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



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

REPORT ON CYPRUS**

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1. EXECUTIVE SUMMARY

Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters ('the Directive') has become the core instrument for gathering evidence within the EU. Although the European Investigation Order (EIO) is used frequently, the 10th round of mutual evaluations has shown that several practical and legal challenges need to be addressed to further improve its smooth and consistent functioning. The evaluation has provided a valuable opportunity to identify areas for improvement and best practices to be shared among Member States.

The evaluation team has determined that the EIO generally operates well in Cyprus. During the visit, practitioners provided valuable insights into their practices related to the issuing and execution of EIOs, enabling the evaluation team to identify best practices for which Cyprus should be commended (*see Chapter 24.2*).

It is important to note that in Cyprus, the competence for criminal investigations lies largely with the Cyprus Police. Consequently, the police play a significant role in both requesting and executing EIOs. The evaluators were particularly impressed by the fact that Cyprus has established a specialised unit within the Cyprus Police, with nationwide territorial competence, dedicated to the execution of EIOs (*see best practice 7*). Additionally, the establishment of a central database of bank and financial accounts, to which the police have direct access and can obtain banking information as part of their investigative powers, is also noteworthy (*see best practice 13*).

Conversely, the evaluation team identified areas for improvement in Cyprus, leading to the recommendations outlined in Chapter 24.1.1. Specifically, the evaluation team suggests that Cyprus reconsider the application of the speciality principle in the context of an EIO. This reassessment should include the practice of seeking the consent of private entities for the use of evidence (e.g. banking information) by the issuing state in other proceedings (*see recommendation 1 to Cyprus*).

Furthermore, the evaluators recommend that Cyprus implement systematic and regular training on EIOs (*see recommendations 3 and 4*), encompassing the case-law of the Court of Justice of the European Union (CJEU) and related materials provided by the European Judicial Network (EJN) and Eurojust. This training should be accessible to all entities and practitioners involved in EIOs. Of immediate concern, trainings should be provided to district judges, as they serve as the Cypriot issuing authority under the Cypriot Implementing Law (Part I(2)(8)) and the Cypriot notification under Article 33(1) of the Directive.

While practitioners in Cyprus demonstrate a clear commitment to executing EIOs (*see best practices 1 to 4*), the effectiveness of these efforts may be hindered by the limited investigative tools at their disposal. During discussions with Cypriot practitioners, it was highlighted that the primary legal method for intercepting telecommunications is through wiretapping, typically facilitated by mobile phone operators. In addition to wiretapping, law enforcement is restricted to surveillance through direct observation (such as stakeouts) and the capture of visual evidence through photography during physical surveillance operations. The interception of telecommunications is only specifically permitted for a select range of criminal offences, including murder, human trafficking, child exploitation, drug-related crimes, financial offences and corruption cases carrying a minimum sentence of five years.

Cypriot legislation allows for the monitoring and disclosure of written communications only in cases outlined in Article 17 of the Constitution, while the disclosure of telecommunications data is limited to serious offences punishable by five or more years of imprisonment, focusing solely on the subject's location and movements. Authorities in Cyprus have indicated that discussions regarding potential amendments to the law are ongoing, including the duration for which service providers can retain data and expanding the list of offences covered.

Despite these limitations, it is important to note that the current constraints on investigative measures should not be viewed as a shortcoming in Cyprus's implementation of the EIO Directive. The Directive does not mandate the use of special investigative measures that are not available in domestic cases. Therefore, while improvements are being considered, the existing framework aligns with the requirements of the EIO Directive.

Furthermore, the findings of the present report have also led to several recommendations for the EU and its institutions, as detailed in Chapter 24.1.3. The evaluators have identified a need for further interpretation of the Directive to provide clarity on several key issues. These include the speciality principle, the concept of confidentiality, and the application of the EIO to ensure the attendance of the accused person during both the main trial and post-conviction proceedings.

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 2021 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 the Directive. This will allow shortcomings and areas for improvement to be identified, together with best practices to be shared among Member States, thus helping to ensure a more effective and coherent application of the principle of mutual recognition at all stages of criminal proceedings throughout the EU.

On a more general note, 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 areas of freedom, security and justice. Furthermore, the current evaluation process could provide useful input to Member States that may not have implemented all aspects of the Directive.

Cyprus was the 21st Member State to be evaluated during this round of evaluations, as provided for in the order of visits to the Member States adopted by CATS².

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 organised crime.

² ST 10119/22 and WK 6508/2023.

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

The evaluation team consists of three national experts, supported by one or more members of staff of the General Secretariat of the Council and observers. For the 10th round of mutual evaluations, it was agreed that the European Commission and Eurojust should be invited as observers³.

The experts entrusted with the task of evaluating Cyprus were Ms Meredith Ebejer (Malta), Dr Jan Provazník (Czechia) and Dr Eszter Köpf (Hungary). In addition, two observers were present: Ms Ana Wallis de Carvalho (Eurojust) and Ms Filipa de Figueiroa Quelhas from the General Secretariat of the Council.

This report was prepared by the team of experts with the assistance of the General Secretariat of the Council, based on Cyprus's detailed replies to the evaluation questionnaire, the findings of the evaluation visit carried out in Cyprus between 19 and 23 February 2024, where the evaluation team interviewed representatives of the Ministry of Justice and Public Order (hereafter 'MJPO'), the Attorney General's Office (hereafter 'AGO'), the Cyprus Police, a district judge, the representatives from the Commissioner of Taxation and the Director of Customs and a defence lawyer from the Cyprus Bar Association.

³ ST 10119/22.

3. TRANSPOSITION OF DIRECTIVE 2014/41/EU

The Directive has been transposed by Law No 181(I) of 2017 on the European Investigation Order in Criminal Matters (hereafter ‘Implementing Law’), which entered into force on 22 May 2017 in accordance with Article 35(1) of the Directive. The Implementing Law was subsequently amended by Law Nos 50(I) of 2021 and 57(I) of 2023.

Cypriot authorities have not faced any difficulties with regard to implementation, although it should be noted that national legislation is practically in line with the Directive as it stands.

