative measures may be carried out in Latvia and fall within the scope of the EIO Directive:

- hearing (including hearing of a person who has the right to defence, witness, victim, representative, owner of property infringed during the criminal proceedings, expert or auditor, and hearing prior to presentation for identification)
- obligation to indicate the source of information
- questioning
- confrontation
- inspection (including inspection of the site of the event, the terrain, the premises, a vehicle, an item, a corpse or an animal)
- exhumation of a corpse
- examination (including examination by force)
- investigative experiment
- on-site examination of testimony
- presentation for identification (including presentation of corpses for identification)
- searches (including search of a person; search in the premises of diplomatic or consular mission offices; or search of a lawyer's place of work, residence or vehicle)
- removal

- submission of objects and documents (on the initiative of an individual, or at the request of the person directing the proceedings)
- storage of data located in an electronic information system
- disclosure and issuing of data stored in an electronic information system
- expert examination (including additional, repeated, complex and comparative expert examinations, and examinations conducted by a panel of experts)

In addition, special investigative measures may also be performed to investigate less serious, serious or especially serious crimes, as set out in Chapter 11 of the CPL, namely:

- monitoring of legal correspondence;
- monitoring of means of communication;
- monitoring of data in an automated data processing system;
- monitoring of the content of transmitted data;
- audio monitoring of a site or a person;
- video monitoring of a site;
- surveillance and tracking of a person;
- surveillance of an object;
- a special investigative experiment;
- the acquisition in a special manner of the samples necessary for a comparative study;
- monitoring of a criminal activity.

The representatives of the Latvian PGO mentioned no problems in determining investigative measures for Latvia as issuing State. However, as executing State, the Latvian authorities encountered confusion between the scope of the EIO and the freezing order (e.g. with France and Belgium), as well as between the EIO and a traditional request for legal assistance to obtain bank information (from Spain). In this regard, the evaluation team deems it necessary to recommend that other Member States respect the scope of the EIO and issue EIOs only for the gathering of evidence (*see recommendation 9*).

As executing State, Latvia has received requests to obtain copies of judicial decisions, which the PGO resolved by requesting additional information on the purpose for which they were needed.

The Latvian courts have observed that some issuing authorities of Member States tend to use the EIO to secure the participation of accused persons in court hearings where an EIO is not necessary for obtaining evidence, but where it serves as a convenient tool for remote participation via videoconference. Judges have not identified any significant procedural or rights violations and have granted videoconferences to the authorities concerned.

The representatives of the State Police stated that, as the executing authority in pre-trial criminal proceedings, they had not encountered any difficulties in identifying investigative measures within the scope of the EIO.

Under Section 887.¹ CPL, before preparing the EIO, the person directing the proceedings must, in compliance with the procedures laid down in that Law, perform all the actions which would be necessary if a procedural action were being performed in Latvia in accordance with that Law. Thus, when preparing an EIO, the person directing the proceedings must request the performance of the investigative actions that appear in Latvia's CPL, but at the same time, under Section 676 CPL, evidence acquired as a result of judicial cooperation in criminal matters in accordance with the criminal procedure specified in a foreign country is to be considered equivalent to evidence acquired in accordance with the procedures provided for in the CPL. This means that if evidence is obtained in a foreign country in accordance with its procedural rules (irrespective of the investigative measure chosen), it will be recognised as evidence obtained in line with the procedures laid down in the CPL.

The Latvian State Police, as the executing authority in pre-trial criminal proceedings, has not received any EIOs for the sole purpose of locating a person. However, it has received EIOs in which it was asked to provide details about persons, including information about their place of residence.

As the issuing State in pre-trial criminal proceedings, Latvia does not send EIOs solely to locate a person. The transmission of EIOs is centralised in the State Police, so if such an EIO is received for examination, investigators are referred to other international cooperation mechanism options.

The practitioners of the PGO have encountered requests from persons directing proceedings to obtain operational information through EIOs. However, they explained to them that there are other methods of cooperation for this purpose. Poland often uses this option, which Latvian practitioners usually follow up with a request for additional information on whether the police-to-police cooperation mechanism has been used.

According to the information provided by the Latvian PGO and the State Police, no EIOs have been issued, requested or executed to obtain personal data necessary to enforce an administrative decision.

In line with Articles 2 and 4 of the Directive, an EIO can be executed in a case initiated by an administrative authority, provided it has been approved by a judge or judicial authority in connection with acts punishable under the issuing State's national law, and an appeal from the decision is possible to a court with jurisdiction in criminal cases. This may apply if the authority has jurisdiction under the issuing State's law and the validation procedure has been followed.

In Latvia, Section 875.¹ and Section 875.³ of the CPL provide for the execution of an EIO issued by the competent authority of an EU Member State. If an administrative authority is designated as the competent authority and the EIO is issued in line with Directive 2014/41/EU in the context of criminal proceedings, it is enforceable. The Latvian State Police has not identified any such cases in pre-trial criminal proceedings.

Practitioners from the PGO and the State Police have not encountered any cases where problems arose regarding which legal basis and instrument to use, whether as executing or as issuing State, e.g. the EIO Directive or the Framework Decision on the EAW for the temporary transfer of a person, or the Convention implementing the Schengen Agreement or the EIO Directive for cross-border surveillance.

In cases where a joint investigation team (JIT) was in place, the State Police, as executing authority in pre-trial criminal proceedings, has not encountered any problems. As issuing authority in pre-trial criminal proceedings, it has issued EIOs to non-participating countries to search for evidence obtained before the conclusion of the JIT, and no problems have been identified.

The PGO, as the authority of the executing State, has dealt with a case involving Luxembourg and Belgium in which initially there was no reference to the JIT, but the issue was resolved by informing them of the existence of a JIT. As issuing State, the PGO has encountered no problems. The evaluation team emphasises the importance of mentioning all relevant instruments in the EIO issued or used in the same case, such as JITs, EAWs and freezing orders. The evaluation team recommends that other Member States take this into account (*see recommendation 10*).

The State Police, as executing authority in pre-trial criminal proceedings, has been faced with using the EIO to obtain information, such as details about a person, including their place of residence and work, which should be obtainable through police cooperation mechanisms. In such cases, the EIO is fully executed, and the issuing State is contacted in cases of uncertainty.

According to practitioners from the MoJ, no problems have been observed at the trial stage. It is worth noting that EIOs received from Member States often include requests for procedural actions to be taken at the investigation stage, but with no indication or an inaccurate indication of the exact EIO stage.

During the on-site visit, it was explained that the general motto that Latvian authorities follow in their relations with other Member States in police-to-police and judicial cooperation, especially in the execution of EIOs, is: ‘Look for possibilities, not excuses’. This attitude fosters mutual trust between competent authorities of Member States and successful investigation and punishment of the perpetrators of cross-border crimes, preventing Europe from becoming a safe haven for criminals.

The evaluation team considers this generally proactive, open, and constructive attitude of the Latvian authorities to the execution of EIOs and the common practice of consulting the issuing State, directly or through Eurojust or EJN, at an early stage in the execution of the EIO, to facilitate its execution and resolve issues through bilateral consultation, to be very important and a best practice that should be encouraged (*see best practice 4*).

6. CONTENT AND FORM OF THE EIO

6.1. Challenges relating to the form

Article 5 of the EIO Directive is correctly transposed in Chapter 82.¹ CPL and the related Cabinet Regulation, specifically in relation to forms A, B and C of the EIO.

When acting as the issuing authority, Latvian practitioners have not encountered problems with completing the EIO form. The State Police, as the competent central authority, provide methodological assistance to anyone preparing an EIO, should they have any questions regarding the form's completion. In this regard, the State Police representatives are of the opinion that no improvements are needed.

The representatives of the State Police noted that, when it acts as the executing authority in pre-trial criminal proceedings, they have encountered cases where the EIO contains incomplete information, lacks supporting information for the requested procedural actions, or contains erroneous information. While some issuing States resolve such issues quickly via electronic communication, there are still countries that do not address these additional issues using electronic communication, resulting in the EIO being returned to the issuing authority without execution. This is because execution is not possible without further clarification or the submission of additional information.

The representatives of the PGO have also encountered such problems, particularly in cooperation with Germany and Poland, where there is a lack of documents to be presented to the person, or of questions to ask the person in the context of suspicion, or there are no grounds for carrying out an investigative action or for the involvement of the person in committing the criminal offence. However, these issues are resolved through bilateral discussions (*see best practice 4*).

Practitioners from the MoJ have encountered a problem concerning the completion of EIOs. Often, information about the stage of the proceedings is not specified accurately (*see recommendation 11 to the other Member States*). Representatives of the MoJ also pointed out that some EIOs did not contain sufficient information about the reasons for submitting them, or the EIOs were sent to the wrong Member State for execution (Latvia is often confused with Lithuania and Estonia).

Another issue that has arisen when Latvia is an executing State is short notice from the issuing country for execution of the EIO, leading to procedural and technical difficulties. On the other hand, if the issuing authorities point out that the EIO is urgent, they have to provide relevant information in support of the claim of urgency, such as an upcoming trial date, for the MoJ to verify it urgently and send it to the competent court for execution. At the same time, the issuing authorities should make sensible use of the label ‘urgent’ so it does not lose its meaning (*see recommendation 16*) and should always keep in mind that the executing authority needs enough time to organise the practicalities for execution of the EIO (*see recommendation 25*).

6.2. Language regime and problems related to the translation

Latvia accepts EIOs in Latvian and in English (*see best practice 5*). However, for urgent cases, EIOs should be translated into Latvian, which is the only working language.

The State Police, as the executing authority in pre-trial criminal proceedings, has occasionally encountered non-compliance with the requirement for urgent EIOs to be submitted in the official language of the State. There are still cases where urgent EIOs are submitted in English, leading to delays in execution, as translation is needed. Additionally, Latvia receives EIOs that have been translated with the assistance of machine translation, resulting in incorrect and difficult-to-understand translations. The evaluation team addresses a recommendation to other Member States in this connection, suggesting that the issuing authority should ensure that translations are accurate. They should also use concise and precise language in issuing EIOs, to facilitate accurate translation, and should avoid copying the text of the underlying national order (*see recommendation 12*).

As the issuing authority in pre-trial criminal proceedings, the State Police translates EIOs into the official language of the State or, if the EIO is not urgent, into another language specified by the executing State. The representatives of the State Police explained that they have sometimes received indications of poor-quality and incomprehensible translations from the executing State, which may, for example, request a translation of the EIO into English. Each case is dealt with individually, and the State Police fulfils such requests by sending the EIO translated in English.

The representatives of the PGO noted that, when it is the issuing authority, they have not encountered any problems (the PGO has both in-house translators and a contract with a translation agency). However, when it is the executing authority, they have encountered partial translation of the EIO (Belgium), mixed translation of the form and the completed text, and machine-translation quality (Spain).

The MoJ also noted that sometimes the Latvian translation is of poor quality, but such cases are rare. The MoJ also pointed out that sometimes issuing countries have used machine translation, which has resulted in very poor quality, leading to misunderstandings during execution.

During the on-site visit, Latvian defence lawyers emphasised how important it was that translations of EIOs into and from Latvian be of good quality. They provided an example of a case with a very poor translation of an EIO from Greek to Latvian that had a major impact on the evidence gathered.

6.3. EIOs containing multiple requests

When an EIO contains multiple requests for different investigative measures, Latvian executing authorities may act differently with respect to the different requests. In such cases, the PGO may decide to split the requests and send them to the competent authority for execution. However, the MoJ does not have the power to split EIOs and send them to different courts for execution. In such cases, the MoJ asks the issuing country to send another certified copy of the EIO. According to the evaluation team, this practice may lead to a diminution of mutual trust between Member States and delays in the execution of the EIO. The evaluation team therefore recommends that Latvia reconsider this current practice of the MoJ (*see recommendation 1 to Latvia*).

6.4. Additional EIOs, split EIOs, conditional EIOs

Latvian practitioners have not encountered any problems with additional EIOs, the splitting of one EIO into several, or conditional EIOs. Each authority carries out the investigative measures within its jurisdiction and transmits the EIO to the other competent authority for execution.

If an EIO is issued to supplement a previous one, this fact should be indicated in Section D of the form in Annex A.

