



Brussels, 29 October 2024
(OR. en)

14274/1/24
REV 1

COPEN 444
JAI 1482
EVAL 25
CATS 88
EUROJUST 80
EJN 30

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	EVALUATION REPORT ON THE TENTH ROUND OF MUTUAL EVALUATIONS On the implementation of the European Investigation Order (EIO) REPORT ON GREECE

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

REPORT ON GREECE**

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1. EXECUTIVE SUMMARY

The 10th round of mutual evaluations focuses on 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'). The aim of the evaluation is to consider not only the legal issues but also the practical and operational aspects linked to the implementation of the Directive. It provides a valuable opportunity to identify areas for improvement as well as best practices to be shared among Member States. The evaluation further promotes the effective implementation of the instrument and aims to enhance mutual trust among the Member States' judicial authorities.

The visit was well prepared by the Greek authorities, allowing the evaluation team to meet with the relevant bodies dealing with the European Investigation Order (EIO). The Greek legal framework is complex and the practitioners indicated that it can be challenging to combine their national law with the 'younger' EU legislation. The evaluation team appreciated the willingness of all Greek practitioners to discuss all matters regarding the EIO openly and to provide the evaluation team with an overview of how the EIO is applied in practice. The evaluation team was able to identify some areas of improvement that need to be addressed at both national and EU level (see Chapter 22).

The majority of the incoming EIOs in Greece (around 85%) are dealt with by the prosecutor's offices at the Court of Appeal in Athens and Thessaloniki. Those offices both have a highly specialised international cooperation unit with specialist administrative and judicial staff. They also provide valuable support to other (smaller) regions with any questions on international cooperation (*see Best practice No 1*).

With regard to the rights of victims, the evaluation team particularly welcomes the fact that Greek national law goes beyond the requirements of Article 1(3) of the Directive and gives victims the right to ask for an EIO to be issued (*see Best practice No 2*).

The evaluation team found that, currently, the Greek Fiches Belges on the European Judicial Network (EJN) do not contain information on the available measures in the context of the EIO. As mentioned above, the Greek legal framework is complex and the evaluation team considers it important that Member States are aware of the limitations and possibilities, and therefore recommends that Greece incorporate all relevant information on the Fiches Belges (*see Recommendation No 1*).

During the visit, the evaluation team was surprised to learn that, under Greek law, a suspect or the accused has the right to access the entire case file before being interviewed, even in the pre-trial stage. As executing authority, this means that Greece has to ask the issuing State to provide a (translated) copy of the entire case file to hand over to the suspect/accused. The evaluation team has expressed some concern as, in practice, this places issuing States in a very difficult situation and could negatively impact the effectiveness of the EIO. While the evaluation team understands that this rule of national law is considered fundamental by the Greek authorities, it is of the opinion that international cooperation among Member States would be served if there would be room for deviation from this rule relating to the hearing of suspects in the pre-trial stage. Therefore, Greece is encouraged to revisit (the application of) the rules governing the interview of suspects, with a view to allow Greek competent authorities to execute EIOs issued for the hearing of a suspect during the pre-trial phase without always having to request the issuing authority to hand over (and translate) its entire case file (*see Recommendation No 4*).

Lastly, the evaluation team found that there may be a need for further clarification or revision at EU level regarding the speciality rule, the application of EIOs in connection with ensuring the accused person's presence at trial, and the concept of interception of telecommunications (*see Recommendations Nos 15-17*).

2. INTRODUCTION

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

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

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

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

Greece was the 24th Member State visited during this round of evaluations, as provided for in the order of visits to the Member States adopted by CATS.²

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

² ST 10119/22 and WK 6508/2023.

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

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

The experts entrusted with the task of evaluating Greece were Ms Saartje Matton (Belgium), Ms Demetra Paraskeva (Cyprus) and Ms Heleri Randma (Estonia). Observers were also present: Ms Piret Paukstys (Eurojust), together with Ms Anastasia Pryvalova and Mr Antonio Pastore from the General Secretariat of the Council.

This report was prepared by the team of experts with the assistance of the General Secretariat of the Council. It is based on the findings of the evaluation visit that took place in Greece from 11 to 15 March 2024 and on Greece's detailed replies to the evaluation questionnaire, along with its detailed answers to the follow-up questions.

The evaluation team had the opportunity to meet representatives from the Law School of Athens, the Athens Court of First Instance, the Athens Court of Appeal, the Prosecutor's Office at the Athens Court of First Instance, the Prosecutor's Office at the Athens Court of Appeal, the Prosecutor General, the Athens Bar Association, the Supreme Court, the SIRENE office and the Ministry of Justice. All the individuals present provided the evaluation team with a detailed explanation of their institution's role in the EIO process in Greece.

³ ST 10119/22.

3. TRANSPOSITION OF DIRECTIVE 2014/41/EU

Directive 2014/41/EU has been transposed into Greek law by Law No 4489, published in the Government Gazette on 21 September 2017. Law No 4489 is divided into seven chapters – (1) General provisions; (2) Issuing and transmitting an EIO; (3) Procedures and safeguards for the execution of the EIO by Greece; (4) Specific provisions; (5) Interception of telecommunications; (6) Provisional measures; and (7) Final provisions – and must be read together with the general rules of Greek law, such as the Code of Criminal Procedure (CCP) or even the Constitution.

4. COMPETENT AUTHORITIES

4.1. Issuing authorities

Articles 3 and 6 of Law No 4489/2017 consider the following authorities competent to issue an EIO:

- a) judges, courts, investigating judges and prosecutors that have the authority to deal with a certain criminal case;
- b) any other competent authority that, in a certain criminal case, acts as an investigating authority in the criminal procedure.

This second category, examples of which are police officers, members of the coast guard, fire brigade, Economic Crime Prosecution Service and competent civil servants, may initiate the issuing of an EIO whenever this is provided for by law. The Greek practitioners confirmed that the coast guard is an important investigating authority for Greece, given the country's location, and has consequently been given the necessary 'tools' for the purpose of fulfilling its duties.

An EIO issued by an authority mentioned under category b) must always be validated by a public prosecutor, who will verify whether the conditions laid down by Law No 4489/2017 are indeed met. The validating prosecutor may decide to transmit the EIO themselves and, by so doing, profile themselves as the issuing authority.

It is important to note that the authorities mentioned in point b) are only competent to issue an EIO for investigations led or supervised by the public prosecutor. This includes both preliminary inquiries and formal criminal investigations into punishable acts that fall under the competence of the public prosecutor.

During the preliminary inquiry, the prosecutor has not yet formally opened criminal proceedings but carries out the necessary investigative measures for the purpose of deciding whether or not to charge an accused person. An EIO may be issued by the competent authorities mentioned in Articles 3 and 6 of Law No 4489/2017 both during the preliminary phase and during the formal investigation, but as soon as the prosecutor decides to charge and formally open a criminal investigation and, for more severe crimes, has handed the case over to the investigating judge, the latter becomes the sole authority competent to issue an EIO.

In the trial stage, when additional evidence is required, the courts are competent to issue an EIO. However, the judges will not complete the form themselves; the public prosecutor of the court will complete Annex A in the name of the court and will also be mentioned as the contact person (section K of Annex A will mention the court).

4.2. Executing authorities

According to Article 11(1) of Law No 4489/2017, the competent authority for recognising and executing an EIO in Greece is the Public Prosecutor at the Court of Appeal in the judicial district where the EIO is to be executed. The offices at the Athens and Thessaloniki Courts of Appeal have a specialised international cooperation unit with specialist administrative and judicial staff. The evaluation team considers this to be a best practice (*See Best practice No 1*). Upon receipt of an EIO, the Prosecutor of the Court of Appeal will carry out a first check of Annex A, request additional information from the issuing State and, if necessary, send out Annex B and decide on the recognition of the EIO.

After preliminary checks are made and the EIO is recognised, the Public Prosecutor at the Court of Appeal will, regardless of the facts underlying the EIO, send it to an investigating judge for execution. The investigating judge does not have the authority to apply a ground of refusal once an EIO is recognised by the prosecutor's office, but does have the right to disagree and can, for instance, ask the issuing State for additional information if they are of the opinion that Annex A is still incomplete, or decide to apply different investigative measures than those requested in the EIO. Athens and Piraeus have specialist investigating judges who deal exclusively with international cases.

If the EIO concerns an investigation in the pre-trial stage, the investigating judge may entrust the practical execution of certain investigation measures in the EIO to another competent authority such as the police (Article 249 CCP). However, in such cases, the execution of the EIO always remains under the supervision of the investigating judge, who has received the relevant order from the Public Prosecutor at the Court of Appeal, who is the competent authority to recognise and execute an EIO.

Within their respective tasks, the Public Prosecutor at the Court of Appeal and the investigating judge will communicate directly with the issuing State.

4.3. Central authority

The Ministry of Justice has been designated as a central authority. Should any problem arise regarding the transmission or the establishment of authenticity of any document and direct communication yields no results, the assistance of the Central Services of the Ministry of Justice may be sought (Article 11(7) of Law No 4489/2017). Additionally, if there are any doubts regarding the competent executing authority, the Greek issuing authority can contact the Central Services of the Ministry of Justice, which will make all necessary inquiries to obtain information and clarifications from the executing State (Article 9(3) of Law No 4489/2017).

The role of the Ministry of Justice is strictly supportive and it does not have the authority to recognise or refuse an EIO, for example. If the Ministry of Justice receives an EIO, it will be forwarded immediately to the competent Public Prosecutor at the Court of Appeal.

During the visit, the evaluation team pointed out that the EJM Atlas directed issuing authorities to the Greek Ministry of Justice in situations where the location was unknown or measures needed to be taken in several regions of Greece. The evaluation team indicated that, for the sake of efficiency, the EJM Atlas should be changed so that if anything is unclear or when investigative measures need to be carried out in different locations, the issuing State is directed to the Public Prosecutor at the Court of Appeal of Athens rather than to the Ministry of Justice. Consequently, a recommendation was formulated for the Greek authorities, who acted very swiftly and, in the course of finalising the evaluation report, changed the EJM Atlas in this regard.

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

According to Article 7 of Law No 4489/2017, the authorities defined in Article 6 issue an EIO either *ex officio* or upon the request of the suspect (preliminary phase) or accused person (ordinary criminal investigation phase), or their attorney acting on their behalf. A suspect can submit a request for an EIO to be issued with the prosecutor, while the accused person can submit such a request with the prosecutor or investigating judge, depending on who is in charge of the investigation.