Before the 2021 amendment, all outgoing EIOs were initially forwarded to the AGO for consent. Since the amendment, the consent of the AGO is only sought in cases where:

- the EIO is requested by the authority stipulated in Article 3(3f) of the Implementing Law (see point 4.1);
- the EIO contains investigative measures relating to telecommunications data; or
- the presence of a Cypriot officer at the execution of the EIO in the other Member State is requested.

Hence the 2021 amendment simplified the procedure and made the execution of EIOs more effective.

The 2023 amendment was part of a data protection package which included modifications to the Constitution.

4. COMPETENT AUTHORITIES

4.1. Issuing authorities

According to Article 2 of the Implementing Law, the Cypriot issuing authority is the district court with territorial competence to adjudicate the criminal act in respect of which the EIO is issued.

The court always acts on request when it issues an EIO. Owing to the passive role of the judge in the adversarial criminal procedure system, the court issues an EIO, even during the trial phase, only on the motion of the parties.

All district court judges work on the issuing of EIOs in the country according to a rotation system. They receive the case files only if needed. There are no statistical data available on the number of EIOs requested but not issued by the court. According to the judge interviewed during the on-site visit, the most frequent reason for refusal is that the EIO is unfounded. The criteria here is the same as for domestic cases, and includes, inter alia, fundamental rights issues and issues of necessity and proportionality. The court also checks whether the proper form is used (e.g. EIO vs freezing/confiscation order, or EIO vs EAW).

In accordance with Article 3(3) of the Implementing Law, the issuing of an EIO may be requested by:

- (a) the suspect or the accused, or an attorney on their behalf;
 - (b) the Attorney General of the Republic;
 - (c) the Chief of Police;
 - (d) the Director of Customs;
 - (e) the Commissioner of Taxation;
 - (f) any criminal investigator with the provision that the application is accompanied by written authorisation from the Attorney General of the Republic
- (hereafter ‘requesting authorities’).

Sub-paragraph a) the suspect or the accused, or an attorney on their behalf

In the pre-trial phase, the defence team has limited rights and no access to files. Against this background, it is difficult to request that an EIO be issued. According to the representative of the Bar Association interviewed during the on-site visit, the conflict of interest between the investigating authority and the defence team, and the right to silence, also limit the possibilities of the defence team to request an EIO during the pre-trial phase.

After indictment, the defence team receives the files with the evidence. Although this would be the best time for the defence team to request an EIO, it has never done so, as the representative of the Bar Association pointed out. It is unclear whether the defence team should contact the trial court or district court with a request for an EIO at this stage of the procedure.

As a consequence, hitherto the defence team has never requested an EIO be issued at any stage of the procedure.

Sub-paragraph b) the Attorney General of the Republic

Article 113 of the Constitution provides that the Attorney General will be the legal adviser of the Republic and of the President, of the Council of Ministers and of the Ministers. The Attorney General will have power – exercisable at their discretion in the public interest – to start, conduct, take over, continue and discontinue any proceedings for an offence against any person. Such power will be exercised by them in person, or by officers subordinated to them acting under and in accordance with their instructions.

Owing to the separation of powers guaranteed by the Constitution, the AGO is not part of the judiciary but of the execution. The AGO does not supervise the investigation, and it requests an EIO only in the trial phase after indictment.

Sub-paragraph c) the Chief of Police

An amendment in 2018 in the Law concerned the responsibilities of the police as regards both outgoing and incoming EIOs. Previously, the police authority of territorial competence sent outgoing EIOs directly to the Central Authority for transmission to the executing Member State, while incoming EIOs were sent directly by the Central Authority to the competent police authority.

After the amendment, a Special Department for EIOs and requests for mutual legal assistance (MLAs) (hereafter ‘Special Department’) with nationwide competence was established at Police Headquarters. The evaluation team sees this establishment as a best practice (*see best practice 7*). The Special Department employs 10 trained police officers. It receives all outgoing EIOs from the competent police authorities, and after a formal check forwards them to the Central Authority. It also receives all incoming EIOs concerning police competence from the Central Authority and executes them. As a rule, the Special Department has all the means and capacity necessary for the execution of EIOs. If, however, further assistance is needed (especially in cases of child abuse, drug and human trafficking), the Head of the Special Department turns for help to other departments of the Police Headquarters.

The police, subordinated to the MJPO, is the main EIO requesting authority. All EIOs requested by police authorities and issued by a district court are sent by the police authorities to the Special Department. The Special Department holds the delicate competency of formally checking the EIOs issued by the court. According to the representative of the Special Department interviewed during the on-site visit, if a formal problem occurs, the police authority is instructed to request a new EIO. No statistical data is available on the average time it takes to issue an EIO requested by the police.

Sub-paragraphs d) the Director of Customs and e) the Commissioner of Taxation

The customs and tax authorities are subordinated to the Ministry of Finance, and both have their own intelligence units and investigative staff.

As their representatives interviewed during the on-site visit explained, in practice, they do not use EIOs for cooperation with other Member States. They prefer the means provided respectively by the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on mutual assistance and cooperation between customs administrations, and Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC. Consequently, the customs and tax authorities have not requested any EIOs so far.

Within the framework of the above-mentioned EU legal instruments, the customs and tax authorities are able to gain permission for using the evidence before the court. Criminal cases of both authorities are brought to trial by their legal departments and not by the AGO.

Sub-paragraph f) any criminal investigator with the provision that the application is accompanied by written authorisation from the Attorney General of the Republic

According to Article 155 of the Criminal Procedure Act, independent criminal investigators can be appointed among lawyers by the Council of Ministers for special and complicated cases. Independent criminal investigators were appointed for the 2005 air crash which killed 121 people and for the 2012-2013 financial crises, for example.

The authorities listed in Article 3(f) of the Implementing Law have not requested any EIOs so far.

4.2. Executing authorities

According to Article 2 of the Implementing Law, the competent authorities to execute an EIO are:

- (a) the Attorney General of the Republic;
- (b) the Chief of Police;
- (c) the Director of Customs;
- (d) the Commissioner of Taxation;
- (e) the Courts.