Practitioners from the PGO observed that the decentralised system (in countries where it exists) is cumbersome for the person directing the proceedings, as it requires additional technical work. As executing State, Latvia has encountered a problem with an EIO that was received too late.

The representatives of the MoJ noted a problem where, for example, multiple persons located in different towns in Latvia must be questioned, but only one EIO has been received. Since the Latvian court decides on the recognition of an EIO, only a single court can execute a request with several addressees. In such cases, the MoJ asks the issuing State to send another certified copy of the EIO.

The representatives of the Latvian competent authority did not mention any challenges they had encountered with additional EIOs.

6.5. Orally issued EIOs

Latvia has properly transposed Article 7 of the EIO Directive into Section 82.¹ CPL. The CPL does not allow orally issued EIOs in Latvia. In urgent cases, an EIO can be used to request the implementation of provisional measures to prevent the destruction, damage or concealment of potential evidence. In such cases, a decision on the recognition and execution of an EIO must be made immediately, or at the latest within 24 hours.

Latvian practitioners were clear that they would not execute coercive measures after an oral announcement of an EIO. They wait for the written EIO and, on receiving it, begin the execution procedure immediately.

7. NECESSITY, PROPORTIONALITY AND RECOURSE TO DIFFERENT TYPES OF INVESTIGATIVE MEASURES

Article 6 of the EIO Directive is properly transposed in Sections 887.¹, paragraph 3, Section 887.², paragraph 1 and Section 887.³, paragraph 1 CPL. Under Latvian law, the issuing authority must assess the necessity and proportionality of the EIO in respect of the criminal offence to be investigated. Before preparing the EIO, the issuing authority, by complying with the procedures laid down in the said law, performs all actions necessary if the procedural action is to be performed in Latvia in accordance with the CPL.

The practitioners of the State Police noted that when assessing the proportionality of the investigative measure, they assess the nature and seriousness of the criminal offence committed, the extent of the damage caused, and the possibility of obtaining the requested information through other cooperation mechanisms.

According to the representatives of the PGO, proportionality is assessed on the basis of the nature and seriousness of the crime, the extent of the loss or material damage, the possibility of achieving the object of the criminal proceedings by other means, etc. Necessity, on the other hand, is assessed on the basis of the urgency of the criminal case, how important concrete evidence is for the case, and the need to involve another Member State in obtaining the evidence.

The courts stated that each situation is unique, and the accused person's right to a fair trial must be guaranteed.

According to the practitioners of the State Police, in some cases the consultation procedure laid down in Article 6(3) of the Directive has been used, has resolved the situation, and the EIO has been executed. The practitioners noted that the State Police, as the central authority, examines the EIOs sent by the investigators and, where it finds that there may be doubts about the necessity and proportionality of issuing an EIO, recommends adding to the description in Section G of the EIO, with particular emphasis on the circumstances that justify the execution of the requested actions.

Recourse to a different type of investigative measure

Article 10 of the EIO Directive is properly transposed in Section 875.¹⁰ CPL.

Under Latvian law, the executing authority must perform other equivalent procedural actions to achieve the results indicated in an EIO if a procedural action requested in an EIO is not provided for in Latvian law or would not be permissible in criminal proceedings in Latvia for the same crime. The practitioners of the State Police told us that there had been cases of foreign countries asking to search a bank to obtain confidential information. In such cases, no search is carried out; instead, the measure laid down in the CPL on obtaining confidential information from credit institutions is followed.

Latvian practitioners explained that the CPL allows the executing authority to use other investigative measures than those requested in the EIO if the other investigative measure achieves the same results but with less intervention in the life of a person (Sections 875.³, paragraph 2, Section 875.⁴, paragraph 1 and Section 887.³, paragraph 1 CPL). In such a case, the competent authority is obliged to inform the competent authority of the EU Member State and, where possible, to agree on the performance of another procedural action.

8. TRANSMISSION OF THE EIO FORM AND DIRECT CONTACTS

Article 7 of the EIO Directive is properly transposed in Sections 887.¹, paragraph 3, Section 887.², paragraph 2 and Section 887.³, paragraph 2 CPL. These articles expressly provide in national law for the possibility of direct communication between issuing and executing authorities in accordance with Article 7(2) of the EIO Directive (*see best practice 8*).

The representatives of the State Police pointed out that, since the transmission of EIOs is centralised in the State Police, it is carried out by a specially designated unit of the State Police. Thus, there are no difficulties in identifying the competent executing authority. If there are any doubts about the competent authority of the executing authority, the help of central authorities, the EJN, Eurojust, etc., is used. The representatives of the State Police told us of cases that involved multiple executing authorities in a Member State. Since there was no centralised coordination point in one of the countries (and no email address where the EIOs could be sent for execution), several EIOs had to be prepared for each of the competent authorities in the executing Member State, which, in turn, increased the costs of translating the EIOs and, consequently, the costs of the criminal proceedings in question.

The prosecutors from the PGO noted that they had encountered problems when the EJN website had been in the process of reconstruction. In such a case, the national representative of Eurojust or the EJN contact point is informally involved in parallel. The EJN website tool does not search for an address, or the search is limited to a single parameter of the investigative action (but improvements are currently being made). They explained that the court administration oversees the implementation of the e-EDES system in Latvia and that they use the system to transmit the scanned versions of EIOs, in limited cases, and only where there are counterparts in other Member States using the system, for example Spain and Portugal. The evaluation team finds, in this regard, that the Member States must be recommended to connect all relevant national authorities to e-EDES as soon as possible (*see recommendation 13*). This will facilitate judicial cooperation and the swift and safe transmission of information, EIOs and evidence.

The representatives of the PGO explained that they did not have experience with the full procedure implemented with e-EDES, from issuing, translation, sending, consultation where needed, execution, and then transmission of the evidence using this secure online portal for electronic requests.

The creation of the secure means of communication is in the process of being established at Union level. At present the use of e-EDES is voluntary: not all Member States, including Latvia, are taking part in the pilot project and not all authorities of the Member States that take part in the project are connected. Although the system is still in the pilot phase, it will undoubtedly enhance the efficiency of the EIO. The evaluation considers that all Member States, including Latvia, should speed up the implementation of the e-EDES system, in order to ensure the secure transmission of data (*see recommendations 2 and 13*).

The courts send EIOs directly to the competent authority of the executing Member States, using the EJM website and functions of the Judicial Atlas (*see best practice 6*). Judges communicate directly with the issuing or executing authorities, depending on the case. The courts observed that there had been a situation where the authority to which the EIO was transmitted was not the appropriate authority, but in that instance, the recipient authority itself forwarded the EIO to the appropriate competent authority.

The Latvian practitioners emphasised that since the COVID-19 pandemic, when countries took steps, including the introduction of emails in the competent authorities, to ensure that the fight against crime did not stop, communication had become much simpler. The Latvian professionals pointed out the advantages of electronic communication during the pandemic: firstly, it was possible to communicate electronically and address the question of the competent authority more quickly; secondly, the State Police had started to prepare single EIOs that could be executed by several executing authorities, indicating each of them in the accompanying document, and sending them electronically to all the competent executing authorities of the Member State.

To transmit an EIO, the practitioners of the State Police consider that electronic means are sufficient if the authenticity of the issuing authority can be verified, and, if there are any doubts, they can ask for the original EIO to be sent by post. In cases where it is necessary to carry out investigative actions involving the service of documents, identification, and other similar procedural actions, the EIO should be submitted on paper.

The representatives of the PGO noted that if there are no doubts about the authenticity of the issuing authority, the EIO can be received electronically without it having to be sent by post.

In the process of fulfilling the questionnaire, two judges indicated that it was sufficient to transmit EIOs by electronic means, while one judge indicated that the original should still be sent by post.

The Latvian practitioners noted that with Lithuania and Estonia it was a practice to send and receive EIOs by email only, with electronic signature. However, with the other Member States, EIOs have been sent for execution in both forms – by email and duplicated by post. They shared their experience that Germany requests paper forms and executes only such forms. In this regard, the evaluation team has to recommend to other Member States that the competent executing authorities should accept EIOs sent by electronic means which comply with Article 7 of the Directive, and not accept only EIOs sent by traditional post (*see recommendation 19 to the other Member States*).

The Latvian practitioners explained that after the EIO has been transmitted, the issuing and executing authorities or central authority communicate directly. The representatives of the State Police noted that in cases where direct contact is difficult, assistance in addressing issues is sought from the central authority, the EJN, Eurojust, or other communication channels (*see best practice 7*), to facilitate communication.

The PGO observed that direct contact is used to facilitate communication. Other authorities are involved only in the event of communication problems.

The courts stated that communication takes place both directly and via the central authority (MoJ).

9. RECOGNITION AND EXECUTION OF EIO AND FORMALITIES

Articles 9 and 10 of the Directive are transposed in Chapter 82 of CPL; Sections 875.³, 875.⁴, 875.⁸ and 875.¹⁰

Section 875.⁸ CPL provides that the execution of a procedural action requested in an EIO must comply with the procedures laid down in the CPL regarding performance of procedural actions and international cooperation in the field of criminal law. Therefore, in relation to investigation measures that must be authorised by a court, Part A of the CPL (i.e. General Provisions) is applied, which provides that in certain cases the investigating judge decides on the conduct of procedural actions. This is in accordance with Article 9(2) of the Directive.

The Latvian authorities had encountered no situations in which the measure indicated in the EIO did not exist under the CPL. If such a situation were to occur, the executing authority would try to find the best solution, always informing and consulting with the issuing authority. There had been cases where the result indicated in the EIO could have been achieved by procedural actions requiring less intrusion in the life of a person, and in such cases the issuing authority had been informed.

The PGO as executing authority had encountered a situation in which the action requested would not have complied with the procedures laid down in the CPL. Hence Slovakia was denied the presence of lawyers acting on the accused person's behalf at the hearing of witnesses. Annex B to the EIO was used to notify Slovakia of the said fact and they confirmed the hearing should proceed. The hearing of witnesses was carried out without the presence of lawyers acting on the accused person's behalf. No other executing authorities had encountered situations like this.

The MoJ noted that there are cases where executing authorities refuse to execute a Latvian EIO because its execution would not be in line with the principles of the executing State; for example, in cases involving videoconferencing. Further discussions between the practitioners and the evaluation team revealed that the potential application of the EIO to ensure that the accused person is present throughout their trial via videoconference is a significant point of interest for Latvian practitioners.

Under Latvian law, it is permissible for an accused individual to participate in their trial via videoconference even in a cross-border situation, a measure deemed more proportionate by Latvian authorities than resorting to a European Arrest Warrant to ensure participation in the trial. However, Latvia has encountered varying perspectives among Member States on the feasibility of this practice under an EIO. Upon Latvia's initiative, two requests for preliminary rulings are currently pending before the CJEU, seeking clarification of whether the option of hearing an accused person by videoconference, in accordance with Directive 2014/41/EU, may also be used to ensure that the accused person participates in the trial (see *Linte* (C-285/23) and *AVVA and Others* (C-255/23), both still pending).

The evaluation team recommends that all Member States always consult with the issuing authority (Article 9 point 6 of Directive 2014/41/EU) in cases of difficulties or expected refusal, with a view to facilitating optimal execution of the EIO (*see recommendation 20*).

If Latvia issues an EIO, Section 887.¹ CPL obliges the person directing the proceedings to perform all actions necessary as if a procedural action were being performed in Latvia in accordance with the CPL. For example, before filling out the EIO with a proposal to carry out a search, the person directing the proceedings must contact the investigating judge. Only after receiving the decision of the investigating judge may the person directing the proceedings fill out the EIO.

The State Police as executing authority does not ask for such an authorisation to be attached, but if it is required in the State issuing the EIO, the information (namely, who issued such an authorisation and when) must be reflected in the EIO. An EIO is accepted for execution on the basis of the principle of mutual trust, on the assumptions that it has been prepared in accordance with the regulatory framework of the State concerned and that all necessary authorisations have been obtained.

According to the PGO, such an authorisation is not requested from the issuing authority, but if there is a request for a coercive action, the issuing State is asked to submit additional information with a view to better execution of the action requested in the EIO, even if such additional information is not required.

Latvian authorities stated that, generally, the issuing authorities complete section I (formalities) of the EIO.

In order to facilitate proper compliance with requested formalities, the evaluation team recommends that, when issuing an EIO, Member States always specify in Section I of Annex A of the EIO form if under their laws special requirements are applicable for the gathering of evidence, as well as for the evidence itself (*see recommendation 18*).