When receiving such a request, the competent authority will verify whether the generally applicable conditions are met:

- a) The issuing of the EIO is necessary and proportionate to the purposes of the procedure of Article 5, taking into account the protection of the rights of the suspect or accused;
- b) the requested investigative measures referred to in the EIO could have been ordered, under the same conditions, in a similar domestic case.

Depending on the outcome of this verification, the request will be rejected or granted.

In the event of a refusal to issue an EIO:

- a) in the preliminary phase: the suspect does not have a right to appeal this decision, but the disagreement can be brought before the Judicial Council that will have the final say;
- b) in the official investigation phase: the accused has a right to appeal this decision before the Judicial Council.

The Judicial Council of the Court of 1st Instance I has several competences in Greece in terms of international cooperation, including the competence to resolve disputes or handle appeals when a request from a suspect/accused person to issue an EIO is rejected.

The Greek practitioners pointed out that while Law No 4489/2017 does not explicitly allow victims to ask for an EIO to be issued (and the Directive does not require it), the general rules of criminal procedure do entitle them to ask for specific investigative measures to be taken, such as the issuance of an EIO. One important difference with such requests by suspects or accused persons lies in the subsequent assessment by the prosecutor or investigating judge: while the suspect or the accused can ask for an EIO to be issued solely for the purpose of their own defence, an EIO requested by a victim will (also) have to be in the interests of the investigation itself. In the event that the victim's request is denied, they can also bring this dispute before the Judicial Council. The evaluation team welcomes the fact that victims can ask for an EIO to be issued in Greece, as it supplements the victim's rights under Directive 2012/29/EU (*see Best practice No 2*).

The representative from the Bar Association indicated that the option of asking for an EIO to be issued and/or for an investigative measure to be carried out abroad is very rarely used by Greek lawyers. He identified two potential reasons for this: (1) this option is insufficiently known among lawyers; and (2) the procedure to make such a request is not clearly defined in Greek legislation, which makes lawyers feel unsure as to when and how a request ex article 7 of Law No 4489/2017 must be made. As for the latter, the evaluation team suggested that the 'normal' procedure – the procedure that is used to ask for investigative measures in strictly domestic cases – could probably be used, and that the responsibility of verifying whether the conditions of the Directive and Law No 4489/2017 are met as well as the drafting of the EIO are the responsibility of the competent judicial authority.

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

Law No 4489/2017 has transposed all the investigative measures that are provided by the Directive, such as the temporary transfer of a person (Articles 24 and 25 of Law No 4489/2017), hearing by teleconference (Article 26 of Law No 4489/2017), hearing by telephone conference (Article 27 of Law No 4489/2017), information about bank accounts and other bank and other financial transactions (Articles 28 and 29 of Law No 4489/2017), investigations for the gathering of evidence in real time and for a specific time period (Article 30 of Law No 4489/2017), covert investigations (Article 31 of Law No 4489/2017), and interception of telecommunications and electronic surveillance (Articles 32 and 33 of Law No 4489/2017).

In most cases, Greek authorities have not encountered any significant difficulties in identifying the investigative measure(s) for which an EIO can be issued, since the EIO form (Annex A) is very clear about these measures. In the rare event that it was difficult to identify the investigative measures requested by the issuing State, clarifications were sought directly from the issuing authorities which helped to resolve any issues that had arisen.

In general, the EIO refers to ‘any investigative measure’, with the exception of the setting-up of a joint investigation team (JIT). The Greek authorities will always strive to execute each incoming request to the best of their abilities, bearing in mind the final purpose of the request and by using the least intrusive measure(s) available to attain it.

The Greek authorities, who have extensive experience with JITs, did mention that the EIO mechanism is considerably slower compared with the immediate transfer and sharing of information within the JIT and that JIT investigations can be delayed significantly if a request to execute an EIO is sent to a Member State that is not in the JIT.

As regards the relationship with traditional legal assistance, the Greek authorities will always verify whether the goal of a request (incoming or outgoing) is indeed to gather evidence and, based on that assessment, choose the appropriate instrument and set of rules.

In the event that another Member State sends Greece a request in the form of an EIO but is not intended for the gathering of evidence (for example, notification of a court decision or a fine), the Greek authorities adopt a practical approach and, rather than returning the request to the issuing State and asking for a letter rogatory, execute the request drafted in EIO format in accordance with the applicable rules of (inter)national law for Mutual Legal Assistance (MLA) requests. The evaluation team considers this flexible and pragmatic approach to be best practice (*See Best practice No 3*).

According to Law No 4489/2017, an EIO may be both issued and executed at any stage of the criminal procedure, from the beginning of the preliminary criminal procedure to the execution of the sentence imposed. Up to now, the Greek authorities, both as issuing and executing State, have not yet faced any difficulties arising from another Member State's differing view on what the trial phase includes.

As to the relationship with the European Arrest Warrant (EAW) and the tracking of persons of interest, the Greek authorities indicated that while they have never issued an EIO for that purpose, they have already received EIOs aimed at locating or positively identifying a person. In some cases, this measure was paired with another measure (for instance the subsequent surveillance of that person), but Greece has also received EIOs for the mere purpose of localisation and/or identification that were then followed by a subsequent request (most commonly an EAW). The Greek authorities accept these kinds of requests and execute them promptly in close cooperation with the police.

The evaluation team is of the opinion that a request to locate and/or identify can be made by EIO if paired with a measure aimed at gathering evidence (for example, localisation aimed at a subsequent wiretap or surveillance). However, if the localisation and/or identification of a person is the only and final goal, this request can arguably not be considered as gathering evidence and thus the evaluation team recommends that, if possible, all Member States use other available options in these situations (for example, police-to-police cooperation, alert Article 34 SIS II) (*see Recommendation No 6*).

The Greek authorities are also of the opinion that, whenever possible, the issuing of an EIO for the purpose of the temporary transfer of a person is preferable to using an EAW when the EIO is sufficient to achieve the requesting authority's goals (for example, confrontational hearing, reconstruction of the crime in the presence of the suspect, etc.). The evaluation team shares Greece's point of view in this regard.

Greek law (Article 5b of Law No 4489/2017) offers the possibility to respectively issue and receive (and execute) an EIO for administrative cases. The Greek authorities informed the evaluation team that, as issuing authority, they have not yet used the EIO for the purposes of evidence gathering in administrative proceedings nor have they, as executing authority, ever received such a request.

In cross-border surveillance cases, the Greek authorities prefer to use the EIO as default. After all, the scope of Article 40 of the Convention implementing the Schengen Agreement (CISA) is only applicable to a specific list of offences; for all other offences an EIO must be used.

The Greek practitioners recalled that, on several occasions, they received an EIO for the purpose of officialising information that had already been obtained through police-to-police cooperation via Article 40 CISA. The Greek authorities do not consider this to be problematic and execute such EIOs promptly by officially authorising the use of the information for evidentiary purposes.

Regarding the relationship between the EIO and the freezing/seizure of assets, the evaluation team inquired as to the position of the Greek authorities vis-à-vis assets being labelled as ‘evidence’ by the issuing State. The Greek authorities responded that, in their opinion, it is up to the issuing State to define the goal of a freeze/seizure – be it evidence gathering or with a view to subsequent confiscation – and if the issuing State considers specific valuable or luxury items or money to be evidence of the crime described in Section G, the Greek authorities will proceed with the seizure on the basis of an EIO. In any event and regardless of the end goal, Greece will always need the issuing State to clearly indicate how the goods that are to be seized are linked with the case under investigation. The Greek authorities remarked that there is some degree of overlap between the EIO and the freezing order, but that, in their experience, Member States are beginning to differentiate more and more and now increasingly use the correct instrument.

6. CONTENT AND FORM OF THE EIO

6.1. General challenges

Initially, when the EIO form was introduced, the Greek practitioners found it challenging to fill out the new and extensive Annex A correctly. Fortunately, this ‘problem’ was solved automatically with time and practice and the Greek authorities do not think that Annex A needs any sort of amendment. When asked by the evaluation team, the Greek practitioners expressed concern that, should issuing authorities be allowed to delete the irrelevant sections of Annex A on a case-by-case basis, this could confuse the executing authority.

As executing authority, the Greek practitioners indicated that they do sometimes receive forms that need additional information (incomplete forms) or clarifications on the content. The section that needs clarification (or completion) the most is Section G, followed by Section E. Only in rare cases did the Greek authorities have to ask the issuing State to clarify the requested measure(s) or type of information requested. Whenever an EIO is incomplete, the Greek authorities will always first contact the issuing State to solve whatever issue has arisen. Only when these consultations do not yield any results will the Greek authorities consider non-recognition of the EIO. Normally all and any issues were easily resolved through direct communication between the Greek executing authority and the issuing State (via email, teleconference, phone call or even a physical meeting) and the EIOs were all executed as soon as the necessary clarifications or additional information was provided. Depending on the stage of the proceedings, communication with the issuing State is via the Public Prosecutor with the Court of Appeal (receipt and recognition) or the investigating judge (execution and transmission of the results).

The representative of the Bar Association informed the evaluation team that, owing to the complexity of Greek (procedural) penal law, it is difficult for incoming EIOs or evidence received in execution of a Greek EIO to fully comply with the requirements of Greek law, which means that valuable time is often lost because the incoming EIO is incomplete or additional efforts have to be requested of the executing State before the materials obtained are admissible as evidence. As to the incomplete EIOs, the evaluation team pointed out that the Fiches Belges on the EJM website offer all Member States the possibility of becoming more acquainted with each other's legal system. Unfortunately, at present, the Fiches Belges do not contain any information on the Greek system and the evaluation team strongly recommends the Greek authorities look into this and provide the EJM with the relevant information (*see Recommendation No 1*). The evaluation team did note that the complexity of the Greek legal system might, to a certain extent, render international cooperation increasingly difficult. This observation was confirmed by the representative of the Bar Association who suggested that minor changes to Greek law could help to make the older Greek legal system more compatible with the relatively young EU legislation.

6.2. Language regime

As executing authority, the Greek practitioners are regularly confronted with poor Greek translations of EIOs. Sometimes the quality is so below par that it is not possible to identify the measures requested or understand the summary of the facts. In such cases, the Greek authorities will get in touch with the issuing State and ask for clarifications to clear up any ambiguities arising from the bad translation. The Greek authorities understand and realise that Greek is not an easy language and that not all Member States have a sufficiently qualified Greek translator at their disposal, but these poor translations result in loss of time, which is always regrettable.