Sub-paragraph a) the Attorney General of the Republic

According to the representative of the Central Authority interviewed during the on-site visit, an incoming EIO is sent for execution to the AGO if the execution is difficult from a legal standpoint (see point 4.1 above for the role of the Attorney General acting as legal advisor).

Sub-paragraph b) the Chief of Police

The majority of incoming EIOs are sent by the Central Authority to the police for execution. The ten specialised police officers of the Special Department acting with nationwide competence execute the EIOs in an effective manner (see point 3 above).

Sub-paragraphs c) the Director of Customs and d) the Commissioner of Taxation

As the representatives of the customs and tax authorities interviewed during the on-site visit explained, their counterpart Member State authorities prefer the means of cooperation provided respectively by the Convention drawn up on the basis of Article K.3 of the Treaty on European Union on mutual assistance and cooperation between customs administrations and Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, to an EIO. This is confirmed by the statistical data provided by the customs and tax authorities (see point 22).

Sub-paragraph e) the Courts

The Central Authority sends to the court for execution EIOs issued by a Member State authority in the trial phase, or if the Member State has requested that the EIO be executed by a judge. As there are no investigative judges in the Cypriot criminal procedure system, an EIO issued by a Member State investigative judge is sent to the competent investigating authority for execution, and not to the court.

4.3. Central Authority

Pursuant to Article 8(3) of the Implementing Law, the MJPO, as Central Authority, will assist the Cypriot issuing and executing authorities, in particular in the transmission and receipt of EIOs, as well as in other official correspondence relating to EIOs.

Upon receipt of an outgoing EIO, the Central Authority is responsible for its translation into the designated language of the executing Member State, and then for transmission. The Central Authority uses the EJN Atlas to identify the competent Member State authority (*see best practice 12*) and contacts Eurojust only if it is unable to do so. The evidence collected by the executing Member State is also supposed to be sent to the Central Authority. Once it is sent directly to the requesting or issuing Cypriot authority, this authority informs the Central Authority accordingly, which closes its files.

An incoming EIO is supposed to be sent to the Central Authority by the requesting Member State authority. If it is sent to any other Cypriot authority, this authority will forward it to the Central Authority, which will designate the executing authority. This procedure is also important from a statistical point of view since the Central Authority is responsible for collecting statistical data. Irrespective of which Cypriot authority first receives an incoming EIO, it is always the Central Authority that issues Annex B. Cypriot executing authorities never issue Annex B. The evidence collected by the executing Cypriot authorities is forwarded to the Central Authority for transmission to the requesting Member State authority.

As its representative explained, the role of the Central Authority is translation and transmission. During execution, direct contact between the Cypriot and Member State authorities is allowed. In the event of any difficulties, it is always the Central Authority which contacts Eurojust. There is a direct contact between the Cypriot National Desk in Eurojust and the executing Cypriot authority for which the Central Authority is being notified.

During the on-site visit it was indicated that a preliminary debate is taking place among decision-makers on reassessing the need for a Central Authority in Cyprus.

4.4. The right of suspects, the accused or victims to apply for an EIO

Regarding the right of the defence to request the issuing of an EIO, see point 4.1(a).

The victim has no legal standing in the criminal procedure, as they cannot be represented by a lawyer and have no more rights than any ordinary citizen. When a case is tried behind closed doors, for example a sexual case, the victim cannot even hear the trial.

The victim's claim cannot be pursued in criminal proceedings but should be presented before a civil court. Therefore, different judgments may be delivered during the two procedures.

Against this background, the victim has no right to request an EIO.

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

Article 4 of the Implementing Law states that an EIO may be issued for any investigative measure, except for the setting-up of a joint investigation team (JIT) and the gathering of evidence within a JIT.

Cypriot authorities do not request an EIO if no investigative measure is to be carried out to obtain evidence in another Member State. They issue an MLA without the intervention of a judge, for example for serving documents, requesting data from national databases and locating missing persons. There is one exemption – requests for judicial decisions – which is always requested in an EIO and is transmitted by the Central Authority to the competent Member State court for execution. In practice, Cyprus, as requesting authority, has had no difficulties in identifying the proper form of legal cooperation.

Cypriot authorities are flexible as far as the execution of incoming EIOs is concerned. They execute them according to their content and not their form (*see best practices 1, 2 and 11*), unless the issuing Member State authority requests a coercive measure requiring judicial approval. For example, when the Cypriot authorities receive an EIO to impose asset seizures for the purpose of confiscation, the issuing Member State authority is informed that a request based on Regulation (EU) 2018/1805 of the European Parliament and of the Council on the mutual recognition of freezing orders and confiscation orders is required for the execution. EIOs issued by a Member State authority for serving documents are sent by the Central Authority for execution to a private company contracted for this purpose.

Cypriot authorities have not requested an EIO in the execution phase of the procedure, but they see no problem in executing such EIOs.

Cypriot authorities regularly request and execute EIOs to obtain permission to use before the courts evidence gained previously through police channels.

Cypriot authorities request and execute an EIO and not an EAW for the temporary transfer of persons.

Administrative procedures are conducted by the municipalities, subordinated by the Ministry of Interior. According to Article 3(3) of the Implementing Law, administrative authorities are not requesting authorities. When evidence from a Member State is needed in an administrative procedure, the competent authorities issue ordinary MLAs and not EIOs.

Article 12 of the Implementing Law provides that the Cypriot executing authority may refuse recognition or enforcement of an EIO when it has been issued in an administrative case and the investigative measure is not authorised under Cypriot law in a similar domestic case. The Central Authority refuses incoming EIOs which come under Article 12 of the Implementing Law. In practice, however, Cypriot authorities have not received EIOs in administrative cases, only MLAs.

Since Cypriot authorities have been participating in only two JITs so far, they have no experience of issues in which a JIT was in place and an EIO was issued to non-participating Member States to seek evidence obtained prior to the conclusion of the JIT.

6. CONTENT AND FORM OF THE EIO

6.1. Challenges relating to the form

As the issuing authority, Cypriot authorities have not encountered any problems with completing the form. However, they think that Annex A could be simplified, and it would help if unnecessary sections could be deleted. The expert team agrees with the Cypriot authorities and invites the Commission to consider making the Annex A form more user-friendly (*see recommendation 18*).