In what concerns the transmission of the results of the execution of an EIO, it is worth noting that Latvian practitioners have adopted the practice of transmitting the partial execution of EIOs rather than waiting for their conclusion, whenever it is in the interest of the case or its urgency, and consulting with the issuing authority in this regard. The evaluation team believes this is a good practice (*see best practice 12*) and encourages the other Member States to do the same (*see recommendation 23*).

During the visit, Latvian executing authorities further explained that currently they do not keep backup copies of the notification to the issuing State of the execution of EIOs. The evaluators are of the opinion that executing authorities should reconsider such practice and keep backup copies of the execution of EIOs, at least until the issuing State has confirmed receipt (*see recommendations 8 and 15*).

10. ADMISSIBILITY OF EVIDENCE

Rules for producing evidence are strict under Latvian procedural law and if they are not followed, the evidence is not admissible.

The State Police and the PGO noted that no cases had been identified involving problems related to the admissibility of evidence stemming from non-compliance with any formalities or procedures in the *execution* of the EIO. An EIO will be executed as requested (inquiry actions or evidentiary actions) but the rules of CPL, for example concerning safeguards of the person interviewed, will be fulfilled, by regarding the requested action as a national action.

Nor had problems arisen when *issuing* EIOs, since under Section 676 CPL, evidence acquired as a result of criminal-legal cooperation and in accordance with the criminal procedure specified in a foreign country must be made equivalent to evidence acquired in accordance with the procedures provided for in the CPL.

The evaluation team recommends that, when executing an EIO, all Member States comply with procedural formalities requested by the issuing Member State, as these are crucial for the admissibility of evidence in the issuing Member State. If the procedural formalities requested are not compatible with the procedural rules of the executing Member State, consultation should take place to achieve the most effective possible execution of the EIO (*see recommendation 21*).

11. SPECIALITY RULE

Latvia does not have specific rules addressing the speciality rule in the context of the EIO; only in respect of the immunity of a person temporarily transferred to Latvia, where Section 879 of the CPL provides for the immunity of a person for a certain time.

Since the Directive does not explicitly regulate the speciality rule, the State Police, as executing authority, does not regard the speciality rule as absolute. When executing an EIO, the State Police does not make any explicit statement regarding speciality, but assumes that the evidence will not be used for other purposes, presuming that the appropriate legal framework on data protection will be applied. The State Police considers that authorisation from the executing Member State is always required before evidence is used in another case. Thus, the State Police requests the consent of the executing authority to use evidence in other criminal proceedings. The PGO seeks consent for the use of evidence, but only when there is a significant change in the factual circumstances and the proceedings in practice concern a completely different offence. This also applies if it is a question of using the evidence in a case dealing with a less severe offence.

Latvia, as executing authority, has also requested the consent of the issuing authority to use evidence obtained after the execution of the EIO. The Latvian authorities give consent for use of the evidence in other proceedings on the basis of the request submitted, and it is also assumed that permission is requested before the evidence is used in other proceedings.

If the issuing State is cooperating in a JIT with another state, consent is required for the issuing State to share the evidence within the JIT. If possible, the evaluation team would recommend that such consent be requested immediately in the EIO. This approach applies irrespective of whether a JIT exists, be it with another Member State or with a non-Member State.

Since the need to use evidence not infrequently arises during an investigation that is already under way, it is important to receive a decision on permission without delay. The evaluation team therefore recommends to Member States that, where consent is sought from the issuing authority for the use of evidence by the executing State, practitioners handle such requests expeditiously/without undue delay (*see recommendation 22*).

If the results of the execution of an EIO reveal that a crime was committed other than the one that gave rise to the issuing of the EIO ('accidental discovery'), Latvia opens a new domestic investigation. The PGO referred to Section 849 (5) CPL; this provides that if the executor of the request of a foreign country has discovered objects and documents during execution of the request the circulation of which is prohibited by law and the removal of which is not given justification in the request, then the executor must remove those objects and documents and write a separate protocol on such removal. Examples include prohibited substances found during searches and cash which the State issuing the EIO did not ask to be searched for or seized. When there are factual findings which can lead to the opening of a national case, Latvia opens its own case, but does not request consent. The issuing State is, however, informed of this.

Since the existence and the content of the speciality rule seem to be open to discussion or interpretation, and in the interest of uniform practice in all Member States, the evaluation team invites the Commission to provide clarifications of the speciality rule (*see recommendation 29*).

12. CONFIDENTIALITY

Latvian procedural law does not specify rules on disclosure in connection with an EIO. However, Section 396 CPL regulates the prohibition on divulging information acquired during pre-trial criminal proceedings. Thus, under Section 396, information acquired in pre-trial criminal proceedings may be divulged before their completion only with the permission of an investigator or a prosecutor and to the extent specified by him or her. The investigator or prosecutor must notify a person in writing regarding criminal liability for the divulging of such information.

Latvia has not encountered any problems relating to rules of disclosure, either as issuing or as executing authority.

Chapter 5 of the CPL, ‘Persons conducting a defence’(the defendant), sets out the rights of a person who has the right to defence at all stages of the criminal proceedings, including the person’s right to consult the materials of the case. These materials may also include evidence obtained through an EIO.

According to the PGO, the basic principle is that a person becomes familiar with all the materials of the case before the criminal case is brought to court. Information received through the EIO but not relevant to the case is put aside and not included in the case. If the information received constitutes evidence, the material may not be disclosed.

Article 19 (4) of the Directive provides that each Member State must take the necessary measures to ensure that banks do not disclose to the bank customer concerned or to other third persons that information has been transmitted to the issuing State in accordance with Articles 26 and 27 (EIO Directive) or that an investigation is being carried out. In Latvia, such non-disclosure is covered in Section 63.1 of the Law on Credit Institutions.

The evaluation team invites the Commission to provide clarifications regarding the concept of confidentiality (*see recommendation 29*).

13. GROUNDS FOR NON-EXECUTION

13.1. General

On grounds for refusal, Article 11 of the Directive reflects the compromise reached in negotiations; a list of grounds for refusal applicable to all measures, including in particular an explicit clause on fundamental rights, for the first time in a mutual recognition instrument; there are also some specific grounds that apply only to certain investigative measures.

Article 11 of the Directive is transposed in Section 875.⁶ CPL, stating reasons for refusal of recognition and execution of an EIO.

The State Police as the executing authority indicated that the execution of an EIO is most often refused where:

- the EIO does not fall within the jurisdiction of the executing State, information concerning this is not included correctly and additional information is not submitted;
- insufficient justification is provided for the requested investigative measure; for example, lack of reason or sufficient facts;
- the requested measure cannot be carried out because it is contrary to the norms of the CPL. For example, a request is made for surveillance and tracking of a person using a telephone number identified in criminal proceedings, but the person concerned is unknown and not enough facts are provided to identify the person.

As issuing authority in pre-trial criminal proceedings, neither the PGO nor the State Police has received a refusal to execute an EIO. When an issue arises relating to a possible refusal, the State Police noted that it exchanges information whether as issuing or as executing authority. If information on legal remedy in the issuing Member State is lacking, additional information will be requested.

The courts indicated that grounds for non-execution had included facts related to the person being unreachable, as well as to the offence not being punishable in Latvia.

13.2. Dual criminality

Latvia has not encountered the dual criminality test being invoked for the offences listed in Annex D to the Directive or in relation to the investigative measures listed in Article 10 (2) of the Directive. The Latvian authorities execute a request for a non-coercive action even if the offence concerned is not criminal in Latvia.

13.3. Ne bis in idem

Under Section 875.⁶ (4) CPL, recognition and execution of an EIO may be refused if it would infringe the principle of inadmissibility of double jeopardy (*ne bis in idem*). When they receive an EIO, Latvian authorities check the National Criminal Record to assess whether an EIO has any connection to a national ongoing investigation.

13.4. Immunities or privileges

Under Section 875.⁶ (1) CPL recognition and execution of an EIO may be refused if immunity exists. Immunity is considered an optional ground for non-execution. When possible, efforts are made to revoke the immunity; if this is not possible, the EIO may be refused.

13.5. Fundamental rights

The Latvian authorities have not had experience of the ground for refusal mentioned in Article 11(1)(f), either when executing or when issuing an EIO, other than a refusal concerning attendance at a trial via videoconference. German authorities did not allow a suspect to attend a trial via videoconference. As mentioned above in Chapter 9, a request for a preliminary ruling is currently pending before the CJEU, seeking clarification of whether the option of hearing an accused person by videoconference, under Article 24(1) of Directive 2014/41/EU, may also be used to ensure that an accused person participates in a trial; see *Linte* C-285/23.

The evaluation team invites the Commission to consider amending the Directive to provide clarity on applying the EIO to ensure that the accused person attends the main trial (*see recommendation 29*).

14. TIME LIMITS

Article 12 of the Directive, on time limits for recognition or execution, is transposed in Section 875.⁵ CPL, ‘Periods for recognition and execution of a European Investigation Order’.

The State Police complies with the time limits. In rare cases, execution as required is not possible, due to objective circumstances, of which the issuing authority is informed. As issuing authority, the State Police indicates that the time limits are not always complied with. In rare cases, executing authorities provide information about the reasons for delays.

The PGO complies with the time limits, with certain exceptions, which are notified to the issuing State. As issuing authority, the PGO has encountered partial compliance with the time limits.

As issuing authority, Latvia contacts the EJN or Eurojust for assistance if no answer is received from the executing State after several attempted direct contacts. The evaluation team wishes to commend Latvia for seeking assistance from the national desk at Eurojust whenever direct contacts are not sufficient (*see best practice 7*).

The evaluation team wishes to underline the importance of meeting the deadlines stipulated in the Directive and recommends that Member States comply with the deadlines and swiftly inform issuing authorities of any delays (*see recommendation 14*).

The MoJ pointed out that if additional information is required, the competent court in Latvia always tries to inform the issuing authority in a timely manner.

The State Police deals with an EIO as a matter of urgency when the issuing State so requests. There may be a problem with this when urgent EIOs are submitted in English and not in the official language of the country. Translation delays execution. In cases where there is no verification of information through police cooperation mechanisms before an EIO is issued, inaccurate information about persons, addresses, etc., is sometimes included in the EIO, which also delays execution and makes it difficult to execute the EIO with urgency.

The PGO noted that the criteria for urgency are usually the following: concealment and destruction of evidence, forthcoming trial, common date of a joint operation, statutes of limitation, imminent expiry of time limits for restricting the rights of persons, etc. The main problem is late submission of an EIO by a foreign country. The judges indicated that they take into account the designated date of the hearing, as well as the real feasibility of executing the EIO without undue delay.

The evaluation team recommends that issuing authorities, when labelling an EIO as urgent, provide the relevant information in support of the 'urgent' label, such as an upcoming trial date. At the same time, issuing authorities should make sensible use of the 'urgent' label, so that it does not lose its meaning (*see recommendation 16*).

15. GROUNDS FOR POSTPONEMENT OF RECOGNITION OR EXECUTION

Article 15 of the Directive is transposed in Section 875.⁷ CPL, on reasons and time periods for postponing execution of an EIO. Latvian authorities have not encountered any situations of postponement.

16. LEGAL REMEDIES

Section 875.¹² CPL stipulates how to submit a claim regarding execution of an EIO. This section provides that a complaint regarding the basis for issuing an EIO is to be submitted to a competent authority of the Member State which issued the EIO and that authority is to examine that complaint and decide regarding such a claim.

The *Gavanozov II* judgment by the CJEU (C-852/19) has not led to practical or legal problems connected to the use of EIOs in Latvia. As regards action related to the execution of an EIO, Section 875¹² (1) CPL provides that action related to the execution of an EIO may be appealed in accordance with the procedures laid down in CPL. Specifically, Chapter 24 CPL, ‘Complaints’, is applicable. Section 336 (1) CPL provides that a complaint regarding the actions or rulings of an official conducting criminal proceedings may be submitted by a person involved in the proceedings, as well as by a person whose rights or lawful interests have been infringed by the specific actions or ruling.

A private person may also ask the investigative authority to perform additional investigation. Under Section 875.¹² (4), if a complaint is received regarding action related to the execution of an EIO, the competent authority of Latvia is to inform the competent authority of the European Union Member State of the receipt of and basis for the complaint, and also the outcome of the examination of the complaint.