In addition, there are cases where the issuing State may be asked to send additional documents from its case file translated into Greek, for instance documents that must be presented to an accused or suspect within the context of an interrogation. It has been observed that in these cases it usually takes quite some time for the translation of these documents to be sent to Greece, and as a result the execution of the EIO is also delayed (see Chapter 12 on Confidentiality and Chapter 15 on Legal remedies).

In order to expedite the EIO process and accommodate the other Member States, the Greek practitioners emphasised that they also accept EIOs in English (Article 8(3) of Law No 4489/2017); additional documents as described above may also be translated into English.

When receiving an English EIO, the Greek authorities will usually translate the relevant parts themselves before sending it to the investigating judge. However, urgent EIOs are sometimes forwarded to the investigating judge in English and executed by the latter without any translation into Greek. The evaluation team considers this best practice (*see Best practice No 4*). Furthermore, the evaluation team would like to encourage all Member States to indicate another language commonly used in the Union in their declaration concerning the language regime, in addition to their official language, in the spirit of Article 5(2) and recital 14 of the Directive (*see Recommendation No 7*).

As issuing authority, the Greek practitioners expressed their concern with regard to the consequences of disbanding the specialised department for translations at the Ministry of Foreign Affairs. While the help of certified translators can still be sought, not every EU language is covered, which can be very problematic if the other Member State only accepts EIOs in its own language. Moreover, according to the Greek practitioners, the certified translators are usually very busy and are sometimes reluctant to work with the judiciary because they do not always get paid within a reasonable time frame by the Ministry of Justice. This may result in a situation whereby an EIO cannot be sent by Greece, even though Greek authorities have found the issuing of an EIO necessary. The evaluation team considers this to be unsatisfactory and recommends that Greece identify specific issues with a view to finding a solution to the problems relating to the translation of EIOs (*see Recommendation No 2*). Additionally, Greece does accept help from embassies with translations and therefore cooperates very closely with police/military attachés in embassies.

Lastly, both the EJM and Eurojust have proven to be useful and effective facilitators whenever language barriers prevent direct communication. Nevertheless, recently the Greek practitioners have noticed some progress in this regard and are of the impression that, in general, English-speaking skills are improving across the EU.

6.3. Multiple requests in one EIO

As executing authority, the Greek practitioners advise the other Member States to issue a single comprehensive EIO and send it to the office of the Public Prosecutor at the Court of Appeal of the district where most of the measures are to be carried out. If necessary, the prosecutor's office will forward the EIO to the other competent offices to execute the investigative measures that fall under their respective jurisdictions.

When the requesting authority does not know to whom an EIO is to be sent, it is advisable to send it to the Public Prosecutor at the Court of Appeal of Athens.

In this regard, the evaluation team wondered to what extent the lack of a centralised case management system is an issue when identifying the best placed Greek authority to forward (part of) the request to.

By way of example: an EIO is sent to the Public Prosecutor's Office at the Court of Appeal of Athens with a request to, inter alia, question an individual of interest. The individual lives in Rhodes but is also part of an ongoing investigation by the prosecutor's office in Thessaloniki. Since the PPO at the Court of Appeal of Athens is not aware of this ongoing investigation, the EIO will be forwarded to the competent authority in Rhodes, who will not know that executing it might endanger the ongoing investigation in Thessaloniki.

Although each prosecutor's office is linked to a digital system that allows for 'in-house' searches, it is not possible to conduct nationwide searches. The evaluation team is of the opinion that a national database that would enable the practitioners to verify, at the very least, whether there is an outstanding case against a suspect or victim, using their name as a search term, would be of benefit to the investigating authority, not only within the context of international cooperation, but also for purely domestic cases (see *Recommendation No 3*).

6.4. The issuance of an additional EIO, splitting of EIOs, conditional EIOs

The experience of the Greek practitioners, as executing authority, is that additional EIOs are frequently used, especially for the purposes of follow-up questions and investigations after the initial EIO has been received. In this regard, the evaluation team agrees with the Greek authorities that, when drafting an EIO, it is preferable to think ahead and anticipate what will happen (for instance, by identifying and questioning a bank account holder in the same EIO rather than sending a first EIO for the purposes of identification and a subsequent EIO for the hearing).

While modifications of, or additions to, an EIO will usually require an additional EIO, the Greek authorities do sometimes, depending on the specific circumstances of the case, accept an official notification/request (for example, an email or letter signed by the competent authority) from the issuing State instead.

As always, communication is key and the Greek authorities will establish direct contacts with the requesting authority in order to avoid any setbacks or problems in the execution of an additional EIO.

Also, as issuing authority, whenever the Greek requesting authority considers issuing an additional EIO, it will try to contact directly the relevant authority in the executing State in order to guarantee a smooth transmission and execution.

Again, the EJN is mentioned by the Greek authorities as a valuable and effective intermediary whenever language barriers prevent direct communication.

6.5. Orally issued EIOs

Since the Greek criminal procedure is a written procedure, Greece will not and cannot accept orally issued EIOs (by telephone or otherwise), not even in urgent cases of major importance. Under Greek law, EIOs are always submitted in writing once Annex A has been completed with all required information. In particularly urgent cases, EIOs can be forwarded through the Greek office at Eurojust or through EJD Contact Points so that the competent investigative authority in Greece receives the EIO immediately.

In this context, Member States are also reminded that the Greek authorities accept EIOs in English and, in urgent cases, will proceed with their execution without first translating them into Greek (see Chapter 6.2).

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

As issuing authority, Greece will always conduct a proportionality/necessity check as required by the Directive. Several criteria are used to this end: (1) the time the offence was committed and consequently the period of limitation; (2) the inability to acquire evidence using other means within the national framework, (3) the need to acquire this evidence as soon as possible and (4) the gravity of the offence.

Greece has the principle of legality, so, in general, there is an obligation to prosecute. There are exceptions, however. As issuing State, there have been cases where it was deemed unnecessary to issue an EIO, such as opening a bank account using a stolen identity, the expiry of the retention time for electronic data, and the non-satisfaction of requests from specific States for financial offences of minor economic value. The consultation process was not used.

It should be noted that the proportionality principle is not only incorporated in Article 7(2)(a) of Law No 4489/2017 but is also enshrined in the Greek Constitution (Article 25, paragraph 1).

As executing authority, Greece will not usually conduct a proportionality and/or necessity test since this competence lies solely with the issuing State.

However, this situation could arise if the description of the offence is not sufficiently detailed, or if the requested investigative measure is too broad and difficult to justify, or if the measure is not described in a sufficiently concrete manner to allow for a proper assessment (for the purposes of recognition and execution). In such cases, direct communication is sought with the authorities of the issuing State.

As allowed by the Directive and incorporated in Article 12 of Law No 4489/2017, the Greek authorities have recourse to a different, less intrusive measure in the event that the requested measure does not exist in Greek legislation or if this measure would not be an option in a domestic investigation. In this regard, the evaluation team noted that Article 12(2)(e) of Law No 4489 does not differentiate between victim, witness or suspect (or the accused) when it comes to the identification of a phone number or IP address.

During the visit, Greek authorities provided an example of having recourse to a different investigative measure. This can happen when the issuing State asks for a bank search, although in Greece the investigating judge would simply order the bank to deliver the requested documents. The investigating judge would communicate with the issuing State about using the less intrusive measure.

8. TRANSMISSION OF THE EIO FORM AND DIRECT CONTACT

First and foremost, the Greek practitioners indicated that they had noticed a significant improvement in the transmission of requests since the entering into force of the Directive and the creation of the EIJN Atlas. The latter is considered a vital tool that is of great use to all competent authorities and the evaluation team shares the view of the Greek practitioners in this regard.

In addition to the EIJN Atlas, the Greek practitioners also use police channels, i.e. the **SIRENE** office, to identify the competent executing authority and to transmit the EIO. Since EIOs are a tool for judicial cooperation, the evaluation team wonders whether the EIJN (both the Atlas and the Contact Point network) or Eurojust are not better suited to help out with the identification and transmission of EIOs. In particular, the evaluation team is concerned that this practice, if a common occurrence, will place an additional burden on the Greek **SIRENE** office, whose core business lies elsewhere.

Whenever direct communication is difficult owing to language barriers, the Greek authorities will call upon the Ministry of Justice to act as a go-between for the transmission of an EIO and/or for subsequent contacts.

As for EIOs that contain several requests, which might not fall under the competence of a sole authority of the executing State, the Greek practitioners indicated that they have not yet encountered significant difficulties nor does the absence of a central authority in some Member States pose a problem. They are of the opinion that the matter of EIO allocation is an internal matter and is the responsibility of the executing Member State, whether or not there is a central office.

The common practice in Greece is to send one EIO to the executing State, usually to the authority that is competent to execute the majority of the requested measures. Greek authorities will always clearly indicate in the EIO if there is a need to coordinate the requested measures, especially if there is a risk of jeopardising the investigation (for example, in the case of several house searches to be executed at the same time).

Greek law requires a written EIO that may subsequently be sent (issuing State perspective) and received (executing State perspective) electronically. From the issuing State perspective, Greece will only send the original EIO by post if the executing State asks for it. The electronic means used are secure and are supported by the Ministry of Digital Governance. As indicated above, police channels may also be used for the transmission of EIOs. The evaluation team considers the electronic exchange of requests a good practice that saves both time and money (*see Best practice No 5*).

As issuing authority, the Greek practitioners indicated that, once the EIO has been transmitted, they prefer direct communication with the executing authority, as it ensures the fastest and most immediate resolution of any difficulties that may arise during the execution of the EIO. The evaluation team wholeheartedly agrees, but this does require a sufficient level of English skills on both sides, which is not always the case. Proficiency in English is a particularly valuable skill for Greek practitioners, whose unique mother tongue is hardly spoken elsewhere, making English an essential tool for direct contacts with colleagues from other Member States. The evaluation team would like to encourage all Member States to provide sufficient training in English (or another generally spoken language of choice) for all practitioners working in the area of international cooperation and with EIOs specifically (*see Recommendation No 8*).

In cases where issues arise, EJM Contact Points are mostly used to facilitate communication and provide assistance. In the event that an EIO has been received or sent through the Greek Eurojust desk, communication with another Member State can also take place via the competent offices at Eurojust. In this regard, the Greek authorities confirmed that the Greek Eurojust desk may be contacted freely by all judicial staff.