As the executing authority, there have been cases where the content of the EIO was incomplete and consultations with the issuing authority took place to obtain additional information. This is particularly the case when additional information is needed to satisfy the threshold for obtaining judicial approval, for example in the case of search warrants. Additional information is requested via direct contact between the executing and issuing authorities (*see best practice 3*). For more details on direct contact, see point 8 below.

If the insufficient EIO cannot be rectified via consultation, the Cypriot authorities request a new EIO.

The evaluation team recommends that all Member States always consult with the issuing authority (Article 9(6) of the Directive) in the event of difficulties or if the EIO is expected to be refused with a view to facilitating its optimal execution (*see recommendation 15*).

6.2. Language regime and problems related to translation

Cyprus accepts EIOs in both Greek and English (*see best practice 8*). It is therefore not necessary for the issuing authority to show that a case is urgent to ensure that an EIO in English is accepted. As English is a common language in the EU, Cyprus, as an executing state, has not encountered any real problems concerning the language regime. As a rule, incoming EIOs in English are not translated into Greek, therefore execution can start without delay. This is good practice in the view of the evaluators (*see best practice 10*). In a few cases, however, the judge requests a translation.

As an issuing state, all EIOs are prepared in Greek and are translated by sworn translators (*see best practice 9*). Consequently, Cyprus rarely has instances of poor quality translations, although it is not always easy to find translators for rarely used languages.

The evaluation team addresses a recommendation to other Member States in this regard, suggesting that issuing authorities ensure that translations are accurate. They should also use concise and precise language when issuing EIOs to facilitate accurate translations and avoid copying the text of the underlying national order (*see recommendation 10*).

6.3. Additional EIOs, splitting of EIOs, conditional EIOs

In the opinion of the Cypriot authorities, the threshold for requesting an additional EIO is whether the investigative measure to be taken is included in the original EIO or not, particularly in the case of investigative measures requiring judicial approval. Thus, an additional EIO is needed when – during execution – there are new suspects, witnesses, bank accounts, IP addresses, etc.

As issuing Member State, Cyprus has not encountered any problems issuing additional EIOs. As executing Member State, Cyprus often receives additional EIOs after consultation with the issuing authority.

The Central Authority splits the outgoing EIOs containing more than one investigative measure that fall within the competence of different authorities of the same executing Member State. In order to guarantee coordinated execution, the Central Authority sends a covering letter (in practice this is an email) to each executing Member State authority (multiple addressees) and attaches the EIO. In the event of any difficulties in identifying the competent Member State authority, the Central Authority contacts Eurojust or the EJN. If there are multiple executing authorities, delays often occur.

The Central Authority splits the incoming EIOs containing more than one investigative measure that fall within the competence of different Cypriot authorities, taking capacity and efficiency into account. In order to guarantee coordinated execution, the Central Authority writes a covering letter (in practice an email) to each executing Cypriot authority (multiple addressees) and attaches the EIO. The issuing Member State authority is informed of the split (see Annex B).

Cypriot authorities often request and execute conditional and cascading EIOs (*see best practice 4*).

6.4. Orally issued EIOs

Though there is no specific provision on this matter in the Implementing Law, Cypriot authorities cannot accept an orally issued EIO. Law No 23(I) of 2001 on International Cooperation in Criminal Matters provides that the competent authority of the Republic receives written request for assistance from a foreign country to secure evidence.

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

Article 7 of the Implementing Law provides that the Cypriot issuing authority may issue an EIO only when it deems that the following conditions have been met:

- (a) The issuing of an EIO is necessary and proportionate for the purpose of the proceedings, taking into account the rights of the suspected or the accused;
- (b) The investigative measure(s) indicated in the EIO could have been ordered under the same conditions in a similar domestic case.

According to the representative of the Central Authority, the costs of translation and the time factor ensure that Cypriot authorities will only issue an EIO if it is really justified.

As the executing Member State, Cypriot authorities always consult the issuing authority if they find an incoming EIO to be unnecessary or disproportionate according to their domestic standards, especially with regard to its necessary approval by the court. Experience shows that Cypriot law is stricter on the necessity and proportionality of a search warrant than many other Member States' laws. Therefore, in a number of cases, after consulting the issuing authority the Cypriot court had recourse to a less instructive measure than a search (*see best practice 3*), for example the court ordered the company concerned to provide the documentation needed and the company acted accordingly.

8. TRANSMISSION OF THE EIO FORM AND DIRECT CONTACTS

Article 8(1) of the Implementing Law provides that an EIO can be transferred by any means capable of producing a written record allowing the executing state to establish authenticity.

Cyprus has not joined the e-EDES system yet. At present, the use of e-EDES is voluntary: not all Member States are taking part in the pilot project and not all authorities of the Member States that take part in the project are connected. Although the system is still in its pilot phase, it will undoubtedly enhance the efficiency of the EIO. The evaluation considers that all Member States, including Cyprus, should speed up the implementation of the e-EDES system and connect all relevant national authorities to e-EDES as soon as possible, to ensure the secure transmission of data (*see recommendations 6 and 11*). This will facilitate judicial cooperation and the swift and safe transmission of information, EIOs and evidence.

For the role of the Central Authority in the transmission of outgoing and incoming EIOs, and evidence gained by execution, see point 4.3.

The domestic procedure of issuing a Cypriot EIO is paper-based. The Central Authority scans the EIO with its attachments and transmits it via email.

The Central Authority may receive EIOs via email (sending the originals by post is not obligatory) or by post.

Direct contact between the executing and issuing authorities takes place via email, phone or videoconference. When additional information is requested via email, the Cypriot executing authorities usually set a deadline of three weeks. If there is no response, they contact the issuing authority a number of times, and the Central Authority contacts Eurojust (*see best practice 5*). If there is no reply, execution will be halted until further communication with the Cypriot authorities. This practice of sending a reminder and informing the issuing state is seen as good practice by the evaluators (*see best practice 6*).

When additional information is received via phone or videoconference, the executing Cypriot authorities take notes on the contents of the discussion for the EIO file.