A legal challenge does not have suspensive effect on the execution of the investigative measure. If the decision of the legal challenge deemed the execution not allowed, the evidence cannot be used.

Article 14(5) of the Directive, the part dealing with the obligation of the issuing authority to inform the executing authority of the remedies sought in the issuing State, has been transposed in Section 875.¹² (4) CPL. Section J of Annex A is filled in if a measure can be appealed under the CPL.

17. TRANSFER OF EVIDENCE

Article 11 of the Directive is transposed in Section 875.¹¹ CPL, on transfer of evidence.

When executing an EIO in Latvia, colleagues from the issuing State are usually present and take the seized objects or evidence with them directly. If bulky goods are to be transferred, the issuing Member State has to bear the cost. When the transmission involves big data or large amounts of electronic evidence, if possible, the data is just mirrored, after which the material is put on hard drives or sent via SIENA.

As to intercepted telecommunications, the information cannot be transmitted in real time, nor can an official from the issuing State take part in the interception in real time. The data can be transferred after one hour and then put on hard drives or CD or sent via SIENA. A judge's order is not needed to transfer the data.

18. OBLIGATION TO INFORM - ANNEX B

Article 16(1) of the Directive is transposed in Section 875.⁴ (1) CPL, imposing an obligation to notify a competent authority of the European Union Member State in no more than seven days, by completing an approval of receipt of the EIO.

The State Police has encountered cases in which Annex B was not received at all or not received in time, and even cases in which Annex B was received after 12 or 18 months. The fact that Annex B has not been received is ascertained when the time limit for execution of the EIO expires. The central authority of the executing State is contacted to ask about the progress of the EIO's execution and also indicating that Annex B was not received. The courts reported that they had always received Annex B.

There have been cases where Annex B was sent to an incorrect email address; therefore, it would be helpful if the documents related to the EIO were sent to several email accounts (to the sender, the shared email account of the central authority and the person directing the proceedings).

The State Police always sends Annex B within the time limits set. Of the judges surveyed, one said that he always sent Annex B, while another judge said that he did not always send it.

The evaluation team would like to emphasise the importance of always sending Annex B in time and therefore makes a recommendation to Latvia as well as to all Member States in this regard (*see recommendations 3 and 17*).

19. COSTS

Under Section 680 CPL, on expenditures, Latvia has to cover expenditures that arise in performing criminal-legal cooperation in its territory and in connection with the transit of a person to Latvia through the territory of a third country, if this part of this Law, another laws and regulations, or the mutual agreement of the countries does not specify otherwise.

The State Police has not encountered any difficulties regarding the costs related to the execution of an EIO. To date, no investigative actions with significant costs have been requested. The highest costs are for interpreters for the execution of procedural actions, when representatives of the issuing authority participate. Issuing Member States have been asked to cover high interpretation costs, if no in-house interpreter has been available for the language concerned. Similarly, the issuing Member State has been asked to cover the costs of transfer of bulky goods.

High costs may include the storage of seized property (objects) for long periods until they are handed over to the issuing authority and the costs of conducting expert examinations. High costs may result from the purchase of data carriers in cases of large volumes of information (creation of mirror images, etc.). Cost-related problems can be addressed through a consultation mechanism, in accordance with Directive 2014/41/EU. The issuing State is always informed of the increased costs.

Latvian authorities neither reported any delays owing to exceptionally high costs nor did they encounter any difficulties while carrying out consultations, either as issuing or as executing authority. Latvia would nevertheless welcome guidelines on costs from Eurojust. The evaluation team wants to note as a best practice Latvia's frequent use of information and consultation with the issuing State in the event of increased costs (*see best practice 11*).

As the issue of costs could benefit from further guidance, the evaluation team invites the Commission to consider creating guidelines on when to label costs as exceptionally high, to give Member States the initial tools to enter into consultations. The guidelines could mention the option of turning to Eurojust to facilitate such consultations if needed. Reference is also made to Article 31 of the Regulation on freezing and confiscation orders, which already includes a provision of this kind (*see recommendation 26*). Eurojust is also invited to consider issuing guidelines on ‘excessive costs’ to offer guidance to judicial authorities (*see recommendation 31*)

20. COORDINATION OF THE EXECUTION OF DIFFERENT EIOS IN DIFFERENT MEMBER STATES AND/OR IN COMBINATION WITH OTHER INSTRUMENTS

According to Latvia, no particular problems have been encountered in practice in cases in which parallel or linked proceedings were ongoing in several Member States and searches and/or other investigative measures had to be executed simultaneously in a ‘joint action day’. In most cases, Eurojust or Europol is involved.

Measures of these types are complex, tricky, time-consuming and require careful preparation, but usually joint meetings are organised, during which all important issues are discussed.

Where few Member States are involved, for example two (such as Lithuania and Estonia, which are immediate neighbours), parallel actions take place without the involvement of Eurojust or the EJN; but the Member States communicate with each other and agree on the measures to be taken before procedural actions are executed.

The PGO pointed out that there have been difficulties related solely to insufficient preparation time. Support from Eurojust has been used.

The statistics provided by Eurojust (see Chapter 22) confirm that the Latvian authorities indeed reach out to Eurojust not only in bilateral cases (e.g. facilitation of and follow-up on the execution of EIOs, particularly in urgent cases), but also in multilateral cases (coordination).

21. SPECIFIC INVESTIGATIVE MEASURES

There is no specific chapter on specific investigative measures in Latvia's CPL, corresponding to Chapter IV of the EIO Directive. Under Section 875⁹ CPL, execution of a procedural action requested in EIO takes place in compliance with the procedures laid down in the CPL regarding performance of procedural actions and international cooperation in the field of criminal law.

On the other hand, an investigative measure requested by Latvian authorities in an EIO must comply with the requirements for performing investigative or procedural actions laid down in the CPL (see Sections 887¹ (1), 887² (1), 887³ (1)). Thus, temporary transfer is regulated by Sections 854-856 and 878 CPL, hearing via videoconference by Sections 851, 877 (2) point 3 and 140 CPL, covert investigations and interception of telecommunications mainly by Section 854 CPL and provisions included in Chapter 11 CPL (on special investigative actions), searching of premises by Sections 179-180 and 182 CPL, and obtaining banking information also by Section 63¹ of the Credit Institution Law. Interception of telecommunications without technical assistance is regulated by Section 875⁹ CPL (in its Chapter 82¹, on recognition and execution of EIOs) and Section 887⁴ (included in Chapter 83¹ on taking an EIO and transfer for its execution).

21.1. Temporary transfer (Article 22-23)

Temporary transfer, regulated in Articles 22 and 23 of the EIO Directive, is covered in Sections 854-856 (Chapter 82) and Section 878 (Chapter 83) CPL. Pursuant to Section 854 CPL, at the request of a foreign country, a person who has been detained in Latvia, is being held under arrest in Latvia, or is serving a sentence involving the deprivation of liberty in Latvia, may be transferred for a specific period to the foreign country for the purposes of providing or confronting testimony, provided that that person will be immediately transferred back to Latvia after completion of the procedural action, no later than the last day of the period of the transfer. On the other hand, Section 855 CPL provides that if a foreign country requests that a person being held under arrest or serving a sentence involving deprivation of liberty in that foreign country be located in Latvia during a procedural action, the competent authority may permit the acceptance of that person during the performance of the procedural action. After execution of the request, such persons are to be transferred back to the foreign country immediately, no later than the last day of the period of transfer.

An EIO issued by Latvian authorities for temporary transfer is subject to Section 878 CPL, which sets out general rules for requests regarding the temporary transfer of a person. The competent authority may, on the basis of a written proposal by the person directing the proceedings, request that a person who has been detained in a foreign country, is being held under arrest in a foreign country, or is serving a sentence involving the deprivation of liberty in a foreign country, be transferred for a specific period for the performance of procedural actions. After execution of the request, such a person is to be transferred back to the foreign country immediately, no later than the last day of the period of transfer.

The competent authority may, on the basis of a proposal from the person directing the proceedings, request a foreign country to temporarily accept a person being held under arrest or serving a sentence involving the deprivation of liberty in Latvia, if the presence of that person is necessary for the execution of a procedural action in the foreign country.

There are not specific authorities to deal with issuing and executing an EIO regarding temporary transfer of a person. This means that: at the investigation stage, such an EIO is issued by the investigator and then validated by the prosecutor, or else is issued by the prosecutor; at the prosecution stage, by the prosecutor; and in the trial, by the court, which also sends the EIO to the competent authority of another Member State. The execution of such an EIO depends on the stage of the proceedings and is the same as execution of an EIO according to general provisions: if the order has been issued in the pre-trial proceedings, it is recognised and executed by the PGO and, until the commencement of prosecution, by the State Police. When an EIO is received after the transfer of a case to the court, the decision regarding recognition and execution is taken by the court. However, in accordance with Section 856 CPL, the competent authority must assign the national police to coordinate with a foreign country and perform the transfer or acceptance of a person for a term. The International Cooperation Department of the State Police of Latvia is involved in organisational issues and the physical transfer of a surrendered person.

In line with Article 22 (2) (a) of the EIO Directive, Section 854 (2), point 1 CPL authorises refusal of the transfer of a person detained, under arrest, or serving a sentence involving the deprivation of liberty in Latvia to a foreign country for the purpose of providing or confronting testimony, upon the request of the foreign country, if the person does not consent to such a transfer. This provision forms the basis for a special procedure to determine the individual's consent to their temporary transfer before execution of the EIO.

During the evaluation visit, Latvian practitioners mentioned that temporary transfer on the basis of an EIO had very rarely been applied (it had never happened at trial stage). It should be also noted that the Latvian authorities properly distinguish temporary surrender on the basis of Framework Decision 2002/584/JHA on the European Arrest Warrant from temporary transfer of a person on the basis of the EIO. The latter serves in particular for gathering evidence.

However, after analysing Section 854 (1) CPL, the evaluation team concluded that Articles 22 and 23 of the EIO Directive had not been implemented to the full extent in this provision of the CPL.

While the Directive provides for the temporary transfer of a person held in custody for the purpose of carrying out an investigative measure with a view to gathering evidence for which the presence of that person is required, Section 854 (1) of the CPL is limited to the temporary transfer of a person to provide or confront testimony. This provision of national law is thus narrower than Articles 22 and 23 of the EIO Directive. Although Latvian practitioners present during the evaluation visit assured the evaluation team that they had construed the scope of Section 854 (1) in compliance with the EIO Directive, having assumed that this provision also included investigative measures other than providing or confronting testimony, the evaluation team considered that this section was not in line with the Directive. The evaluation team therefore recommends that Latvia implement Articles 22 and 23 of the Directive to their full extent in Section 854 (1), so that this provision includes all possible types of evidence gathered with the required presence of the person transferred (*see recommendation 7*).

Pursuant to Section 680 (2) CPL, the Latvian authorities covered costs arising in the execution of temporary acceptance of a person or his or her transfer at their request.

21.2. Hearing by videoconference

Hearing by videoconference, as regulated by Article 24 of the EIO Directive, is provided for in Section 851 CPL. This measure provides that a procedural action may be performed using technical means at the request of a foreign country or on the proposal of the institution executing the request and with the consent of a foreign country. A person who has the right to defence may be examined using technical means if the person assents. This Regulation complies with the requirements imposed by the EIO Directive (Article 24 (2) point a). On the other hand, Section 877 (2) point 3 CPL lays down that a foreign country (another Member State) may also request that a procedural action be performed using technical means.

Hearing by videoconference is generally regulated in Section 140 CPL, under which procedural actions, including questioning, may be performed using technical means (teleconference or videoconference) if the interests of criminal proceedings so require. Although Section 851 CPL constitutes *lex specialis* in relation to Section 140 CPL, the requirement of the interest of criminal proceedings justifying the use of technical means in the course of investigative action on the basis of an EIO also applies to videoconference requested in the incoming EIO. The Latvian authorities assume that if a hearing by videoconference is being requested on the basis of an EIO (a mutual trust instrument) by the requesting State, *ipso facto* the prerequisite for justifying such action on the basis of the interest of criminal proceedings has been also met in this State.

The Latvian authorities issue, recognise and execute EIOs pertaining to hearing by videoconference according to the general rules already described in this report.