Furthermore, Greek practitioners explained that they have started training judges and prosecutors on the e-Evidence Digital Exchange System (e-EDES). This system has been developed to provide a secure online portal for the transmission of EIOs in the EU. Currently, the Ministry of Justice is developing a Greek platform to use e-EDES, but this is still at a very early stage.

9. RECOGNITION AND EXECUTION OF AN EIO AND FORMALITIES

According to the Greek authorities, it is rare that Section C of the EIO form, containing a description of the investigative measure(s) to be carried out, is not completed. Should this occur, the Greek authorities will always contact the issuing State for clarification and the EIO will not be refused solely on the basis of the absence of Section C.

As executing State, Greece has not encountered any cases of refusal to comply with certain formalities as they were considered contrary to ‘fundamental principles of the law’. The practitioners indicated that they usually comply with the formalities requested by the issuing State, even when they are not provided in national law. For example, some Member States ask for specific information to be passed on to the witness/suspect before a hearing. Although it may be confusing for the person concerned, Greek practitioners stated that no witness or suspect has ever refused to sign a document in accordance with the requested formalities of the issuing State. At times, bank officials are also required to complete these formalities (signing documents) and, in this instance, Greek authorities sometimes experience delays because the documents need to be signed at the investigating judge’s office. Greek authorities understand the importance of formalities and always try to execute investigative measures in such a way that the evidence that will be sent to the issuing State can be accepted in the relevant case file and used in the relevant trial.

In cases where, according to Greek law, specific investigative measures are required to be approved by a court, Greek authorities have observed that a similar approval is often also needed in the issuing State. Issuing authorities often include this approval as an annex to the EIO. In response to the questionnaire, Greek authorities indicated that they would contact the issuing State in case court approval is not referenced in the EIO and would ask them to send the relevant court order. However, during the evaluation visit, the Greek representatives clarified that they do not ask the issuing authority to send a court order and that they trust the authorities to have issued the EIO in accordance with national law.

As issuing State, Greece does not usually request any formalities. It can happen that Greek authorities request the presence of a judicial officer during searches in the executing State. However, if the executing State is unable to comply with the requested formalities, Greek authorities explained that this would not have a negative effect on the admissibility of evidence, as long as the executing State were to clearly explain that it could not comply with the request.

10. SPECIALITY RULE

The EIO Directive does not contain a general rule of speciality, except in relation to the transfer of persons (Article 22(8) of the EIO Directive). Likewise, there are no specific rules in Law No 4489/2017 that address the speciality rule in the context of the EIO Directive, yet the Greek authorities are of the opinion that the speciality rule does apply in the following situations:

Firstly, Greek authorities believe that the speciality rule can be derived from the EIO Directive, particularly with regard to intrusive specific investigative measures. Specifically, Greek authorities refer to the wording of the Articles 26–30 in the Directive, which obliges the issuing State to indicate in the EIO the reasons why it considers the indicated investigative measure relevant for the purpose of the criminal proceedings concerned. Because of this obligation, Greek authorities believe the issuing State commits itself to using the evidence only for the purpose for which it is requested.

Secondly, Greek authorities, as an example, refer to Article 29(4) of the Directive, which states that ‘covert investigations shall take place in accordance with the national law and procedures of the Member State on the territory of which the covert investigation takes place’. As Greek national law (Article 254(5) CCP) specifies that any evidence obtained from a covert investigation is to be used in the same proceedings, with certain exceptions, and the EIO is to be executed in accordance with Greek national law, this means that the speciality rule applies in these situations, according to the Greek authorities.

If the issuing State wishes to use the information gathered in Greece on the basis of an EIO in another case, consent must be requested from the Greek authorities if the abovementioned criteria are applicable. The request for consent can be submitted via email and no EIO is necessary, according to the Greek practitioners.

During the visit, the evaluation team enquired whether Greece, as executing State, needs a new EIO when a new suspect who is not mentioned in the EIO becomes part of the same investigation. While initially the practitioners indicated that Greece should receive a new EIO, after some discussion it transpired that it depends on the facts and in some cases, depending on the wording of the initial EIO, an additional EIO would not be necessary.

If, during the execution of an EIO in Greece, information becomes available that another crime has been committed on Greek territory, Greek authorities would use the information gathered from executing the EIO, without seeking consent from the issuing State. The evaluation team mentioned that this might have a negative impact on the investigation in the issuing State, especially if no contact had been established between Greece and the issuing authority. Greek practitioners were of the view that, since the information is used for intelligence purposes only (not as evidence), the investigation in the issuing State would not be affected. If there are any indications to the contrary, Greek practitioners assured the evaluation team that they would contact the issuing State. To ensure that the investigation of the issuing State is not jeopardised in any way, the evaluation team recommends that all executing Member States inform the issuing State when information gathered during the execution of an EIO is used in another case (*see Recommendation No 9*).

The evaluation team notes that there are different opinions between Member States regarding the application of the speciality rule in the context of an EIO. While some Member States assume it is a general principle in international cooperation, others interpret the absence of a specific provision in the Directive as permission to use the evidence for other purposes as well. The evaluation team is of the opinion that it would be useful to clarify the application of the speciality rule in the context of the EIO and encourages the Commission to look into this matter (*see Recommendation No 15*).

11. CONFIDENTIALITY

Article 19 of the EIO Directive concerning confidentiality has been correctly transposed into Article 21 of Law No 4489/2017. The Greek practitioners reported that, so far, they have not encountered any problems with rules on disclosure as either issuing or executing authority.

When Greece is executing State, Greek law provides that suspects or accused persons must be notified of the existence of an EIO in cases where a suspect's statement or accused person's apology is needed ('apology' is a term used in Greek law and it means taking testimony from the accused). Greek authorities explained that notifying the suspect or accused person does not mean that they will receive the EIO, but merely informed that it exists.

However, even though the EIO will not be handed to the person concerned, the evaluation team was informed that, under Greek law, a suspect or accused person has the right to access the entire case file before being interviewed, even in the pre-trial stage (Articles 96 and 100 CCP). As executing authority, the Greek practitioners will never actively urge suspects/accused persons to make use of this option, but if they choose to do so, the Greek authorities will have to ask the issuing State to provide a (translated) copy of the entire case file. The evaluation team expressed some concern in this regard since this rule of Greek law runs counter to the principle of confidentiality/secretcy of the investigation that governs criminal investigations in most Member States.

On this matter, Greek authorities informed the evaluation team of a case that reached the Greek Supreme Court. Greece received an EIO to hear a person suspected of murder. The defendant challenged the EIO because he had no access to the complete case file. The Judicial Council rejected the appeal in the first instance and argued that the defendant was aware of the most important elements of the case. However, the Supreme Court ruled that Greek law gives a person to be heard the right to access the *entire* case file and thus overruled the decision of the Judicial Council.

During the visit, the evaluation team pointed out that Greek law is quite unique in this way and regrets that, in practice, it could place issuing States in an impossible position. Furthermore, in the view of the evaluation team, this rule is rather at odds with the principle of confidentiality of the EIO: on the one hand, the EIO (a document with only selected information) has to be treated as confidential; on the other hand, the issuing State has to divulge its entire case file if it wants its EIO to be executed.

The evaluation team believes this information should be clearly stated in the Fiches Belges on the EJM website so that other Member States will know that they may need to share their entire case file before the person of interest can be heard in Greece (*see Recommendation No 1*). Furthermore, while the evaluation team understands that this rule of national law is considered fundamental by the Greek authorities, it is of the opinion that international cooperation among Member States would be served if there would be room for deviation from this rule relating to the hearing of suspects in the pre-trial stage. Therefore, Greece is encouraged to revisit (the application of) the rules governing the interview of suspects, with a view to allow Greek competent authorities to execute EIOs issued for the hearing of a suspect during the pre-trial phase without always having to request the issuing authority to hand over (and translate) its entire case file (*see Recommendation No 4*).⁴

In other cases, if the interested party, suspect or accused person has asked the Greek authorities to obtain a copy of the EIO, this will only take place after consultation with the issuing authority and if there is an express consent of the latter for such a notification.

During the evaluation it was mentioned that Greece had no cases in which bankers broke confidentiality.

In the event that Greece is asked to execute an EIO relating to a house search, the suspect can obtain access to the order of the Greek investigating judge requiring the search with a summary of the facts. The suspect may also access the document drawn up after the house search describing what took place during the search. The suspect is not informed of any special investigative measures.

Any exchange of information between the issuing authorities and the Greek executing authorities should be via the Greek investigating judge as the competent authority to execute the EIO.

⁴ Greek authorities noted that, in their view, the EIO Directive does not aim at establishing common rules regarding the conditions under which an investigative measure is conducted in Member States. Therefore, the EIO Directive accepts that differences in national laws concerning these conditions may have as a result that a national authority abstains for tactical reasons from issuing an EIO e.g. for hearing a suspect in another Member State due to these conditions.

12. GROUNDS FOR NON-EXECUTION

12.1. General

Article 11 of the EIO Directive gives only optional grounds for refusal. In Greece, however, the provision has been transposed in such a way that all grounds for refusal are mandatory; the word ‘may’ in the Directive has been replaced by ‘shall’ in Article 13 of Law No 4489/2017. The evaluation team expressed the sentiment that the Greek transposition law does not seem to be in accordance with the Directive on this matter. The Greek representatives stated that they always try to find a way to comply with an EIO and that, in the event of a discrepancy between Law No 4489/2017 and the Directive, the latter will always take precedence. According to the Greek authorities, the grounds for refusal are still interpreted as optional in practice.

Furthermore, the evaluation team asked the Greek practitioners to clarify the relationship between Article 13(1)(h) of the Greek law, which stipulates a mandatory ground for refusal when a requested measure would not be possible in a domestic case, and Article 12(1)(b) regarding recourse to a different type of measure when the investigative measure would not be available in a similar domestic case. In the view of the evaluation team, the two provisions appear to contradict the mandatory ground for refusal. Greek authorities ensured the evaluation team that another *modus operandi* is always considered when the requested measure is not available in a similar domestic case. Where a recourse to a different type of measure is not sufficient, the requested measure would be refused.

As issuing State, Greek practitioners stated that the majority of EIOs are duly executed. However, Greece has experienced a few cases of non-execution by another Member State that did not provide for the hearing of a suspect because the notion of ‘suspect’ was not covered by their legislation. The person had to be examined as a witness or an accused person, which, according to Greece’s domestic procedure, is not possible in a preliminary procedure. The evaluation team notes that this issue could have probably been resolved if consultations were held between the authorities.