9. RECOGNITION AND EXECUTION OF EIOS AND FORMALITIES

9.1. Recognition and execution in line with the mutual recognition principle

According to the Cypriot Implementing Law, the Cypriot executing authority must recognise an EIO without any further formality. The wording of this provision therefore replicates the wording in Article 9 of the Directive, while also implying that recognition rests with the executing authority. However, in practice, practitioners explained that the EIO is first received by the Ministry of Justice in its capacity as Central Authority and therefore recognition is essentially carried out by the Central Authority, even in cases where the EIO would need to be referred to the court for execution. In fact, practitioners mentioned one case where they had received an EIO for a measure which required an order from the Cypriot court but the EIO did not contain enough information to justify the issuing of that order in a similar domestic case. They explained that in that case clarifications were indispensable, as otherwise they would not have been able to execute the EIO. These clarifications were sought prior to referring the EIO to court in order to ensure that sufficient justification existed for the necessary order to be obtained from the court and for the measure to be executed.

In the majority of cases in the execution phase, the EIO is referred to the police for execution. Practitioners explained that when it comes to recognition and execution, they have always adopted a flexible approach (*see best practices 1 and 2*). They also explained that if any further information or clarification is required in order to proceed with the execution of the EIO, communication is established by the Cypriot police authority directly with the issuing authority, without the need to go back to the Central Authority.

In order to convey this flexible approach, Cypriot practitioners explained that they have, in some instances, received EIOs requesting the service of documents. In those cases, they decided to prioritise cooperation between Member States and executed the EIO nonetheless, although as an issuing state, they would use the 1959 Strasbourg Convention as a legal basis (*see best practice 11*).

The decision on whether there are grounds for refusal of an EIO rests with the central authority. Practitioners explained that in instances when they received an EIO requesting a measure which was not available in a similar domestic case, it would be the Central Authority that communicates the refusal to the issuing state. If, however, there is the possibility that further coordination and communication with the issuing state would lead the Cypriot authorities to be able to execute the EIO, practitioners stated they would always choose that option rather than simply refusing it. In fact, they mentioned instances where, had the measure been required in a similar domestic case, the information provided in the EIO was not sufficient to justify the measure being requested. They mentioned that this is especially the case when a court order would be needed to execute the EIO and therefore the police – who would then file the request for the measure to be authorised by the court – would need to ensure that the necessary legal requisites are in place in order to execute the EIO. In such instances, Cypriot authorities stated that they communicate with the issuing state in order to obtain any information they would be missing in order to provide proper justification to the court for issuing the order needed to execute the EIO.

Cypriot authorities also mentioned instances where the results indicated in the EIO could only be achieved if other procedural steps were taken, which would not have been mentioned necessarily in the EIO but which were imperative nonetheless in domestic cases. During the visit, representatives mentioned that an example of this would be when they received EIOs requesting that a search be conducted in the place of residence of a witness. They explained that under Cypriot law, they were required to call the witness and take a statement before proceeding with the search. Therefore, in instances where the EIO requested seizure only, they would consult with the issuing state in order to ensure that it was also on board with the procedural steps needed to be taken before proceeding with the search.

Another example of a case where recourse to consultation with the issuing state is sought before proceeding with execution is when the assistance sought and mentioned in the EIO is a search in a company not directly involved in the investigation but from whom information is nevertheless required to support the investigation. In such cases, consultation is used to propose to the issuing state that it proceed with requesting the Cypriot court to summon a representative of the company to give evidence and present the required information to the court instead of proceeding with requesting the court to issue a search warrant.

This approach is one of the reasons why Cyprus was commended for its flexibility and cooperative stance when it comes to the recognition and execution of EIOs (*see best practices 1, 2 and 3*).

In instances where the issuing state asks Cyprus to interrogate a person and has conferred upon that person a status which is not specifically recognised in their legal system, for instance in cases where a person is a special witness in one Member State because he is suspected of having committed a crime but has not yet been charged formally, Cypriot authorities commented that they would err on the side of caution in such cases and still caution the witness before proceeding with taking a witness statement in order to ensure that the person's fundamental human rights were respected. This was referred to as one of the instances where they would not see the need to consult with the issuing state because the threshold being applied in those instances is not just the threshold of a similar domestic case but also what they deem to be necessary in the interest of the person's rights.

In cases where refusal was the only option, such refusal would be final and Cypriot law does not include the possibility for the issuing state to appeal that refusal. However, practitioners explained that in their experience, cases where refusal would be final – without the possibility of reconsidering other options for executing the request – would be when the assistance sought relates to the occupied areas of the Republic where the government of Cyprus cannot exercise effective control since the Turkish invasion in 1974.

9.2. Compliance with formalities

In Cyprus, the EIO is executed in accordance with national law, and Cyprus complies with the procedure requested by the issuing state unless it contradicts national law and procedures. The Implementing Law replicates the wording of the Directive in relation to the recognition of the EIO in that it states that recognition must be carried out without the need for further formalities. Cypriot authorities did, however, mention that a local order is issued by the executing authority when the investigative measure is one which must be authorised by a court in Cyprus. The same can be said with regard to the execution of the EIO – the Implementing Law states that it should be carried out in the same manner as if the investigative measure concerned had been ordered by an authority of the Republic of Cyprus. The exception to this is if the Cypriot executing authority decides to invoke one of the grounds for non-recognition or non-execution or a ground for postponement, in line with the Directive. The Implementing Law also states that where an executing authority of Cyprus receives an EIO which has not been issued by an authority ‘as specified in Article 2(c)’, the executing authority will return the EIO to the issuing state. Here the reference is to Article 2(c) of the Directive, although the Implementing Law does not specify this and simply refers to this article.

As executing state, there have been instances where certain formalities requested in an EIO were not met. Such examples related to a witness refusing to sign the witness rights of the requesting state, or a statement taken from a witness/suspect which they refused to sign. As issuing state, practitioners also mentioned cases where they would state in the EIO that they required the executing state to obtain banking information and a statement from a bank representative yet only banking information was received, without Cyprus having been previously consulted.