During the evaluation visit, Latvian practitioners acknowledged that EIOs concerning hearings by videoconference are widely used at the trial stage (both incoming and outgoing EIOs). After receipt of such an EIO, the MoJ determines a court competent for its execution and the technical assistance necessary to carry out the VDC hearing. This technical support is provided for Latvian courts by the IT Division of the Court of Administration. This court also deals with consultation processes, including technical arrangements prior to interrogation using videoconference. Outgoing EIOs regarding hearings by videoconference are sent by courts directly to the authority competent in another Member State for their execution.

Technical information and contact details essential for establishing a connection between a requesting Latvian authority and its foreign counterpart in another Member State are always included in Section H2 of the EIO form (Annex A to the EIO Directive). This practice facilitates direct contacts between the Latvian issuing authority and the executing authority in the executing State and has a positive impact on effective cooperation between them. Thanks to this, all technical details are discussed in advance before a person is questioned. Prior to a hearing by videoconference, test calls are always made between the two authorities (2-3 days beforehand). The evaluation team therefore decided to praise Latvia for the practice of including technical information and contact data in Section H2 of the EIO form (*see best practice 10*) and to encourage other Member States to adopt this approach too.

Moreover, Sections 140 and 851 PL define the performing of an investigative action using ‘technical means’. This broad term, ‘technical means’, allows for the use of different communication channels for hearings via videoconference, which makes the process flexible and adaptable to each specific case. According to the PGO, the quality of internet signals can be a problem for video communications in prisons. Moreover, practitioners present during the evaluation visit reported some cases in which a requesting State had asked for a hearing by videoconference, setting a date with a very short gap between receipt of an EIO seeking execution of this measure by the Latvian authorities and the date of the hearing expected by the requesting Member State. In such a situation it may be difficult for a judge to book a court room appropriately equipped to conduct a VDC interrogation, as the court room may already be booked for another hearing in a different case.

Another difficult problem can be summoning the person involved in the hearing and ensuring that he or she is present at the requested interrogation, if the time between receipt of the EIO requesting the hearing and the expected interrogation date is short. Considering these practical aspects of hearings by videoconference, the evaluation team decided to recommend other to Member States and their issuing authorities that, whenever possible, they allow executing authorities in another Member State sufficient time between receiving the EIO request to conduct hearings by videoconference and setting a reasonable date for such a hearing, which allows the requested authority to prepare properly for this investigative measure (*see recommendation 25*).

At the pre-trial stage, the State Police and the Latvian PGO, as executing authorities, have noted cases in which the suspect did not consent to a hearing via videoconference. However, refusing to allow a suspect to be interrogated by videoconference is not a reason to refuse to execute an EIO. In such a case, the hearing is conducted without the use of a videoconference, and the issuing authority is asked by the Latvian executing authority to send the questions to interview the person.

Pursuant to Section 140 and 851 CPL and information provided by Latvian practitioners in hearings by VDC on the basis of a request in an EIO, the following take part: a representative of the Latvian institution fulfilling the request (such EIOs are mostly executed by State Police at the pre-trial stage and by a judge at the trial stage); a person interrogated; a legal representative of that person, if applicable; and, if necessary, an interpreter. A representative of the Latvian executing authority certifies the identity of the persons involved and ensures that the interrogation proceeds in conformity with the basic principles of Latvian criminal procedure. If, in the course of a hearing by VDC, the basic principles of Latvian criminal procedure are violated, the representative of the Latvian authority immediately takes measures for such activity to continue in accordance with the principles referred to.

A person who has been summoned to provide testimony also has the right not to provide testimony where non-provision of testimony is legal in the country that submitted the EIO (see Section 851 CPL). Persons being heard by videoconference in Latvia are instructed on their rights and obligations under Latvian law and are informed about the law of the requesting State pertaining to their hearing. A person interrogated via VDC can contest the interrogation on the basis of general rules laid down in the CPL. The representative of the Latvian executing authority draws up a protocol indicating the place, date and time of the occurrence of the hearing and the identifying data of each person present during the action. A video recording of the hearing is also available to the requesting authority.

The MoJ has also noted in practice cases in which some countries refuse to use videoconferencing as requested in an issued EIO, if the accused person is required to participate throughout the proceedings (entire trial). Other Member States accept requests to execute EIOs issued so as to ensure that the accused participates in the proceedings. During the evaluation visit, Latvian practitioners admitted that they were waiting for the upcoming ruling in case C-285/23 (*Linte*) pending before the CJEU and initiated by a Latvian referring court. The subject-matter of this case pertains to whether a hearing of the accused person by videoconference in the meaning of Article 24 of the EIO Directive includes the situation in which the accused person participates in the trial in a criminal case in a different Member State by videoconference from that person's Member State of residence. According to an opinion presented by a representative of the PGO, if it is necessary only to ensure the presence of the accused at a trial, an MLA request should be issued instead of an EIO, because the request does not concern an evidentiary action in such a case.

During the on-site visit, the Latvian bar association raised the problem of hearings of Latvian citizens abroad by Latvian authorities via videoconference or other means of remote communication, with the consent of the persons being interrogated, at the pre-trial and trial stages but without an EIO having been issued beforehand. This practice was common during the COVID-19 pandemic period and was questioned by defendants because of the lack of a legal basis for interrogating persons staying abroad in this way.

However, this point was clarified by the PGO and the MoJ. Their representatives confirmed that hearing Latvian citizens by remote communication means, with their consent, had been applied as an attempt to work within the pandemic situation. On 4 November 2020, the Supreme Court of Latvia issued a resolution affirming that the practice described was in violation of procedural criminal law. As a result of that ruling, the practice was ended in Latvia.

21.3. Hearing by telephone conference

Although hearing by telephone conference is possible on the basis of Sections 140 and 851 CPL, which make reference to performance of an investigative action using technical means (including telephone conference), Latvian practitioners reported during the evaluation visit that hearing a person as a witness, suspect or victim by telephone conferencing had not been applied in practice.

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

While there are two separate articles regarding information about bank and other financial accounts (Article 26 of the Directive) and information about banking and other financial operations (Article 27 of the Directive), the CPL does not include any specific provisions on the issuing and executing of EIOs pertaining to gathering banking information.

In a domestic case, the State Police drafts a reasonable proposal for the investigating judge to issue a decision on requesting bank information from a bank or credit institution. Then, if the investigating judge has accepted such a proposal after it has been checked, the request is returned to the police office and then sent electronically to the bank. Data on banking operations are available in the system 24/7 in digital format. If a request pertains to obtaining bank statements / documents, they will be delivered by this financial institution, usually on paper (hard copy). Latvian prosecutor's offices use the same system.

The execution of an EIO concerning banking information or data on financial transactions is subject to general rules already described in the report. Thus, if an EIO has been issued at the pre-trial stage, it is enforced by the State Police or PGO; if at the trial stage, by the court.

In the execution of EIOs, information on bank accounts and financial transactions is gathered and transmitted to the requesting Member State in electronic format; this has been identified by the evaluation team as a best practice adopted by the Latvian authorities (*see best practice 9*).

Owing to the importance of swift transmission of banking information requested by an issuing authority and gathered by an executing authority, the evaluation team recommends that other Member States also make it possible for banks and other financial institutions, as well as executing authorities, to process banking and similar information in electronic format (*see recommendation 24*). The Commission is also invited to add a section to the EIO form on the technical information necessary to receive banking information in electronic format (*see recommendation 27*).

If the Latvian authorities receive an EIO seeking banking information and indicating that the data should be obtained by a search of the premises of a bank or other financial institution, they always inform the issuing authority about the possibilities of using different (less intrusive) investigative measures (in conformity with Sections 875³ and 875⁴ CPL). Compliance with these provisions and Article 10 (4) of Directive is important for the admissibility of evidence gathered on the basis of an EIO in the issuing State.

If the EIO has been issued to obtain banking information at the pre-trial stage by the State Police or prosecutor, a decision by the investigating judge on gathering this type of evidence is not attached to the EIO. However, if a decision on the admission of this kind of evidence is issued, it is also mentioned in the EIO form.

According to Latvian legislation and practice, an EIO concerning banking information and data on financial operations can be issued and executed not only in relation to a suspected or accused person but also any other person involved in respect of whom such information is found by the competent authorities to be necessary. It depends only on facts established in the course of a case. The evaluation team found this to be in line with the Directive.

During the evaluation visit, the Latvian practitioners also confirmed that an EIO can be issued or executed to determine if a natural or legal person subject to criminal proceedings holds one or more accounts in banks or in any non-bank financial institution located on the territory of the executing State. In Latvia there is a central account registry database, to which the State Police have access. This system makes it possible to obtain information about bank account numbers belonging to any person or entity involved in the criminal case.

Such information can also be retrieved from the State Revenue Database. To obtain documents and transactions related to a particular bank account, an investigating judge's decision is always needed. The State Police may also transfer information about the holding of a bank account by a particular natural or legal person in Latvia, as part of police-to-police cooperation within the first step of cooperation, before an EIO has been issued.

In the execution of an EIO seeking banking information, the Latvian authorities do not inform the holder of the bank account of the transmission of such data for criminal proceedings. This non-disclosure rule is laid down in Section 63¹ of the Credit Institution Law.

21.5. Covert investigations

Covert investigations included in Article 29 of the EIO Directive are covered in Latvian law in Section 853 CPL and in some provisions of Chapter 11 CPL, including provisions on special investigative actions.

In general, Section 853 CPL provides that a special investigative action is to be performed at the request of a foreign country only where such an operation would be admissible in criminal proceedings taking place in Latvia regarding the same offence. Chapter 11 CPL lays down a framework for special investigative actions. Such an action is permissible only in investigating less serious, serious or especially serious crimes (see Section 210 (3) CPL). Under Section 7 (3) of the Latvian Criminal Law, a less serious crime is an intentional offence for which the deprivation of liberty for a period exceeding three months is provided for. As a result, this sanction is a threshold for applying special investigative measures in Latvia. In conformity with Section 210 (1), such actions may be performed only if, in order to ascertain circumstances to be proven in criminal proceedings, it is necessary to acquire information regarding facts without informing the persons involved in the criminal proceedings and the persons who could provide such information. Persons directing the proceedings, or investigating institutions and persons employed by them, may perform special investigative actions after receiving the decision of an investigating judge. If the use of the means and methods of an operational action are necessary for the enforcement of a special investigative action, such an operation is to be performed only by State institutions specially authorised by law. It was established during the evaluation visit that the list of these Latvian specialised State institutions is top secret.

According to Section 215 CPL, the following types of special investigative actions exist in Latvia:

- monitoring of legal correspondence;
- monitoring of means of communication;
- monitoring of data in an automated data processing system;
- monitoring of the content of transmitted data;
- audio- monitoring of a site or a person;

- video-monitoring of a site;
- surveillance and tracking of a person;
- surveillance of an object;
- a special investigative experiment;
- acquisition in a special manner of samples necessary for a comparative study;
- monitoring of a criminal activity.

All special investigative actions carried out without informing the persons involved are regarded by the Latvian State Police as covert investigations.

In Latvia, covert investigations may involve officials and persons authorised to use information and documents specially prepared beforehand. They may also use organisations or undertakings, imitations of objects and substances and specially prepared technical means and may feign participation in the perpetration of a criminal offence or participation as an accomplice.

The decision on recognition and execution of an EIO issued for covert investigations belongs in majority of cases to the State Police, acting under the supervision of a prosecutor. Which authority is competent for the recognition and execution of such an EIO depends on the stage of proceedings at which the EIO was issued. However, a decision on implementing a requested special investigative action is taken by an investigating judge. Covert investigations on the basis of an EIO may be conducted in Latvia for up to three months (surveillance can be carried out for longer periods). If the issuing authority decides to extend the covert investigations, special investigative measures may be extended for as long as necessary in Latvia (there is no time limit for such activities).

Under Latvian law, it is possible to act under cover or with a false identity to assist the issuing State in investigating a crime. Such cooperation is covered by an EIO (in documents only the first letters of the name of such a person are given). Such an operation was applied in one case, in which an EIO relating to the carrying out of a special investigative instrument from Estonia was executed. Persons who may act under cover or with a false identity while executing an EIO are specified in a special instruction, which is a top-secret document, issued by police authorities. It is also possible to use an agent from another Member State in covert investigations in Latvia, this being regulated by a specific internal provision.