As executing authority, the Greek practitioners consult the issuing authority by any appropriate means before deciding whether or not to recognise or execute the EIO in whole or in part and, if required, requests any relevant information in accordance with Article 13(4) of Law No 4489/2017. The Greek practitioners explained that their main objective as executing authority of an EIO is always to assist the issuing authority in its criminal case by any means possible, taking account of Greek law and the basic principles of law. For this reason, the practitioners believe that it is rare for Greece to refuse to execute an EIO. During the evaluation, Greek practitioners gave an example of an EIO which was refused by Greek authorities as it required a hearing of a Greek investigating judge. This is not possible under Greek law and so the EIO had to be refused.

12.2. Dual criminality

Greek authorities explained that they have not encountered cases where the dual criminality test was invoked in relation to the categories of offences listed in Annex D, or the investigative measure listed in Article 10(2).

Furthermore, Greek authorities indicated they do not interpret the listed offences strictly but use a broader interpretation and try to find similar offences in Greece, based on the description of the facts rather than the constitutive elements of the crime according to the requesting State's legislation. Even if the offence does not correspond to a similar offence in Greece, it is treated as a category of offences and a similar offence is found in order to assist the other Member State. All offences are examined on a case-by-case basis. This is the rationale behind the EIO form as it cannot mention all offences.

12.3. Ne bis in idem

As executing State at the preliminary stage, Greek authorities noted that they cannot assess whether a *ne bis in idem* situation is applicable. Ultimately, *ne bis in idem* will be used as an argument by the defendant and will be invoked by them. However, Greece has never had such a case and in practice the *ne bis in idem* ground for refusal has not been used.

12.4. Immunities or privileges

The Greek authorities informed the evaluation team that Greek law is very strict when it comes to the confidentiality of medical records and that medical secrecy can be lifted only if the patient gives their permission, with some exceptions (for instance, abuse seen by doctors). Even more far reaching is the confessional seal, which is more or less absolute.

12.5. Fundamental rights (Article 6 TEU and Charter)

As issuing State, Greece has not encountered any cases where a measure was refused because it would be contrary to the fundamental principles of law in the executing State.

As executing State, there have not yet been any specific issues regarding fundamental rights. Greek authorities did mention a case where the issuing State asked Greece to hear a suspect via videoconference. The suspect refused, which – according to the Directive and the Greek transposition law – may have been grounds for refusing the EIO. After consulting with the issuing State, Greek authorities took a statement from the suspect as an alternative way of executing the EIO.

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

As issuing authority, Greece encounters issues with time limits not being met by some Member States that use standard mail to send materials. Furthermore, Greek authorities are not always informed by the executing authority of the reasons for the delay or the status of execution and, consequently, usually sends several reminders requesting this information. Unfortunately, at times Greek authorities still receive no reply even after several reminders. The evaluation team recommends all executing Member States to keep the issuing State informed of any delay in execution and to always reply to requests and subsequent reminders sent by the issuing State (*see Recommendation No 10*).

As executing authority, Greece tries to respect the deadlines provided for by the Directive for the execution of EIOs, particularly in cases where there are procedural deadlines or the issuing authority has stated in the EIO that the investigative measure must be executed on a specific date. These EIOs are executed with absolute priority and always within the set deadlines, according to the Greek practitioners. There are cases where deadlines for the execution of EIOs are not met. Usually in such cases, the requested investigative measures are of such a nature that it is not possible to carry them out within 90 days. For example, in cases where it is requested that police authorities locate and monitor a person in order to identify their place of residence and habits, it may take longer for the police investigations to yield positive results. In such cases, the issuing authority is informed that investigations are ongoing and every effort is made for the EIO to be executed as fast as possible, always bearing in mind that the main goal is for the investigation to yield results. In addition, an EIO may be requested for an investigative measure to be carried out over a longer period of time than the deadline provided for in the Directive. In this case, the removal of telecommunications secrecy can be requested for a period of four months or longer, in which case the execution of the EIO will necessarily take place outside the prescribed deadlines.

Finally, the Greek authorities explained that there are also instances where the issuing State itself does not comply with the deadlines. This usually occurs when the issuing authorities request that their representatives be present during the execution of investigative measures in Greece and hence ask for the investigative measures to be carried out on a date that dovetails with their travel arrangements and require details of the action day with the respective investigative officers in Greece. Also, the issuing authorities may request that the execution of the EIO is delayed so that the investigative measures necessary before execution have been carried out in the issuing State. In all of the above cases, Greek authorities inform the issuing State of these delays in accordance with Article 12(5) of the Directive and carry out the EIO in consultation with the issuing authority as quickly as possible.

The urgency of an EIO depends on the EIO itself, as the issuing authority must state in Section B the reasons for its urgent execution. Basic criteria for evaluating the urgency of an EIO for Greece as executing State are as follows: the seriousness of the criminal act, the existence of procedural deadlines (for example, that a trial is imminent, that there are temporary detainees, that there are deadlines for the completion of the interrogation stage, etc.), an immediate risk of evidence being destroyed, the imminent arrest of an accused person or a risk that suspects will flee from the issuing or executing State. In all of these cases, absolute priority is given to the execution of the relevant EIOs which, as a rule, are executed immediately and within the time frame provided for by the Directive. Issuing States should explain why they have marked Section B as urgent, especially since the systems in the issuing and executing States can be very different. The Greek practitioners stated that, unfortunately, not all Member States provide information as to why an EIO is urgent. Furthermore, Greek executing authorities sometimes only notice that an EIO is urgent in a long paragraph of text which is not clearly visible to the reader. The evaluation team recommends that all Member States clearly provide all relevant information on upcoming trial dates or other important deadlines. At the same time, according to the evaluation team, it is important to make sensible use of the ‘urgent’ label and use it only in cases that really are urgent (*see Recommendation No 11*).

In very rare cases, issuing States have sent EIOs to Greece with a considerable delay despite the deadline for their execution being within a very limited period of time. Consequently, the deadline could not be met. It has also occurred that an EIO has been sent to the Greek authorities after the date on which an investigative measure was requested to be carried out. Even in such cases, Greek authorities always contact the issuing authorities to investigate the possibility of executing the EIO by a later date.

When asked by the evaluation team, the Greek practitioners indicated that there had been no official cases of execution being postponed (Article 15 of the Directive), but that execution could be delayed for practical reasons (for example, waiting for a translation, or waiting for the issuing State to set an action day). The evaluation team wonders whether this is because of a lack of a centralised case management system which prevents Greek authorities from having an oversight of the ongoing Greek investigations. After the visit, Greek authorities mentioned that they expect to have an oversight of the ongoing Greek investigations once the central case management system becomes fully operative.

The average time for executing EIOs in Greece depends on how many measures are required, but most are usually executed in one to one-and-a-half months. Only Athens and Piraeus have investigating judges working solely on the execution of EIOs. In other regions, the investigating judges may also deal with their own cases and this may slightly delay the execution of an EIO.

14. LEGAL REMEDIES

Greek law provides for legal remedies against the investigative measures indicated in the EIO – specifically, Article 16 of Law No 4489/2017, which is transposed by Article 14 of the EIO Directive. The Judicial Council handles appeals against any acts or omissions of the prosecutor and investigating judge by defendants and victims supporting the accusation.

In practice, Article 459(4) CCP is applied, so that any doubt or objection regarding the execution of requests for judicial assistance is resolved by the Judicial Council at the Court of Appeal, which, under the procedure mentioned in Article 459, decides within eight days what action to take. The decision of the Judicial Council at the Court of Appeal may be appealed by the public prosecutor and by the person requesting the legal remedy. The appeal is then brought before the Supreme Court which issues a final decision on the legal remedy.

During the evaluation visit, the Greek authorities gave an example of an EIO they received to freeze multiple bank accounts. The freezing of bank accounts is provided for by the law on money laundering and is only for the purposes of future confiscation. This law does not allow bank accounts to be frozen in order to gather evidence and consequently, the accounts cannot be frozen if they do not contain proceeds of offences that may be confiscated. Hence the person concerned appealed against the freezing of his accounts and the Judicial Council consequently lifted the seizure.

A legal challenge in Greece should not suspend execution of the investigative measure, unless it is explicitly provided for in Greek law. If a legal remedy is accepted in the executing State and Greece is the issuing State, the outcome of the legal remedy will be dealt with in accordance with Greek law.

When Greek representatives were asked how a person is notified of their right to a legal remedy, for example before a house search, they informed the evaluation team that this notification can be done ex ante and ex post; in the case of the latter, the investigative measure can, according to Article 171 CCP, be annulled if the Judicial Council decides that the measure is not lawful (for example, in the case of a house search with no competent judicial authority present).

Article 307 CCP is a general legal remedy against the issuing of an EIO. The issuance of an EIO cannot be challenged as such because it is at the discretion of the authority that issued it, although specific investigative measures requested in the EIO can be challenged. If the defendant is of the opinion that there are grounds of nullity of the evidence acquired with the EIO, they can appeal to the Judicial Council. This is possible when the evidence comes back from the executing State. Defendants can also appeal the breach of their rights under the Charter, the European Court of Human Rights (ECHR) or national law.

If a legal remedy is successful, Greek law stipulates that the measure has to be repeated. In practice, however, this never happens and the evidence collected is simply not taken into account. The Judicial Council decides on the admissibility of evidence. If the legal remedy before the Judicial Council is effective, the court dealing with the case will still hear the respective evidence but it will not be taken into account.

When the Greek practitioners were asked how the Gavanozov II judgment influenced this matter in Greece they responded that, since they have a general legal remedy (Article 307 CCP), they believe Greek law is already in line with the judgment.

Chapter 12 on Confidentiality already mentioned a successful appeal against an EIO to hear a person suspected of murder. The Greek Supreme Court agreed with the defendant that he should have had access to the entire case file. During the visit, Greek authorities mentioned that the issuing State did not reply to the request to send copies of the case file, nor did they send an EAW as advised by Greece as an alternative.

Additionally, Greek authorities mentioned two more cases with the Supreme Court concerning companies in Greece. The companies appealed the execution of the EIO, a house search and the hearing of two representatives of the company. The Judicial Council rejected the appeal, after which the representatives appealed to the Supreme Court. The persons concerned said that not all legal formalities had been followed and that they were not the legal representatives of the company. The Supreme Court rejected the appeal as everything had been done according to law. The claim that they were not representatives of the companies should be investigated by the issuing State and cannot be the subject of an appeal in the executing State.