With regard to the use of Section I of the EIO form, practitioners explained that this section is only used by them as issuing state when specific formalities are required, otherwise Section C is used to describe the type of information/assistance being requested. They also explained that the formalities mentioned by the issuing state will also affect the authority competent to execute. If the EIO is for the hearing of a witness under oath, the Ministry of Justice as Central Authority will send it to the district judge in order to adhere to the formalities of the issuing state.

When the EIO relates to investigation measures that in Cyprus must be authorised by a court, Cypriot authorities do not require the issuing authority to attach the relevant order.

A local order is issued by the executing authority. However, if an order is provided by the issuing state, then the order is annexed to the local order.

10. ADMISSIBILITY OF EVIDENCE

Cypriot authorities have not encountered any problems related to the admissibility of evidence stemming from non-compliance with certain formalities or procedures in the execution of the EIO, although, as mentioned above, there have been instances where a statement from a bank representative would have been requested in the EIO and the executing state ignores this part of the request.

The evaluation team recommends that, when executing an EIO, all Member States comply with procedural formalities requested by the issuing Member State, as these are crucial for the admissibility of evidence in the issuing Member State. If the procedural formalities requested are not compatible with the procedural rules of the executing Member State, consultation should take place to achieve the most effective possible execution of the EIO (*see recommendation 16*).

Furthermore, in order to facilitate proper compliance with requested formalities, the evaluation team recommends that, when issuing an EIO, Member States always specify in Section I of Annex A of the EIO form if under their laws special requirements are applicable for the gathering of evidence, as well as for the evidence itself (*see recommendation 14*).

11. SPECIALITY RULE

Cyprus does not have specific rules that address the speciality principle in the context of the EIO. Nevertheless, when acting as the executing authority, and when transmitting the collected evidence, Cyprus always informs the issuing state that prior consent is needed before using the evidence already provided. The practice is for this to be specified in the covering letter sent with the execution material by the Ministry of Justice.

During discussions with practitioners, it was noted that Cyprus is quite strict with regard to giving consent to other states to use evidence in other proceedings. The process followed by Cypriot authorities when receiving a request for consent is for the executing officers to contact the entity (which could be a bank, private company, etc.) in the issuing state and ask them to provide basic information about why permission is being requested by the issuing state. Usually this is done in the form of a letter from the police to the entity concerned. According to the practitioners, the decision to involve the entities is taken in order to avoid putting banks/private entities in a situation where they would be breaching any privilege/confidentiality obligations towards their client with regard to banking laws.

There have in fact been instances where entities have refused to give consent and the executing officers would have to go back to the state requesting consent and request that a fresh EIO be issued. This shows that the decision whether to grant consent or not is a decision taken by the entities and not by the competent authorities in Cyprus, because in cases where consent was not given by these entities Cypriot authorities did not go against that decision. This is why the evaluation team recommends Cyprus reconsider this practice (*see recommendation 1*), also owing to the fact that situations may arise where the confidentiality of the EIO may need to be breached in order to give at least some information to the entity involved in order to be able to reach a decision on whether or not to grant permission.

As the issuing authority, Cyprus always requests the consent of the executing authority to use evidence in other criminal proceedings.

If the results of the execution of an EIO reveal that a crime was committed other than that which gave rise to the issuing of the EIO ('accidental discovery'), Cyprus uses information for intelligence purposes and for the purpose of opening 'stand-alone cases'. The issuing state was not informed in all cases.

Since the existence and content of the speciality rule seems to be open to discussion or interpretation, and in the interest of uniform practice in all Member States, the evaluation team invites the Commission to provide clarifications on the speciality rule (*see recommendation 19*).

12. CONFIDENTIALITY

Cyprus has not encountered any problems relating to rules of disclosure, neither as issuing nor executing authority.

Cypriot law does not specify specific rules regarding the disclosure of decisions on the EIO to the persons involved in the proceedings; however, during the pre-trial phase, it is standard practice that a copy of the EIO is not disclosed to anybody, or only to the extent that it is related to the measure. An example of this is when a witness needs to be questioned and notice is given to the witness of the list of questions to be asked in advance. However, if specific reference is made by the issuing state with regard to disclosure, then the instructions are followed accordingly.

As the issuing state, the EIO is not subject to disclosure, although in the case of a challenge of a search warrant in the executing state, Cypriot authorities would agree to disclosure if this were necessary. During the trial phase, the EIO is disclosed because it is part of the case file. When the EIO is issued during the trial, the accused in fact has a right to make submissions about the issuing of the EIO. There is also the possibility for the accused to ask that further requests be included in the EIO. However, discussions with the Bar Association showed that these options are not being used by defence lawyers in practice.

In general, courts/judges comply with the requests and rights of the defence as much as possible. During the trial, the judge deciding on the issuing of the EIO will not necessarily be the same judge presiding over the trial.

The evaluation team invites the Commission to provide clarifications regarding the concept of confidentiality (*see recommendation 19*).



13. GROUNDS FOR NON-EXECUTION

13.1. General

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

As the issuing authority, Cyprus sometimes receives a reply that execution of an EIO is not possible as such a measure is not allowed in the executing state. In their experience, the executing authority would also consult with them before refusing the EIO, although not in all cases. Usually, refusal concerns a part of the EIO and, in these cases, Cyprus would receive a communication from the executing state that they would only be able to execute part of it.

As the executing authority, Cyprus tries to avoid having to refuse EIOs and uses all possible means of direct communication and prior consultation. However, there have been cases where the assistance sought relates to the occupied areas of the Republic over which the government of Cyprus cannot exercise effective control since Turkey invaded in 1974.

When an issue relating to a possible refusal arises, in the pre-trial phase, Cyprus, acting as executing authority, always consults and exchanges information to avoid refusal. In most cases, Cyprus receives a reply. When there are issues with execution which can lead to a refusal, police officers consult directly with the issuing state and then, if need be, the Ministry of Justice as Central Authority refers to the police report outlining the reasons why the EIO cannot be executed.

13.2. Dual criminality

Cyprus has not encountered situations where the dual criminality test was invoked in the so-called listed facts. Cypriot authorities attribute this to the fact that most of the EIOs being issued are related to scheduled offences.