Article 29 (4) of the EIO Directive stipulates that the duration of the covert investigations, the detailed conditions and the legal status of the officers concerned during covert investigations must be agreed between the issuing State and the executing State, with due regard to their national laws and procedures. During the evaluation visit, the representatives of the State Police conveyed that the necessity of agreeing on these issues connected with performing covert investigations depends on the particular case and the type of action requested. Authorities from the issuing State and the executing State are in close contact (by phone and e-mail) to agree on how the actions included in covert investigations are to be performed.

The Latvian authorities reported that they have not faced any difficulties in cases of covert investigative measures involving differences in national law complicating the execution of an EIO. Nor have the State Police encountered any such cases, either as issuing authority or as executing authority.

Material gathered in Latvia as a result of conducting covert investigations on the basis of an EIO is protected only by the confidentiality of an investigation. There are no problems transmitting material collected from Latvia to the requesting State. Only internal documents produced by covert investigations performed in Latvia are protected as classified information.

21.6. Interception of telecommunications

At present, there is no uniform understanding of the expression ‘interception of telecommunications’ in the European Union. Consequently, Member States have different views as to whether or not certain techniques, such as GPS tracking, bugging a car or installing spyware on a device to intercept conversation at source, or audio/video surveillance, fall under the legal regime of interception of telecommunications (Articles 30 and 31 of the Directive).

For some of these measures, some Member States would use an Annex C, whereas other Member States would send an Annex A. These different interpretations have a negative effect on judicial cooperation in this field. In view of these findings, the evaluation team has deemed it appropriate to recommend that the EU legislators clarify the concept of ‘interception of telecommunications’ (see *recommendation 28*).

The interception of telecommunications with technical assistance, as mentioned in Article 30 of the EIO Directive, is also covered by Section 853 CPL. This measure may thus be applied where interception would be admissible in criminal proceedings taking place in Latvia regarding the same offence. The criteria for authorisation of interception of telecommunications that apply in domestic cases are set out in the CPL. The same criteria are used when the Latvian authorities request such a measure in another Member State by issuing an EIO (see Sections 887¹ (1), 887² (1), 887³ (1) CPL).

The State Police and the PGO noted that when intercepting telecommunications, they assess compliance with Sections 210 and 218 CPL.

As mentioned in the previous point, on covert investigations, Section 210 CPL provides that special investigative actions are to be performed if, in order to ascertain circumstances to be proven in criminal proceedings, it is necessary to acquire information regarding facts without informing the persons involved in the criminal proceedings and the persons who could provide such information. A decision of an investigating judge is required for such a special investigative action. If the means and methods of an operational action are necessary for the enforcement of such an action, its performance is to be entrusted only to State institutions specially authorised by law. The performance of a special investigative action may be permitted only in investigating less serious, serious or especially serious crimes. As defined in Section 7 (3) of Latvian Criminal Law, a less serious crime is an intentional offence for which the deprivation of liberty for a period exceeding three months is provided for.

Pursuant to Section 218 CPL, telephones and other means of communication may be monitored without the knowledge of the participants in a conversation or the sender and recipient of information on the basis of an investigating judge's decision, if there are grounds to believe that the conversation or information transmitted may contain information regarding facts that form part of circumstances to be proven, and if the acquisition of the necessary information is not possible without such an operation.

However, telephones and other means of communication may be monitored with the written consent of a participant in a conversation, or the sender or recipient of information, if there are grounds to believe that a criminal offence may be directed against such persons or their immediate family, or if that person is involved or may be enlisted in the committing of a criminal offence. Interception of telecommunications may be performed in Latvia for up to three months, and the interception period may be extended.

An EIO concerning interception of telecommunications may be sent directly to the State Police or PGO (which forwards such an EIO to the State Police). However, Section 218 CPL provides that telephones and other means of communication can be monitored without the knowledge of the participants in a conversation or the sender and recipient of information solely on the basis of a decision of an investigating judge.

The Latvian State Police had not experienced any cases in which the executing authority had refused to execute an EIO issued for interception of telecommunications on the grounds that the requested measure would not be available in a similar domestic case in the executing Member State.

21.6.1. Scope of the concept of ‘interception of telecommunication’ and use of Annexes A and C

Section 215 CPL explicitly categorises special investigative actions as follows: monitoring of means of communication, monitoring of data in an automated data processing system, monitoring of transmitted data, audio-monitoring of a site or a person (bugging), and video-monitoring of a site. The scope of special investigative actions is broad, and all the actions mentioned above should be understood as interception of telecommunications. For technical reasons, use of malware (e.g. surveillance through Trojan horse software) is not possible in Latvia.

Both GPS tracking and bugging of a car are treated by Latvian authorities as falling within the scope of surveillance of an object, regulated in Section 224 CPL. When such actions are sought in an EIO, Annex A should be addressed to the Latvian State Police. Where a bugged car is travelling abroad or a tracking system has been installed in a car travelling to Latvia, police-to-police cooperation on the basis of CISA may also be applied instead of an EIO.

Article 31 of the EIO Directive, on interception of telecommunications without technical assistance, is transposed in Section 875⁹ CPL (action after receipt of notification regarding control of means of communication in the territory of Latvia without technical assistance of Latvia) and in Section 887⁴ CPL (notification regarding control of means of communication without technical assistance of a European Member State).

Under Section 875⁹ CPL, on receipt of a notification from an EU Member State of interception of telecommunications, the Latvian competent authority is to assess whether the control of the means of communication would be permissible in criminal proceedings occurring in Latvia for the same offence.

If the Latvian competent authority concludes from the assessment that the monitoring of means of communication would not be permissible in criminal proceedings occurring in Latvia for the same offence, in accordance with Section 875⁹ (1) CPL, it must inform the competent authority of the European Union Member State within no more than 96 hours that such monitoring of means of communication may not be carried out in the territory of Latvia, and that the commenced monitoring of means of communication must be stopped.

If a Member State notifies Latvia after the fact that monitoring of means of communication has been carried out, the Latvian competent authority is to assess whether such an action would have been permissible in criminal proceedings occurring in Latvia for the same offence and, if not, in accordance with Section 875⁹ (2) CPL, it must inform the competent authority of the requesting Member State, within no more than 96 hours that information obtained from the monitoring of means of communication carried out in Latvia may not be used in evidence, indicating the reasons for the prohibition.

The competent authority of the Member State may send the notification before or at the time of the monitoring of communications, or afterwards, once the monitoring of means of communication has already taken place in the territory of Latvia.

Annex C should be sent to the Latvian State Police, which acts as a 24/7 authority responsible for drafting and sending replies to notifications of interception of telecommunications. By the date of the evaluation visit, the Latvian authorities had registered only two incoming Annex C notifications.

Under Section 887⁴ (1) CPL, if it is necessary to monitor means of communications in one or more Member States' territory, and the technical assistance of the relevant Member States is not required, the person directing the proceedings must complete a special form notification. This notification reports the monitoring of means of communication in the Member State's territory and is sent to the Member State concerned through the Latvian competent authority. If the Member State subsequently reports that the monitoring of means of communication for the same offence would not be permissible in that Member State, the person directing the proceedings must not initiate or must terminate the monitoring of means of communication. In addition, the person must assess the use of the information obtained in the relevant Member State's territory to prove the offence (Section 887⁴ (2)).

The Latvian authorities inform Member States by sending the notification form provided in Annex C to the Directive to the competent authorities.

21.6.2. Transmission of intercepts

The information provided by the State Police, as executing authority, indicates that for technical reasons, intercepted telecommunications cannot be transmitted immediately to the issuing Member State in real time, as stipulated in Article 30(6)(a) of the Directive. However, in urgent cases, the information can be transmitted with a slight time lag (one hour) by placing the intercepted material on a CD and forwarding it to the requesting State.

The PGO also highlighted that in cases of real-time delays, technical solutions are sought with the requesting State. Prior authorisation by a prosecutor or court is not required to transfer material obtained to the requesting State. The permission of an investigating judge, issued before the interception of telecommunications, is sufficient for the subsequent transmission of the intercepted material to the requesting State.

21.7. Other investigative measures (e.g. house search)

While Article 28 of the EIO Directive specifies the specific investigative measures requiring the gathering of evidence in real time, continuously and over a certain period of time (monitoring of banking or other financial operations and controlled deliveries on the territory of the executing State), the CPL does not explicitly mention that such measures are to be taken on the basis of an EIO.

In Latvian law, the monitoring of banking or other financial operations is a traditional investigative measure, which is implemented on the basis of a decision by an investigating judge. Under Section 121 (5) CPL, the transactions in the account of a client of a credit institution or financial institution may be monitored for up to three months. However, the investigating judge may extend this period for an additional three months if necessary.

Controlled delivery is considered by the Latvian authorities as a measure that combines surveillance and monitoring of criminal activity with a special investigative experiment.

Sections 180-182 CPL are applicable to EIOs issued for house searches. The decision on a house search is made by an investigating judge or a court. The investigating judge makes the decision on the basis of a proposal from the person directing the proceedings and the materials attached with the proposal. It is important to note that the Latvian authorities do not attach the decision on a house search to the issued EIO. Furthermore, it is not necessary for a person affected by the performance of this action abroad to be served with the order. The authority responsible for executing an EIO issued for a house search depends on the stage of the proceedings when the EIO was issued. However, the execution of the house search requires a decision by an investigating judge if the EIO is issued at the pre-trial stage, or by a court if the EIO is issued at the trial stage.

21.8. Cross-border surveillance

When the physical or technical support of the Latvian authorities is required in cross-border surveillance, an EIO (Annex A) must be issued and forwarded to the Latvian authorities. If such assistance is not required, cross-border surveillance may be carried out under Article 40 of CISA. The Chief Criminal Officer is the competent Latvian authority to whom a request concerning cross-border surveillance on the basis of Article 40 of CISA should be submitted.

22. STATISTICS

22.1. Statistics extracted from the Eurojust Case Management System

During the evaluation visit, Eurojust provided statistics extracted from the Eurojust Case Management System on cases dealt with by Eurojust. It included information on: (i) the total number of EIO-related cases at Eurojust; (ii) the number of bilateral and multilateral cases involving the Latvian Desk at Eurojust; and (iii) the number of EIO-related cases in which the Latvian Desk was either ‘requesting’ or ‘requested’.⁷

All EIO-related cases at Eurojust	2017	2018	2019	2020	2021	2022	Total
Bilateral cases	51	561	988	1295	1900	2305	7100
Multilateral cases	37	231	337	462	414	401	1882
Total cases	88	792	1325	1757	2314	2706	8982

EIO cases involving Latvia	2017	2018	2019	2020	2021	2022	Total
Bilateral cases	0	15	16	34	30	32	127
Multilateral cases	3	18	23	25	29	27	125
Total cases	3	33	39	59	59	59	252

EIO cases involving Latvia	2017	2018	2019	2020	2021	2022	Total
Requesting cases	1	13	18	40	29	24	125
Requested cases	2	20	21	19	30	35	127
Total cases	3	33	39	59	59	59	252

⁷ ‘Requesting’ means that a Latvian national authority requested that the Latvian Desk open a case at Eurojust vis-à-vis one or more other Member State; ‘requested’ means that another desk at Eurojust, at the request of its national authority, opened a case vis-à-vis the Latvian Desk.

22.2. Statistics provided by Latvia

A. Statistics from the State Police

(a) Incoming and outgoing EIOs

Year	Incoming	Outgoing
2018	333	201
2019	358	673
2020	420	768
2021	470	803
2022	511	879

(b) Cases of refusal, as both the issuing and executing authority

Incoming – there have been cases, but no statistics are kept.

Outgoing – no cases.

(c) Cases in which the execution of an EIO has been postponed

Incoming – no cases.

Outgoing – no cases.

B. Statistics from the Prosecutor General's Office

(a) Incoming and outgoing EIOs

Year	Incoming	Outgoing
2018	535	137
2019	693	235
2020	649	348
2021	525	252
2022	475	320

(b) Cases of refusal, as both the issuing and executing authority

As the executing authority:

- 2019 - 1 (no dual criminality in coercive action);
- 2020 - 2 (restitution and confiscation of a car was requested);
- 2022 - 0.5 (refusal in the section on classified information).