15. TRANSFER OF EVIDENCE

When Greece executes an EIO, the material gathered is forwarded by the executing investigator to the Public Prosecutor at the Court of Appeal for transmission to the issuing State. If the execution is partial, the investigating judge will explain why some parts could not be executed and this will be shared with the issuing State. The investigating judge will attach a cover letter to the investigator's report, where the legal reasons for partial non-execution will be explained. The evaluation team considers this to be best practice and a recommendation to all executing Member States as it provides a useful and quick overview to the issuing State (*see Best practice No 6 and Recommendation No 12*).

Usually, if the material gathered consists of a large number of pages, it is sent by post, although in an increasing number of cases the results will be sent via secured mail or message links. Sometimes, when foreign authorities request computers/phones, the Greek practitioners will ask for the assistance of the issuing State's embassy to avoid any damage during transfers. Alternatively, a delegation from the issuing State (composed of police officers) may come to collect the material. If there is a time limit, the gathered material may be sent by email and then by post. Bank information is usually received in electronic format (email with codes or a USB stick). The evaluation team welcomes this positive development in Greece to send evidence electronically in more and more cases and recommends all Member States do the same wherever possible (*see Recommendation No 13*).

When receiving evidence as issuing State, Greece stated that it depends on the wording of the request. If the request concerns bank account information, a letter with an encrypted USB stick is often received. With other information, such as company information, documents may be received via email first and, at a later stage, the originals are sent by post. For the Greek court, hard copies are needed, although some items can be presented in digital format. Greek practitioners informed the evaluation team that currently paper files are converted into electronic files. Greek authorities can also accept the documents if they contain an electronic signature, otherwise the originals are needed.

16. OBLIGATION TO INFORM - ANNEX B

As issuing authority, the experience of the Greek authorities differs vis-à-vis Annex B. Some practitioners indicated that they usually receive Annex B while others claimed that they had never received such a confirmation from the executing State. Sometimes, the executing State does not use the Annex B form but merely sends an email containing all relevant information, and this is sufficient for the Greek authorities.

The evaluation team stressed that Annex B has an important function as it lets the issuing State know that their EIO has been received. Annex B is also crucial to enable direct contact between authorities. Therefore, the evaluation team recommends all Member States improve the practice of sending Annex B in reply to all EIOs (*see Recommendation No 14*).

As executing authority, Greece sends Annex B unless the executing authority does not recognise the EIO. In this case, it informs the issuing authority accordingly and does not send Annex B. In Greece, Annex B is sent by the Public Prosecutor at the Court of Appeal. Greek authorities believe that Annex B contains all the necessary information and does not need to be improved.

Greek representatives stated they do not decide separately whether to recognise an EIO as they believe sending Annex B is enough to acknowledge recognition of the EIO. If there are problems with the EIO, Greek authorities will not send Annex B and they will ask for clarification first. This request for clarification is usually made within seven days. The evaluation team is of the view that Annex B should always be sent within seven days in accordance with the Directive, regardless of any recognition procedure.

17. COSTS

The Greek authorities reported that they have not encountered any cost-related difficulties, apart from – as mentioned above – delayed payment to translators.

Cases involving costs that are ‘deemed to be exceptionally high’ can be resolved through the consultation mechanism, but the Greek authorities have no experience in that regard since the issue has never arisen.

The lack of a definition of ‘exceptionally high costs’ is not problematic, although the Greek practitioners would, for the sake of clarity and uniformity, not be opposed to a general definition of the concept by the Commission as long as this definition leaves enough room for case-by-case assessment. For instance, there may be cases involving costs that are not exceptionally high as such, but which relate to minor offences and which, if repeated, could entail high costs.

The Greek authorities indicated that special technical means that require the assistance of private practitioners are usually quite expensive and may be considered exceptionally high costs, depending on the specific circumstances.

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

As executing State, Greece has, on several occasions, received EIOs that had to be executed simultaneously and in coordination with other Member States. The Greek practitioners are of the opinion that setting up a coordination centre at, for instance, Eurojust or Europol headquarters is good practice, as is the organisation of a coordination meeting before the joint action day. Again, direct and short communication lines are key and the involvement of Eurojust and Europol can help to tackle any issues that may arise in one country so that they do not affect investigations in other countries.

As issuing State, Greek authorities mentioned that, to date, they have never initiated a coordination meeting. Their participation has always been upon the initiative of another Member State.

19. SPECIFIC INVESTIGATIVE MEASURES

19.1. Temporary transfer

In the Directive, temporary transfer is covered in Articles 22 and 23. Greece has transposed the wording related to temporary transfers almost verbatim from the Directive and it is covered in Articles 24 and 25 of Law No 4489.

In their written answers, Greece indicated that as issuing State, they did not have any problems in ensuring that a person who is already detained, is temporarily transferred to Greece is held in custody. In Greece, there is no special procedure to determine whether a person will consent to their temporary transfer. However, during the visit, Greek practitioners explained that Greece does not really resort to temporary transfers and no examples could be given to the evaluation team.

19.2. Hearing by videoconference

Hearing by videoconference, as referred to in Article 24 of the Directive, is transposed in Article 26 of Law No 4489.

In their written answers, Greece indicated that, as issuing authority, it had not encountered any problems so far with hearings via videoconference, even though there have not been many EIOs issued with this measure. During the visit, it was explained that the reason why Greek authorities had not issued EIOs for hearings via videoconference was because, at that time, Greece did not have the necessary basis in domestic law for such hearings. Article 238A CCP, allowing for '*examination by technological means*' in domestic cases was only recently adopted and will be in force from July 2024. As from its entry into force, Article 238A CCP will be the legal basis for such hearings in domestic cases and Greek practitioners will be able to issue an EIO for the purpose of hearing someone via videoconference.

The evaluation team finds this addition to domestic law essential, since executing investigative measures that do not exist under the law of the executing State should be recourse to an investigative measure other than that provided in the EIO (Article 12 of Law No 4489/2017). Executing EIOs before having the option of a hearing by videoconference under domestic law could be problematic for countries who ask Greece to execute this investigative measure. The evaluation team expressed some concern that evidence collected before the entry into force of the new law might be dismissed as evidence since Greece had not foreseen the measure in domestic cases.

Greece replied to the questionnaire that, as executing State, its authorities had responded positively to all requests to take depositions via videoconference. It also explained that videoconferences have been held in investigative offices, prosecutors' offices, police offices, prisons, etc. and no issue had arisen regarding the venue of the videoconference examination.

During the visit it was confirmed that Greek authorities do execute EIOs for hearings by videoconference and the investigating judge is always present. As executing State, Greece organises the practical arrangements with the competent issuing authority by email and/or telephone and there is always a test before the hearing itself to ensure that the connection is good. The representatives explained that the investigating judge is present during the hearing and asks for the consent of the suspect or the accused.

Greece has executed many EIOs requesting the deposition/testimony of a suspect or accused person and there have been cases where the suspect or accused did not consent to this hearing via teleconference. This refusal is expressly provided for by Article 26(2)(a) of Law No 4489/2017 and Article 24 of the Directive. In such cases, Greek authorities try to find alternatives and, after communicating directly with the issuing authorities, Greece has suggested that the competent executing authorities in Greece hear the suspect and send the depositions/testimonies to the issuing State.

As mentioned in Chapter 11 on Confidentiality, Greek law stipulates that a suspect or accused person has the right to access their entire case file before being heard. The same rules apply when Greece is asked to execute an EIO to hear a suspect or an accused person via videoconference. In such cases, the suspect/accused person is allowed to decide whether to request access to the entire case file in the issuing State. In the event that they refuse to participate in the videoconference unless access to the case file is given, and the issuing State denies such access, execution of the EIO would be refused in accordance with Article 24(2)(a) of the Directive.

In addition, Greece has executed EIOs where a defendant's participation via videoconference was requested throughout the main trial. The request was accepted in the context of respecting the defendant's basic right to participate in person throughout their trial. Greece explained that it does not consider this to be part of the evidentiary process but such requests appear very rarely and should be examined on a case-by-case basis. The evaluation team considers this flexible approach to be positive, but it should also be noted that there are differing views between Member States on whether, in the context of the EIO Directive, a defendant may participate in a trial in another Member State via videoconference for the purpose of giving evidence. The evaluation team is of the opinion that more clarification on the application of the EIO to ensure the presence of the defendant at the main trial would be beneficial to all Member States in order to ensure a more coherent approach on the matter (*see Recommendation No 16*).

19.3. Hearing by telephone conference

Hearing by teleconference, as referred to in Article 25 of the Directive, is transposed in Article 27 of Law No 4489. During the visit, the Greek authorities explained that there is no provision in Greek law on hearings by telephone conference. It was also stated that when hearings by telephone are requested by EIOs, Greek authorities suggest a hearing by videoconference.

The evaluation team expressed some confusion regarding this reply since a hearing by videoconference has not been part of Greek national law either and will only be covered as of 1 July 2024. Thus, a similar situation seems to be applicable to both hearings via videoconference (until 1 July 2024) and telephone conference as they are not covered by national law but are part of Greek transposition Law No 4489.

Greek authorities explained that as far as videoconferences are concerned, Presidential Decree (PD) 142/2013 has specific provisions on the relevant procedure. Although that PD directly concerns judicial cooperation in civil matters, it is applicable to judicial cooperation in criminal matters by analogy in the absence of relevant dispositions for the latter. As a result, Article 26 of Law No 4489 (Videoconference) combined with PD 142/2013 could serve as *lex specialis*, permitting a hearing via videoconference for the purpose of executing an EIO because it provides an adequate legal framework on the videoconference – a framework that not only permits the relevant collecting of evidence, but also contains provisions on the conditions, the procedure and the admissibility of videoconferences.

As far as hearings via telephone are concerned, there is no legislation concerning the relevant procedure. As a result, Article 27 of Law No 4489 cannot serve as a full legal basis, as a *lex specialis*, permitting a hearing via telephone for the purpose of executing an EIO, because it lacks provisions on the conditions, the procedure and the admissibility of telephone hearings.

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

Information on banks and other financial accounts and banking and other financial operations, as referred to in Articles 26 and 27 of the Directive, is transposed in Articles 28 and 29 of Law No 4489.