Furthermore, as executing authority, Cyprus has not encountered cases in which the dual criminality test was invoked in relation to investigative measures listed in Article 10(2) of the EIO Directive. The investigating officers responsible for the execution of the EIO are responsible for determining whether there is dual criminality. As a rule, when issues arise in this regard, consultation is always sought.

13.3. Ne bis in idem

Under the Cypriot Implementing Law, there is an optional ground for refusal where execution of the EIO would be contrary to the principle of ne bis in idem.

Cyprus has a central database, accessible to police officers, of persons who have been or are subject to national investigation; however, a check is not carried out for every EIO received.

Cypriot police executing EIOs have had issues with the principle of ne bis in idem and in such cases consult the Attorney General for advice on how to proceed. However, in the past they have given statements from their case files in order to execute the EIO to the extent possible.

Before executing an EIO, executing authorities should use the means at their disposal to assess whether there is a possible violation of the ne bis in idem principle. Consequently, the evaluation team strongly advises all Member States to adhere to this recommendation (*see recommendation 17*).

13.4. Immunities or privileges

Under the Cypriot Implementing Law there is also an optional ground for refusal when there is an immunity or a privilege under the law of the Republic of Cyprus which makes it impossible to execute the EIO. However, there have not been issues with the application of this provision so far. However, there have been instances where the EIO requires the gathering of evidence from the offices of lawyers that also act as company service providers and therefore evidence may be subject to client-lawyer privilege. Practitioners explained that for this reason it is not always easy to obtain a warrant to conduct searches in such places and they must ensure that the collection of evidence does not breach professional secrecy.

However, there have not been cases where they have had to refuse the EIO on this basis.

13.5. Fundamental rights

Cypriot authorities have not had experience of the application of the grounds for refusal mentioned in Article 11(1)(f), either when issuing or executing an EIO.

With regard to EIOs requesting that the person be allowed to attend trial in the issuing state via videoconference, practitioners explained that they have not had experience with this before, although they have received EIOs for a hearing of the accused via videoconference. Under national law, attendance of the accused during the trial has to be in person, except in very exceptional cases, such as for medical reasons. In the event that they receive an EIO for an accused person to be present for their trial via videoconference, the consent of the accused person is necessary.

14. TIME LIMITS

As issuing authority, time limits as prescribed in Article 12 of the Directive are often not met by the executing state. The main reason lies with multiple executing authorities. In such cases, Cypriot authorities often seek recourse to the EJN and Eurojust to speed up execution. In the case of outgoing EIOs, they will indicate the reason for the urgency if there is a specific reason.

As executing authority, in most cases time limits are met. Delays in the execution of an EIO are mostly based on the number of requested actions, or when clarifications/additional information is requested from the issuing state and there is a delay in the response. The executing authority in Cyprus promptly informs the issuing state of possible delays in the execution of an EIO.

It usually takes a week for the EIO to be referred to the authority that will execute it after it is received by the Central Authority. According to practitioners, delays are not caused by the involvement of different executing authorities, because most EIOs are executed by the police.

Cypriot authorities are contemplating introducing a decentralised system because of an increased number of cases and to ensure expeditious execution, although given the size of the country, the involvement of a Central Authority has not created delays in general.

As the issuing state, any urgency is usually because of an imminent trial or a suspect in custody.

As the executing state, in most cases Cyprus respects the urgent nature of an EIO. The officer assigned to execute the EIO immediately communicates with the responsible officer of the issuing state for consultation and possible guidance on the way to proceed with its execution. There have been cases where an EIO was requested to be executed promptly (i.e. within three days) in the presence of investigators from the issuing state, and coordination was conducted via the Eurojust channel.

The evaluation team wishes to underline the importance of meeting the deadlines stipulated in the Directive and recommends that Member States comply with the deadlines and swiftly inform issuing authorities of any delays (*see recommendation 12*).

15. GROUNDS FOR POSTPONEMENT OF RECOGNITION OR EXECUTION

Cypriot authorities reported that no issues have arisen with regard to the postponement of recognition or execution of EIOs. The same is true when Cyprus has been the issuing state.

16. LEGAL REMEDIES

Article 15 of the Implementing Law provides for equivalent legal remedies for all investigative measures indicated in the EIO as would be available in a similar domestic case.

The substantive reasons for issuing an EIO may be challenged only by an action brought in the issuing state. If the EIO is issued by the Cypriot issuing authority, there is a right to appeal to the Supreme Court. The Implementing Law specifies that the appeal can be lodged against the substantive reasons for which the EIO is issued and the grounds for appeal are therefore specific to that particular situation. The appeal can be lodged by the interested party or the Attorney General within 10 days from the date of issuing the EIO (Article 15(2)(b)). The Supreme Court will then issue a procedural regulation for the better application of the provisions of paragraph (b), which refers to the substantive reasons for which the EIO has been issued. The legal challenge does not suspend the execution of the investigative measure unless it is provided for in similar domestic cases. In most instances of legal challenges, communication is made directly by the executing officer to their respective counterpart in the issuing state.

Legal remedies appear to be available both when Cyprus is the issuing state and when it is the executing state. In fact, the Implementing Law states that when the issuing or executing authority is Cypriot, that authority shall take appropriate measures to ensure that information is provided regarding the possibility of exercising legal remedy. These can be legal remedies based on the law of the issuing state or the law of the executing state, as the case may be. There is also an obligation to provide information at a suitable time to allow the effective exercise of these rights. It has also been noted that this obligation to inform is not restricted to EIOs which are issued for search and seizure or for the hearing of witnesses via videoconference.

During the visit, practitioners mentioned that so far there were no plans to make amendments following Gavanazov II, primarily because they had faced no issues arising from interpretations given by the courts or arguments made by defence lawyers on the basis of this judgement.

In the case of a search and seizure, the person concerned is not notified of the warrant beforehand. The search warrant is presented to the person responsible for the place where the search will take place. There is then the possibility for the suspect or their lawyer to start proceedings to challenge the gathering of evidence/information from the search. These proceedings are known as ‘certiorari’ and are a method through which a higher court can decide on the legality of orders issued by a lower court, such as search and seizure warrants. During the visit, the representative from the Bar Association mentioned that there is well-established case-law of the Supreme Court whereby the legality of the warrant is challenged through these proceedings.