Note: Cases where the person to be questioned was deceased, was not declared or the legal person was not linked to Latvia, Latvia was confused with Lithuania, or the EIO was revoked, are not included in the number of refusals. With Latvia as the issuing authority, there have been no refusals so far.

(c) Cases in which the execution of an EIO has been postponed

There have been no such cases.

C. Statistics from the Ministry of Justice

Between 2017 and 2022, the MoJ received a total of 299 EIOs. The distribution of EIOs per year is as follows: 12 EIOs in 2017, 60 EIOs in 2018, 43 EIOs in 2019, 46 EIOs in 2020, 58 EIOs in 2021 and 89 EIOs in 2022. The MoJ cooperated most often with Lithuania, Germany, Poland, Sweden, Finland, Spain and, before Brexit, the United Kingdom.

The MoJ does not maintain statistics on issued EIOs by the court. This is due to the requirement in Section 887.³, paragraph 2 CPL, which mandates that courts determine the competent executing authority of the EU Member State and send the EIOs directly to them.

The lack of proper statistics on refusals for the execution of incoming EIOs from the State Police, as well as the absence of grounds for these refusals, is evident from the aforementioned statistics. Additionally, there is a lack of appropriate statistics regarding the execution of EIOs transmitted from the MoJ to the courts, and for EIOs issued by courts and sent directly to the executing authorities in the Member States. Comprehensive statistics are crucial for analysing and improving cooperation between Member States by identifying gaps and disadvantages in the functioning of international instruments for judicial cooperation and their implementation by the Member States.

In light of the above, the evaluation team deems it necessary to recommend that, until the e-EDES is fully operational, Latvia improve the collection of statistics on EIOs. This includes ensuring that statistics are collected on outgoing EIOs during the trial stage and that the State Police collects statistics on the grounds for refusals and postponements of incoming EIOs falling within their competence during the pre-trial stage (*see recommendation 5*).

23. TRAINING

According to the State Police, training on the EIO was organised for all investigators of the State Police and their immediate superiors during the introduction of the EIO in 2017. The training is not provided systematically but organised as needed. Although training for practitioners on specific issues is carried out regularly, no statistics are kept regarding this. The State Police has developed and approved ‘Methodological recommendations on requests for international cooperation in criminal proceedings’, which include information on the preparation of EIOs. This material is available to all State Police officers involved in criminal proceedings.

The PGO provides training to all candidates for the post of prosecutor during their probation period. Additionally, a series of online discussions, attended by an average of 55 prosecutors, is organised at least once a year. Prosecutors of the International Cooperation Division of the PGO also act as coordinating prosecutors and provide daily telephone advice to persons directing the proceedings. The MoJ, as the central authority, organises training on international cooperation instruments in general, including the options provided by the EIO. While there is no separate training on the application of the EIO, an e-learning course is available to courts.

The Latvian Judicial Training Centre (LJTC) has organised only one course on the EIO. The LJTC, in accordance with the Law on Judicial Power, plans and provides training for judges and court employees. A cooperation agreement has been concluded between the court administration and the LJTC to ensure that the training programme meets the professional needs of judges and court employees and to guarantee the quality of the training content.

In the light of the information provided by Latvian competent authorities, the evaluation team deems it necessary to recommend that Latvia provide more regular training on EIO for judges, prosecutors, investigators of the State Police, candidate judges, and court employees (*see recommendation 4*).

It is also recommended that the European Judicial Training Network (EJTN) increase the number of courses related to the EIO, perhaps in partnership with national training projects. The training should include the interaction of various instruments for judicial cooperation in criminal matters (*see recommendation 30 to Eurojust/Europol/EJN/EJTN*).

24. FINAL REMARKS, RECOMMENDATIONS AND BEST PRACTICES

24.1. Suggestions by Latvia

The Latvian State Police has identified several practical problems in judicial cooperation in criminal matters related to ‘covert investigations’ and to special investigative actions. These issues include the following:

- Tracking and surveillance with GPS devices, e.g. in a car, may involve risks of losing the object of tracking due to factors related to human resources, especially during holidays.
- A tracked subject’s unexpected return to the country where the tracking was initiated may present problems if the country is not technically and/or physically prepared to take over the tracking at the border.
- If the special investigative actions affect three or more countries, there are organisational problems, especially if the situation changes during holidays; exchanging information and sending an EIO as a matter of urgency is not always possible in such a short period of time.

When assessing the procedures for the execution of special investigative actions in the framework of international cooperation, it is understood that the preparation of all the documents in the different authorities takes a certain amount of time – not just one or two days – before execution. Sometimes the procedure even takes as long as a month, taking into account the preparation of the proposal for special investigative actions, submission to the investigating judge, the decision being taken, the preparation, translation and transmission of an EIO and human resources capacity.

In the view of the Latvian authorities, it should therefore be indicated in the EIO from the outset that there will be a follow-up to that decision and there will be a further request, so that the executor can take this into account. For example, this is essential for the planning of special investigative actions carried out using technical means (audio or video monitoring of a site not accessible to the public, etc.); technical means must be selected that have the capacity to make possible the special investigative action, access to the site and removal of information from technical means; the replacement of power supply elements must also be planned, and so on.

When providing these indications about the prospect of continuing the action in the EIO, the person directing the proceedings should also indicate the type and intensity of transmission (perhaps even online), as well as the contact details of the person to whom the information is to be transmitted and with what periodicity.

Latvia also deems it useful to exchange operational information in parallel with judicial cooperation in criminal matters, i.e. using two channels – official and operational –not only to deal with procedural details, but also to agree on the technical side. A good solution would be to centralise cross-border tracking and surveillance by setting up a central contact point in each country, with the aim of maintaining interconnectivity 24/7.

Moreover, Latvia considers it would be advisable to integrate cross-border tracking and surveillance into the EIO Annex A form, including the ‘urgent’ option and technical tracking and surveillance.

The PGO referred to the good practice of Lithuania, Czechia and Slovakia in responding quickly to EIOs that require bank information.

24.2. Recommendations

Regarding the practical implementation and operation of the Directive being evaluated, the team of experts involved in the assessment of Latvia was able to review the system satisfactorily.

The evaluation team decided to make several suggestions for the attention of the Latvian authorities. Furthermore, related recommendations, based on the various good practices, are being addressed to the EU, its institutions and agencies, and to Eurojust in particular, as well as to the EJN. Latvia should follow up on the recommendations referred to below after 18 months, once this report has been adopted by COPEN.

24.2.1. Recommendations to Latvia

Recommendation No 1: reconsider the current practice of requesting certified copies from the issuing authorities when EIOs fall within the competence of several courts as executing authorities (*see Chapter 6.3*).

Recommendation No 2: as soon as possible, connect all competent national authorities to the e-EDES, to ensure that data transmission is secure (*see Chapter 8*).

Recommendation No 3: ensure that all executing authorities comply with Article 16 of the Directive and always send Annex B, within the time limit (*see Chapter 4.3. and 18*).

Recommendation No 4: provide for more regular training on EIOs (*see Chapter 23*).

Recommendation No 5: until the e-EDES is fully operational, improve the collection of statistics on EIOs. In particular, make sure that statistics are collected on outgoing EIOs at the trial stage, and also that the State Police collects statistics on grounds for refusals and postponements of incoming EIOs falling within their competence at the pre-trial stage (*see Chapter 22.2*).

Recommendation No 6: consider appointing the MoJ as a central authority for the EIOs to be issued during the trial stage, as it seems that in practice the Ministry is already acting in that capacity (*see Chapter 4.3.*).

Recommendation No 7: fully transpose Articles 22 and 23 of the EIO Directive, on the temporary transfer of a person held in custody for the purpose of carrying out investigative measure with a view to gathering evidence for which the presence of that person is required. Article 854 CPL is limited to the temporary transfer of a person for the provision or confronting of testimony, so it is narrower than the EIO Directive (*see Chapter 21.1*).

Recommendation No 8: executing authorities should reconsider the current practice of not keeping backup copies of the execution of EIOs sent, at least until the issuing State has confirmed receipt (*see Chapter 9*).

24.2.2. Recommendations to the other Member States

Recommendation No 9: Issuing authorities should respect the scope of the EIO and not issue EIOs for purposes other than the gathering of evidence (*see Chapter 5*).

Recommendation No 10: Issuing authorities should ensure that Section D of the EIO form includes all other instruments sent to the executing State (such as an EAW or an existing JIT) that are connected to the same investigation, so that executing authorities possess all relevant information before executing the EIO (*see Chapter 5*).

Recommendation No 11: Issuing authorities should accurately indicate the stage of proceedings, namely pre-trial or trial, on the EIO form (*see Chapter 6.1.*).

Recommendation No 12: Issuing authorities should ensure that translations of EIOs are accurate. They should also use short sentences and precise language when issuing an EIO, to facilitate accurate translation, and not copy the text of the underlying national order (*see Chapter 6.2.*).

Recommendation No 13: Member States should connect all relevant national authorities to e-EDES, as soon as possible (*see Chapter 8*).

Recommendation No 14: Executing authorities should comply with deadlines and swiftly inform issuing authorities about any delays (*see Chapter 14*).

Recommendation No 15: Executing authorities should consider keeping backup copies of the execution of EIOs sent, at least until the issuing State has confirmed receipt (*see Chapter 9*).

Recommendation No 16: Issuing authorities should, when labelling an EIO as urgent, provide the relevant information in support of the urgency, such as an upcoming trial date. At the same time, issuing authorities should make sensible use of the label ‘urgent’, so that it does not lose its meaning (*see Chapter 6.1. and 14*).

Recommendation No 17: Receiving authorities, and central authorities when applicable, should always send Annex B, and do so within the time limits laid down in Article 16 of the Directive (*see Chapter 18*).

Recommendation No 18: Issuing authorities should specify in Section I of Annex A of the EIO form if special requirements for the gathering of evidence, as well as for the evidence itself, are applicable under their laws (*see Chapter 9*).

Recommendation No 19: Executing authorities should accept EIOs sent by electronic means which comply with the conditions of Article 7 of the Directive, and not only EIOs sent by traditional post (*see Chapter 8*).

Recommendation No 20: Executing authorities should always consult with the issuing authority (in accordance with Article 9(6) of the Directive) in cases of difficulties or possible refusal, with a view to facilitating expeditious and optimal handling of the EIO (*see Chapter 9*).

Recommendation No 21: Executing authorities must comply with procedural formalities requested by the issuing Member State, as these are crucial for the admissibility of evidence, when the conditions referred to in Article 9(2) are met. In any case, consultations should take place in order to achieve the most efficient possible execution of the EIO (*see Chapter 10*).

Recommendation No 22: Where consent is sought from the relevant authority for the use of evidence by the issuing or executing State, practitioners should handle such requests expeditiously / without undue delay (*see Chapter 11*).

Recommendation No 23: Executing authorities should consider transmitting the partial execution of EIOs and not wait for its conclusion, whenever it is in the interest of the case or its urgency, and consulting with the issuing authorities in this regard (*see Chapter 9*).

Recommendation No 24: Banks and other financial institutions, as well as executing authorities, should be able to process banking or similar information in electronic format (*see Chapter 21.4*).

Recommendation No 25: Whenever possible, issuing authorities should allow the executing authorities sufficient time after receiving the EIO to conduct hearings by videoconference and to set the dates for such hearings (*see Chapter 6.1. and 21.2*).

24.2.3. Recommendations to the European Union and its institutions

Recommendation No 26: The Commission is invited to consider creating guidelines on when to label costs as exceptionally high, to provide guidance to national authorities when they are entering into consultations in that regard. The guidelines could mention the option of turning to Eurojust to facilitate such consultations, if needed. Reference is also made to Article 31 of the Regulation on freezing and confiscation orders, which already includes a provision of this kind (*see Chapter 19*).

Recommendation No 27: The Commission is invited to consider making the form more user-friendly and restructuring it to avoid the need for repetition, and to include a section on the technical information necessary for receiving banking information in electronic formats (*see Chapter 21.4*).

Recommendation No 28: The Commission is invited to consider amending the Directive to clarify the concept of interception of telecommunications, in the context of Article 31 and of Annex C, especially whether Annex C may be used for measures such as bugging of a car or GPS tracking without the technical assistance of the requested State (*see Chapter 21.6*).