During the visit it was explained that there are no limitations linked to the status (victim, witness or suspect) of the person whose financial information is requested – this is at the discretion of the court. The measure needs to be proportionate, and it is possible to lift bank secrecy if there is reason to believe that the person is connected to the investigation.

However, information on banks and other financial accounts and banking and other financial operations can only be provided in cases where an offence carries a minimum term of five years' imprisonment, as well as in money laundering cases and any offence or misdemeanour listed in Article 4 of Law No 4557/2018. It is important to mention at this point that Law No 4557/2018 is entitled 'Prevention and suppression of the legalisation of the proceeds of crime and terrorist financing and other provisions' and the misdemeanours listed in Article 4 are predicate offences to money laundering. Hence requests for information on bank and other financial accounts and banking and other financial operations can only be executed in a very limited number of cases. The evaluation team considers this to be important information that the Greek authorities should include in the list of crimes and information in the EJM Fiches Belges (*see Chapter 6.1 and Recommendation No 1*). It is important for other Member States to be aware of the limitations of Greek law before issuing an EIO.

If the crime falls within the list of crimes in the EJM Fiches Belges, banking and other financial operations may be requested. First, the investigating judge would have to gain the consent of the Public Prosecutor at the Court of First Instance to issue an order. The order is then served by a bailiff of the court who attends the bank or financial institution. This would occur in a situation where the EIO contains information about the bank or financial institution which holds the requested information. However, in cases where the holder of the banking or financial information is not known and the request for information is addressed to the whole financial system, the order is sent to the Bank of Greece. This is the country's central bank and the national supervisor of the Greek financial system. In addition, it was explained that if an EIO contains several investigative measures, including a financial measure, the investigating judge will normally ask the financial police to execute the requested financial investigative measure. The financial police have access to an online portal to order and obtain the requested information within days. If the EIO only aims at obtaining financial information, the investigating judge will most probably execute the EIO themselves. The evaluation team thinks that this option to submit an order online or the possibility to submit orders via email is good step forward to innovate the system for the better and obtain the information faster.

19.5. Covert investigations

Covert investigations, as referred to in Article 29 of the Directive, are transposed in Article 31 of Law No 4489.

During the visit, the Greek authorities explained that they had no experience of covert investigations in the context of EIOs. Article 254 CCP provides for similar investigative measures in domestic cases and these are known as covert investigations and investigative infiltration. The difference between covert investigations and investigative infiltration is in the duration and range of activities that can be conducted undercover, which depends on the purpose of the covert investigation.

A covert investigation is when an investigating officer or private individual acting under their instructions offers to facilitate the commission of a crime that has already been decided by its perpetrator. This measure is allowed to be used for a limited number of crimes, specifically participation in a criminal organisation, human trafficking, child abuse, child pornography and corruption.

In the case of investigative infiltration, an investigating officer whose identity is concealed undertakes tasks within a criminal or terrorist organisation with the aim of investigating its structure, revealing its members and verifying a crime. The same tasks can be undertaken by a private individual, as long as the Public Prosecutor of First Instance is aware of their actions. The investigating infiltrator may wear a disguised identity for the purposes of the investigation.

In both cases, the covert investigation is carried out under the supervision of the Public Prosecutor of First Instance. A detailed report on the actions of the undercover investigating officer/investigating infiltrator is drawn up. Evidence obtained through the actions of the undercover investigating officer/investigating infiltrator that is not mentioned in the report will not be taken into account to convict the accused. As mentioned in Chapter 4, execution of an EIO in Greece always falls within the competence of the investigating judge, including an EIO which calls for covert measures. Greek authorities clarified that Law No 4489 is considered a *lex specialis* and that, consequently, the fact that the covert investigation in the execution of an EIO will be supervised by an investigating judge does not constitute a violation of or contradiction in Greek national law.

Measures carried out on Greek territory are conducted in accordance with Greek legislation and the procedures provided. The right to conduct, guide and control covert investigations is reserved exclusively for the competent Greek authorities. Furthermore, Article 254 CCP expressly provides for the participation of a civilian undercover agent under the instructions of a law enforcement agent in a covert investigation. Only Greek nationals can be used for this measure. The duration of covert investigations, the conditions and the legal status of the participants would be determined by agreements between Greece and the issuing State, taking into consideration current Greek law and the procedures followed in the Greek legal order. The details and the procedure for issuing cover-up data are defined by a joint decision of the Ministers of Justice and Citizen Protection. All the investigating officers or the private individuals executing a covert investigation may act under covert or false identity.

Since covert investigations and investigative infiltration can only be used in very specific types of crime according to domestic law, the evaluation team considers it important for the Greek authorities to include information and the list of crimes in the EJM Fiches Belges (*see Recommendation No 1*). Planning and preparing for surveillance activities can be very time consuming and is regulated very differently in different Member States. According to the evaluation team, the best tool to share information about domestic legislation would be the Fiches Belges.

19.6. Interception of telecommunications

Interception of telecommunications with technical assistance from another Member State

The interception of telecommunications, as referred to in Article 30 of the Directive, is transposed in Article 32 of Law No 4489.

Article 254 CCP provides for similar investigative measures in domestic cases and is called ‘declassification of the content of communications’. Declassification of the content of communications covers the content of the telecommunication, the identities of the participants and the geolocation of the device.

This declassification of the content of communications is permitted in certain crimes that are listed in Article 6(1) and (2) of Law No 5002/2022. According to Greek representatives, several misdemeanours have been added to this list (for example, revenge pornography, insults to minors and child pornography, monitoring software and devices, fraud and computer fraud). The need for these additional crimes arose subsequently and as a result of the Greek authorities’ experiences of EIOs received from other Member States.

In practice, the procedure for removing confidentiality of communications is as follows: the public prosecutor makes a proposal to the competent Judicial Council, who decides on a reasoned ruling within 48 hours. When executing an EIO an extra step comes into play from the outset: the investigating judge will ask the prosecutor to draft a written proposal to the Judicial Council. The prosecutor’s proposal can differ from that of the investigating judge, meaning that the prosecutor can advise the Judicial Council against removing the confidentiality of communications. However, Greek authorities explained that this advice is not binding and the Judicial Council can still decide in favour of the requested measure. In extremely urgent cases, removing the confidentiality of communications may be ordered by the prosecutor or the investigating judge. In this case, the prosecutor or the investigating judge is obliged to submit the matter, within a period of three days, to the competent Judicial Council, which at the same time checks for the presence of extremely urgent circumstances (Article 6(3) of Law No 5002/2022).

According to Greek law, the basic criteria to allow for the interception of communications is that there are serious indications of guilt of the person against whom the interception is carried out. However, Article 6(6) of Law No 5002/2022 provides for the possibility of an interception of telecommunications of non-suspects (for example, a suspect's relative), but in this case it would have to be indicated to the Judicial Council that it would be particularly difficult to verify the offence by any other means.

As a general rule, Greece, when it is the executing authority, does not immediately forward intercepted telecommunications to the issuing State in communication declassification cases, but collects the relevant material and then forwards it to the issuing State. In urgent cases it tries to collect and transmit this material in parts and on a regular basis, so that the issuing State's investigation is not delayed.

The evaluation team would like to reiterate its recommendation to the Greek authorities that it is very important to include the list of crimes and information concerning Greek law on the interception of telecommunications in the EJM Fiches Belges. Planning and preparing for surveillance activities can be very time consuming and is regulated very differently by Member States. According to the evaluation team, the best tool to share information about domestic legislation would be the Fiches Belges.

Notification of the Member State where the subject of the interception is located from which no technical assistance is needed

Notification of the Member State where the subject of the interception is located from which no technical assistance is needed, as referred to in Article 31 of the Directive, is transposed in Article 33 of Law No 4489.

During the visit, Greece explained that it has no experience with this measure. However, it considers it to refer to the domestic measure of declassifying the content of communications. There was an opinion by the Greek authorities that declassification of the content of communications covers the installation of direct listening devices, malware or GPS tracking, and Annex C can be used. However, Article 254 CCP stipulates a separate measure for declassifying the content of location and movement data but it is unclear whether an Annex C would be used in these cases. Nevertheless, Greek authorities considered that the EIO Directive should be amended or clarified so that the term ‘interception of telecommunications’ can be understood and the usage of Annex C regulated. The evaluation team agrees with such a recommendation to the Commission (*see Recommendation No 17*).

As executing authority, Greece has received EIOs which contain a notification according to Annex C from the issuing State and which do not require the provision of technical assistance for persons under surveillance located within the Greek territory. According to the Greek authorities, the Annex C notification procedure is effective.

The Greek authorities stated that the Member State that proceeds with lifting the confidentiality of telecommunications is allowed to send the notification of Article 31 of the Directive once confidentiality has been lifted and as soon as it becomes aware that the person who was intercepted was, during the removal, on Greek territory. This of course applies in any case of interception of telecommunications and in cases where a bugged car is travelling abroad or a GPS device has been installed in a car travelling to Greece. The notification is made by sending the Annex C model and then, if in this particular case confidentiality of communications can be lifted according to Greek law, a relevant decision is issued by the Judicial Council allowing this and the use of the material that has already become available since the interception. Only when the requested lifting of confidentiality of communications is not permitted by Greek law, the Public Prosecutor at the Court of Appeal will notify the issuing authority accordingly within 96 hours.

Greek authorities provided two additional examples. First, Greece was asked by an issuing State to allow the tracking of a vehicle in which GPS had been installed during its passage through Greek territory, which was accepted following the issuance of a relevant decision by the Judicial Council. Second, when the issuing State had already carried out telephone monitoring by technical means, a request was made to Greece to allow the material uncovered to be used in proceedings before a court of the issuing State. In this case, after it was checked that the conditions were met, in accordance with Greek law, a relevant decision was issued by the Judicial Council which allowed both the interception of the communications and the use of this material by the court of the issuing State. As an aside, the evaluation team would like to mention that Annex C does not require consent or approval from the notified State; only when the interception is not allowed in a similar domestic case will the notified State inform the intercepting State.

19.7. Other investigative measures (for example, house searches)

Investigative measures involving the gathering of evidence in real time, continuously and over a certain period of time, as referred to in Article 28 of the Directive, are transposed in Article 31 of Law No 4489.

During the visit there was some discussion with the Greek authorities as to whether they consider a house search to constitute the gathering of evidence in real time. The Greek authorities explained that while issuing the EIO they would tick the box in Section C that indicates ‘provisional measures to prevent the destruction, transformation, moving, transfer or disposal of an item that may be used as evidence’ and they would not refer to Article 28 of the Directive.

However, as executing State, it was clear that it does not matter to Greece whether or not all the correct boxes are ticked and/or all the relevant sections of the EIO (in this case section H5) are properly filled out. If the EIO contains sufficient information and reasons to justify and explain the requested investigative measures (Section C), Greece would execute the requested measures.

20. STATISTICS

Owing to Greece's decentralised judicial system, it is almost impossible to provide specific statistics on outgoing EIOs. All territorially competent judicial authorities can issue EIOs and send them directly to the executing Member State. There is no centralised system to record and monitor these EIOs.

Statistics on incoming EIOs are easier to obtain since they are centralised at the 19 different Prosecutor's Offices at the Courts of Appeal and the evaluation team was informed that, for the period 2018-2023(included):

- the Public Prosecutor's Office at the Court of Appeal of Athens received 1 389 EIOs, 95 of which could not be executed;
- the Public Prosecutor's Office at the Court of Appeal of Thessaloniki received 473 EIOs, 23 of which could not be executed;
- the Public Prosecutor's Office at the Court of Appeal of Piraeus received 318 EIOs;
- the Public Prosecutor's Office at the Court of Appeal of Eastern Crete received 85 EIOs;
- the total number of EIOs received by the 15 other offices was 422.

In that same period, the Greek Eurojust desk assisted in transmitting 577 outgoing EIOs and received 264 EIOs from other Member States.

The Greek authorities are optimistic that the issuing of statistics will be resolved as soon as the e-EDES platform is fully implemented. The Greek practitioners indicated that there is a need for more training on this platform and that the Greek platform, which will connect them to e-EDES, is still under construction, and is the responsibility of the Ministry of Justice (see also Chapter 8).

21. TRAINING

Aspiring judges and prosecutors, when attending the National School of Judiciary, always receive training on international cooperation in criminal matters with dedicated seminars that cover not only the theoretical aspect but also the practical side of filling out EIO forms, for example. The evaluation team considers this to be best practice. (*See Best practice No 7*)

For serving judicial officers, a general international cooperation seminar including workshops is organised every two years and in March 2023 a two-day training course on e-EDES and the EIO in practice was organised with the assistance of the TREIO Project (TRaining on European Investigation Order)⁵.

In 2023, support staff were able to attend training on international cooperation in criminal matters for the very first time. Such training should be organised on a regular basis and remain open to all staff since, after all, international cooperation remains a joint effort and each link in the chain should have access to training on it. This also applies to the police – an equally important partner in international cooperation – which, when asked, indicated that they do not receive sufficient (if any) specialised training on the instruments of international cooperation in criminal matters. Hence, the evaluation team recommends that the Greek authorities look into the possibility of more and frequent training on the EIO (and on international cooperation in criminal matters in general), not only for magistrates, but also for support staff and the police (*see Recommendation No 5*).

The need for additional specialised training was confirmed by the representative of the Bar Association, who hopes that this will help to raise awareness among Greek lawyers and motivate them to use this very valuable ‘tool’ while defending their clients. The evaluation team took note of this statement, but, assuming that the training of lawyers is a matter for the Bar Association itself and not the responsibility of the Greek authorities, will not make any recommendation in this regard.

⁵ <https://treio.eu/>

FINAL REMARKS, RECOMMENDATIONS AND BEST PRACTICES

21.1. Suggestions by Greece

According to the Greek practitioners, there has been a significant improvement in the transmission of requests since the entering into force of the Directive and the creation of the EJNI Atlas.

Greek authorities mentioned that they try to be flexible when it comes to the application of the EIO. According to the Greek authorities, there may be some overlap with other instruments, such as an MLA request or a freezing order, but they will always stay in contact with the issuing State and will not unnecessarily complicate procedures. For example, if the issuing State considers luxury items or money as evidence, Greek authorities can seize the items based on the EIO.

Furthermore, Greek practitioners frequently brought up the issue of the poor quality of translations of the EIOs that are received. Greek authorities understand and realise that Greek is not an easy language and not all Member States have a qualified Greek translator at their disposal. That is why attention is drawn to the fact that Greece also accepts EIOs in English, which may be easier for other Member States.

Lastly, Greek authorities are of the opinion that an amendment or clarification of the EIO Directive would be desirable to better understand the term ‘interception of telecommunications and usage’ in Annex C.

21.2. Recommendations

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

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

21.2.1. Recommendations to Greece

Recommendation No 1: Greece should provide information on their national law and proceedings in the Fiches Belges on the EJM website (*Chapters 6.1, 11, 19.4 and 19.5*).

Recommendation No 2: Greece is encouraged to identify specific issues with a view of finding a solution for problems relating to the translation of EIOs (*Chapter 6.2*).

Recommendation No 3: Greece is encouraged to create a national database that would enable practitioners to verify, at the very least, the existence of a related investigation elsewhere in the country (*Chapter 6.3*).

Recommendation No 4: Greece is encouraged to revisit (the application of) the rules governing the interview of suspects, with a view to allow Greek competent authorities to execute EIOs issued for the hearing of a suspect during the pre-trial phase without always having to request the issuing authority to hand over (and translate) its entire case file (*Chapter 11*).⁶

Recommendation No 5: Greece is encouraged to provide more and frequent training on the EIO (and on international cooperation in criminal matters in general), not only for the judiciary but also for support staff and the police (*Chapter 21*).

⁶ Greek authorities noted that, in their view, the EIO Directive does not aim at establishing common rules regarding the conditions under which an investigative measure is conducted in Member States. Therefore, the EIO Directive accepts that differences in national laws concerning these conditions may have as a result that a national authority abstains for tactical reasons from issuing an EIO e.g. for hearing a suspect in another Member State due to these conditions.

21.2.2. Recommendations to the other Member States

Recommendation No 6: Member States are recommended to consider using other available options instead of EIOs, such as police-to-police cooperation, in case the only and final goal is to localise or identify the person concerned (*Chapter 5*).

Recommendation No 7: Member States are encouraged to indicate another language commonly used in the Union in their declaration concerning the language regime, in addition to their official language, in the spirit of Article 5(2) and recital 14 of the Directive (*Chapter 6.2*).

Recommendation No 8: Member States are encouraged to provide sufficient training in English (or another generally spoken language of choice) for all practitioners working in international cooperation and specifically EIOs (*Chapter 8*).

Recommendation No 9: Member States, when executing an EIO, should inform the issuing State when information gathered during the execution of the EIO is used for another case (*Chapter 10*).

Recommendation No 10: Member States, when executing an EIO, should keep the issuing State informed of any delay in execution and should always reply to requests and subsequent reminders sent by the issuing State (*Chapter 13*).

Recommendation No 11: Member States, when issuing an EIO, should make sensible use of the ‘urgent’ label and should provide the executing State with all relevant information to substantiate the urgency (*Chapter 13*).

Recommendation No 12: Member States, when executing an EIO, should include a cover letter along with the evidence, explaining whether the EIO was executed completely or partially (*Chapter 15*).

Recommendation No 13: Member States, when executing an EIO, are recommended to send the evidence in electronic format, where possible (*Chapter 15*).

Recommendation No 14: Member States, when executing an EIO, should improve the practice of sending Annex B in reply to all EIOs (*Chapter 16*).

21.2.3. Recommendations to the European Union and its institutions.

Recommendation No 15: The Commission is invited to clarify the application of the speciality rule in relation to the EIO (*Chapter 10*).

Recommendation No 16: The Commission is invited to clarify the application of the EIO in connection with ensuring the accused person's presence at their trial (*Chapter 19.2*).

Recommendation No 17: The Commission is invited to clarify the concept of interception of telecommunications in the context of the EIO (*Chapter 19.6*).

21.3. Best practices

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

Greece is to be commended for:

1. Having international cooperation units at the offices at the Courts of Appeal in Athens and Thessaloniki, with specialist administrative and judicial staff (*Chapter 4.2*).
2. The possibility for victims to request that an EIO be issued (*Chapter 4.4*).
3. The flexible approach in executing an EIO as an MLA request, in cases where the EIO is not the correct instrument (*Chapter 5*).
4. Whenever possible, executing urgent EIOs in English, without translating them first into Greek (*Chapter 6.2*).
5. Allowing for the digital transmission and receiving of EIOs (*Chapter 8*).
6. Sending a cover letter along with the evidence, explaining to the issuing State whether the EIO has been executed completely or partially (*Chapter 15*).
7. Having courses on international cooperation as part of the training for all aspiring judges and prosecutors (*Chapter 21*).

ANNEX A: PROGRAMME FOR THE ON-SITE VISIT

12 March 2024 – Hellenic Ministry of Justice, Athens, Greece

09:15 – 09:30	Welcome and introduction
09:30 – 10:00	Presentation and Q&A on the Greek legal system
10:00 – 13:00	Presentation and Q&A on: <ul style="list-style-type: none">- Competent authorities issuing and executing EIOs- Scope- Necessity and proportionality
13:00 - 14:00	Lunch
14:00 – 17:30	Presentation and Q&A on: <ul style="list-style-type: none">- Transmission and direct contacts- Recognition, execution and formalities- Admissibility of evidence- Speciality rule- Confidentiality- Grounds for non-execution

13 March 2014 – Hellenic Ministry of Justice, Athens, Greece

09:15 – 13:00	Presentation and Q&A on: <ul style="list-style-type: none">- Time limits- Legal remedies- Transfer of evidence- Annex B- Costs
13:00-14:00	Lunch
14:00-17:30	Presentation and Q&A on: <ul style="list-style-type: none">- Specific investigative measures- Coordination of EIOs- Statistics- Training

14 March 2024 – Hellenic Ministry of Justice, Athens, Greece

10:00-11:00	Final Q&A
11:00-12:00	Wrap-up meeting

26 April 2024 – Online meeting

11:00-12:00	Meeting with representatives of the Athens Bar Association
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ANNEX B: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	ENGLISH
CATS	Coordinating Committee in the area of police and judicial cooperation in criminal matters
CCP	Code of Criminal Procedure
CISA	Convention implementing the Schengen Agreement
Directive	Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters
EAW	European Arrest Warrant
ECHR	European Court of Human Rights
e-EDES	e-Evidence Digital Exchange System
EIO	European Investigation Order
EJN	European Judicial Network in criminal matters
JIT	Joint Investigation Team
MLA	Mutual Legal Assistance
PD	Presidential Decree
SIS	Schengen Information System
TREIO	TRaining on European Investigation Order