Recommendation No 29: The Commission is also invited to consider amending the Directive to provide clarity regarding the speciality principle (*see Chapter 11*), the concept of confidentiality (*see Chapter 12*), and the application of the EIO to ensure that the accused person attends the main trial (*see Chapter 13*).

24.2.4. Recommendations to Eurojust/Europol/EJN/EJTN

Recommendation No 30: The EJTN should increase the number of courses related to the EIO, perhaps in the framework of a partnership with the national training projects. Training should cover the interaction of the various instruments for judicial cooperation in criminal matters (*see Chapter 23*).

Recommendation No 31: Eurojust should consider issuing guidelines on ‘excessive costs’ to offer guidance to judicial authorities (*see Chapter 19*).

24.3. Best practices

This section includes a list of best practices to be adopted by other Member States.

Latvia is to be commended for:

1. including the transposition of the EIO Directive within the Latvian Criminal Procedural Code and within the related Cabinet Regulation on the forms (*see Chapter 3*);
2. establishing a contact point within the State Police for cooperation with Eurojust and the EJM on EIOs (*see Chapter 4.3.*);
3. keeping records of EIOs received and sent by the State Police and registering them in the national database of requests on international judicial cooperation in criminal matters (*see Chapter 4.3.*);
4. the generally proactive, open and constructive attitude of the Latvian authorities to the execution of EIOs and the common practice of consulting with the issuing State, directly or through Eurojust or EJM (the latter when consulting the Atlas is not sufficient to find the competent authority), at an early stage in the execution of the EIO, to facilitate its execution and to resolve issues through bilateral consultations (*see Chapter 6.1.*);
5. when complying with the obligation to accept an additional language (Article 5 of the EIO Directive), to have chosen a language (English) which is commonly used in the EU (as recommended in Recital 14 of the Directive) (*see Chapter 6.2.*);
6. frequently using the EJM Atlas to find the competent executing authority in another Member State (*see Chapters 4.3. and 8*);
7. seeking assistance from the Eurojust national desk whenever direct contacts are not sufficient (*see Chapters 8 and 14*);
8. providing expressly in the national law for the option of direct communication between issuing and executing authorities (in accordance with Article 7(2) of the Directive) (*see Chapter 8*);
9. collecting and transmitting information on bank accounts or other financial operations in electronic format (*see Chapter 21.4.*);
10. including all technical and contact details needed to carry out hearings by videoconference in Section H.2 of Annex A of the EIO form (*see Chapter 21.2*);
11. informing and consulting the issuing authority when costs increase (*see Chapter 19*);

12. transmitting notification of partial execution of EIOs rather than waiting for their conclusion, whenever it is in the interest of the case or its urgency, and consulting with the issuing authority in this regard (*see Chapter 9*).

ANNEX A: PROGRAMME FOR THE ON-SITE VISIT

21 November 2023 – Ministry of Justice (Riga, Latvia)

09:30-12:00	Welcome speech and presentations: <ul style="list-style-type: none">- Ministry of Justice- Prosecutor General's Office- Judges- State Police
12:00-13:00	Lunch
13:15-16:30	Meetings with the authorities present in the morning

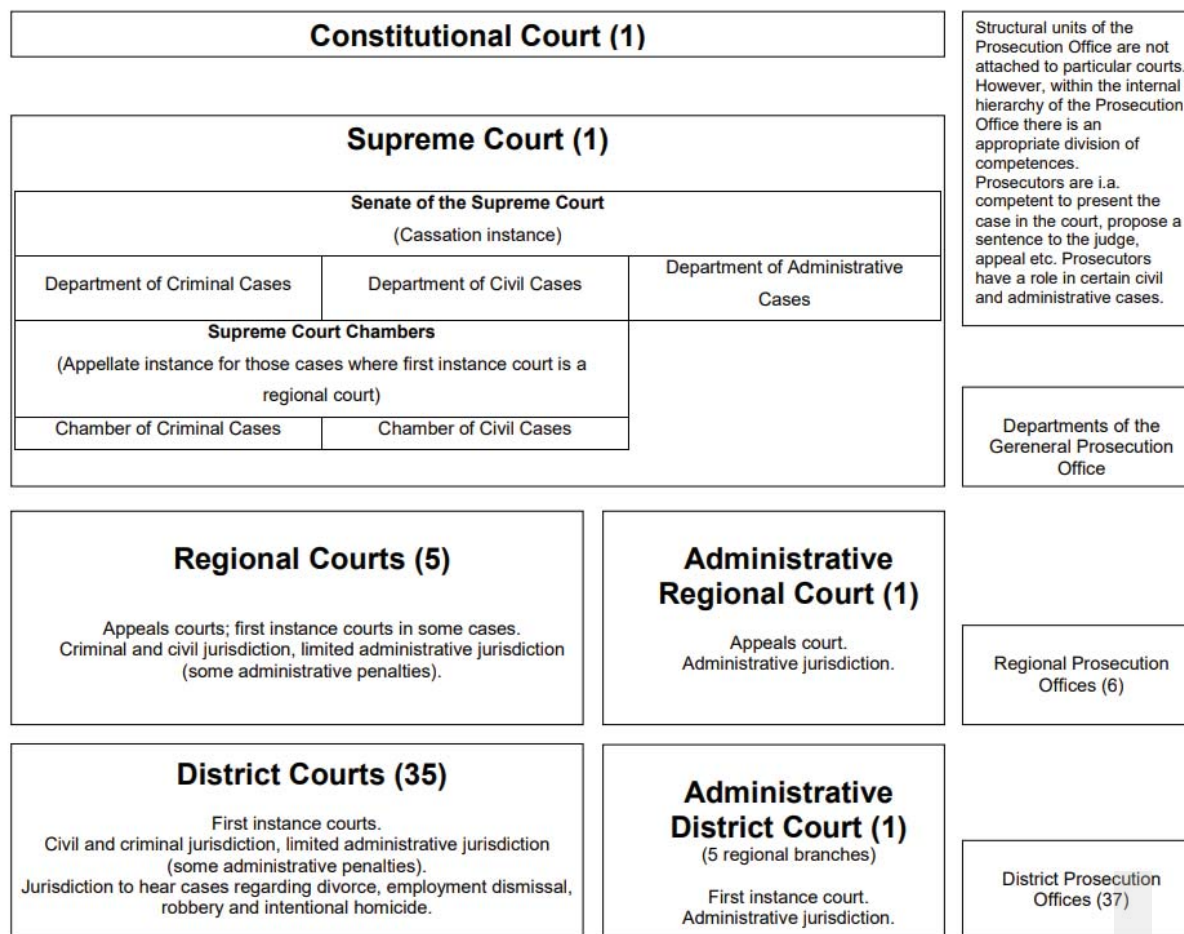
22 November 2023 – Ministry of Justice and Latvian Collegium of Sworn Advocates

09:30-12:15	Meetings with practitioners (Judges, Prosecutors, State Police)
12:15-13:15	Lunch
13:30-14:45	<i>Continuation</i>
15:00-16:30	Meetings with practitioners (representatives of the Latvian Bar Association)

23 November 2023 – Ministry of Justice

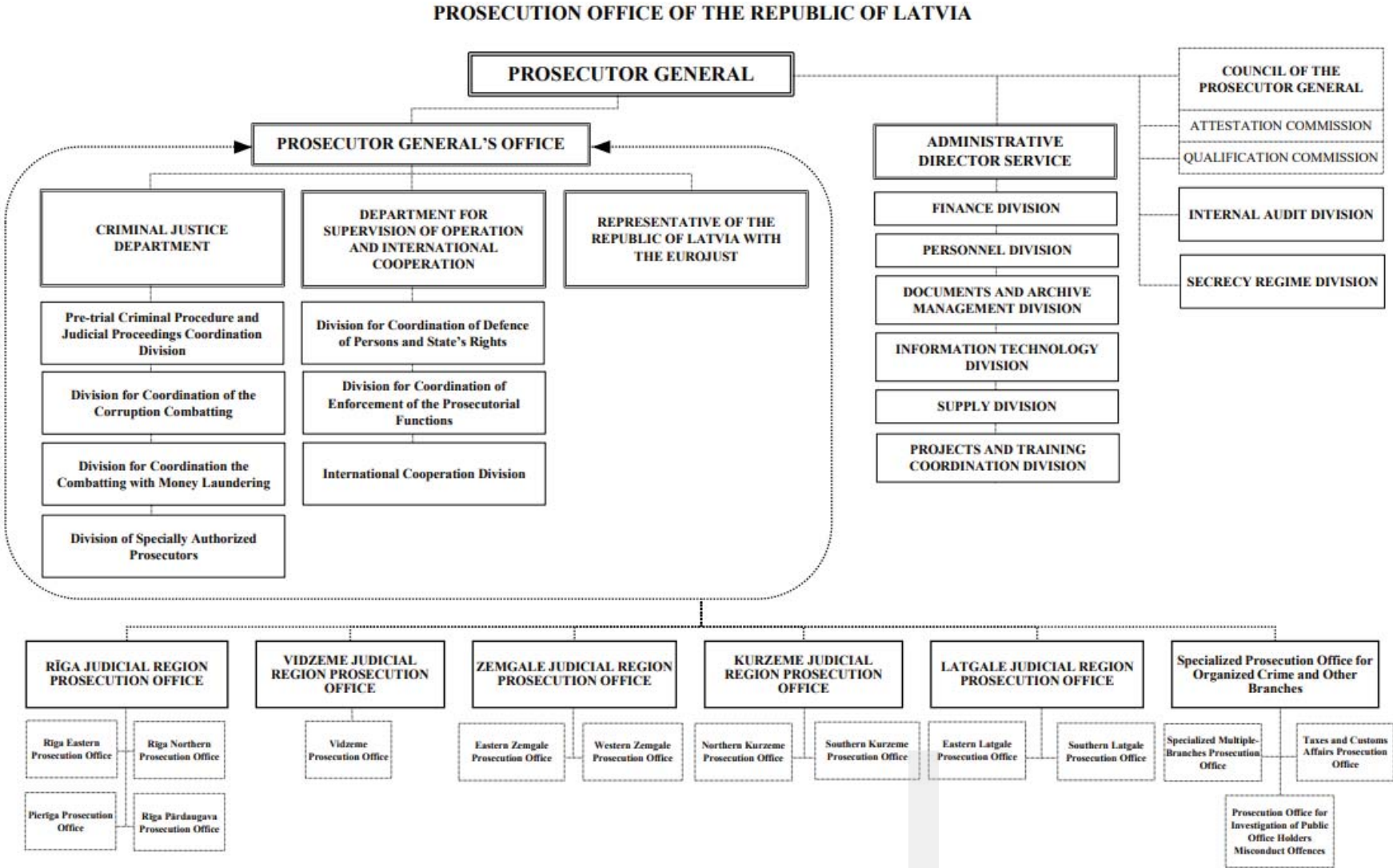
09:30-10:30	Final Q&A with the practitioners and the Ministry of Justice
10:30-12:00	Presentation of findings by the evaluation team

ANNEX B: THE LATVIAN JUDICIAL AND PROSECUTION SYSTEM



Source: [CourtSystemLatvia \(coe.int\)](http://CourtSystemLatvia(coe.int))

The prosecution system in Latvia is also outlined in the [OECD iLibrary](#).



ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	ENGLISH
Cabinet Regulation	Cabinet Regulation No 176 of 17 March 2008 on the form and content of special documents for judicial cooperation in criminal matters with the Member States of the European Union
CATS	Coordinating Committee in the area of police and judicial cooperation in criminal matters
CISA	Convention implementing the Schengen Agreement
CJEU	Court of Justice of the European Union
Constitution	Constitution of the Republic of Latvia
COPEN	Working Party on Cooperation on Criminal Matters
CPL	Latvian Criminal Procedure Law
EIO Directive or Directive	Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 on 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	Academy of European Law
Eurojust Regulation	Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA
Gavanozov I	CJEU Judgment given in Case C-324/17 (ECLI:EU:C:2019:892)
Gavanozov II	CJEU Judgment given in Case C-852/19 (ECLI:EU:C:2021:902)
JIT	Joint investigation team

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	ENGLISH
MLA	Mutual legal assistance
MoJ	Ministry of Justice
PGO	Prosecutor General's Office
SIENA	Secure Information Exchange Network Application
VDC	Videoconference