The procedure to file a writ for certiorari is similar to the filing of any writ petition – it can be filed either in the Supreme Court or in the High Court if the person alleges a breach to their fundamental rights. Although no specific time limit is mentioned for the filing of this petition, the common understanding is that it should be filed within a reasonable time following the alleged violation of the right.

The petition, which is filed by the person’s lawyer, must include all the required particulars regarding the person’s grievances and the breach of the person’s rights. After the petition is filed, the court will set a date to hear both parties. The petition of the applicant would have been notified to the other party prior to the hearing. Following the hearing, the court will pass judgement.

Furthermore, there is the possibility for the suspect to file a request in court to obtain a copy of the documents collected from the search. The certiorari does not have suspensive effect; however, in practice, practitioners prefer to wait for the decision to be given by the court to avoid a situation where they would have to request that the issuing state return the documents or evidence sent.

The suspect can also file a request to the court for the court to halt the transmission of the evidence gathered. At the end of the proceedings, the court will give a decision on whether the warrant is null and void. The effect of this is that if evidence has already been sent to the issuing state, Cypriot authorities would have to ask for it to be returned. This is the main reason why, when these proceedings are initiated, Cypriot authorities prefer to suspend the transmission of evidence until a final decision is given.

With regard to Section J of the EIO (legal remedies), when Cyprus is the executing state in cases where a suspect needs to be interrogated, Cypriot authorities will give the suspect all the rights available to them under Cypriot law while also providing them with any other rights which may be available to them under the law of the issuing state, which would have been mentioned in Section J.

17. TRANSFER OF EVIDENCE

Cypriot Implementing Law does not provide for special procedures in relation to the transfer of evidence. Similarly, it does not specifically mention situations where transmission would need to be postponed. However, as also mentioned in the previous section, suspension of transmission tends to occur in cases where the collection of evidence following a search and seizure is initiated in Cyprus.

Transmission of evidence always takes place through the Ministry of Justice. When evidence is bulky, diplomatic channels are used for transmission, although there have also been cases where transmission takes place via secure post after consultation with the issuing state. Cypriot authorities mentioned that there have been cases where investigators from the issuing state were present during execution to check the evidence before its transmission.

18. OBLIGATION TO INFORM - ANNEX B

In most cases, acknowledgment (Annex B of the EIO form) is often received. In the rare instances where Annex B is not received, Cyprus contacts the executing state or addresses the matter using Eurojust.

In cases where Annex B is not sent, it is the responsibility of the MJPO as Central Authority to contact the other state to confirm that the EIO has been received by the executing state. Although in Cyprus the police execute most requests and in practice also contact the issuing authority directly, Annex B remains the responsibility of the Central Authority and is not sent by the executing authority as well. For this reason, the evaluation team draws Cyprus's attention to the fact that there is an obligation under the Directive for Annex B to be sent by both the Central Authority and the executing authority (*see recommendation 2*).

The evaluation team would like to emphasise the importance of always sending Annex B in time and therefore makes a recommendation to all Member States in this regard (*see recommendation 13*).

19. COSTS

Cyprus has not experienced any difficulties either as an issuing or implementing Member State regarding the costs related to the execution of an EIO, including delays.

By exceptional costs, Cypriot authorities mean a bulk of evidence that cannot be sent by post. In the few instances that exceptional costs were encountered, the Cypriot executing authority consulted the issuing authority and the latter arranged for the transmission of evidence via its Embassy in Nicosia.

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

According to Cyprus, in the pre-trial investigation, authorities often encounter cases of parallel or linked proceedings in which action dates are set, and in most cases actions are coordinated through Eurojust and/or Europol.

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

21. SPECIFIC INVESTIGATIVE MEASURES

21.1. Temporary transfer (Articles 22-23)

The provisions of Articles 22 and 23 of the EIO Directive have been taken over in the Implementing Act (Articles 24 and 25) with only a few minor changes in formulation, which have absolutely no impact on content. In the predominant part, the wording is even implemented *verbatim et literatim*.

In the questionnaire, Cyprus replied that has not encountered any cases of temporary transfer, either as issuing authority or as executing authority.

During the on-site visit, the Cypriot respondents clarified that, hypothetically speaking, Cypriot authorities may ensure that the transferred person is held in custody during the transfer when Cyprus is the issuing state and make a similar request when Cyprus is the executing state. In the latter case, such a guarantee by the issuing state would be a condition for executing the EIO. Providing and requiring the guarantee is regulated in Article 23(6) and Article 24(2) of the Implementing Law.

Article 23(3) of the Implementing Law states that the Republic, when acting as executing state, considers it necessary, if justified by the age or physical or mental situation of the person in custody, to give their legal representative the opportunity to state their opinion on the temporary transfer.

Apart from that, no specific procedure for obtaining the consent of the transferred person prior to the issuing of the EIO was identified during the on-site visit. The police would handle that issue should the need arise.

As stated above, Cyprus has not yet come across an EIO where the temporary transfer of a person in custody has been requested. Nonetheless, should such a situation arise the implementing law L.181(I)/2017 will be applied, which similarly to the EIO Directive provides that the person's refusal to consent to the transfer is a non-mandatory ground for refusal of an EIO. Thus, the lack of consent is not in itself a reason for refusal. In light of the legal provision and of the explanations provided by the Cypriot authorities, Cyprus will evaluate the requests on a case- by-case basis, taking into consideration factors such as: (1) the gravity of the offence (including whether it constitutes/ relates to a transnational or organised crime), (2) the length of the sentence, (3) risk of escaping/ absconding, (4) public safety / public order (whether the person constitutes a threat to the public).

21.2. Hearing by videoconference

The legal regulation of a hearing by videoconference in the Implementing Law (Article 25) was also lifted from the EIO Directive's Article 24 basically only with cosmetic changes necessitated by legislative rules, without any impact on the contents of the provision.

As issuing authority, Cyprus has not yet issued EIOs for the hearing of a person via videoconference. Issuing an EIO for a hearing of the accused by videoconference would not even be legally possible, as their physical presence is required at trial.

As executing authority, all cases received requested a hearing via videoconference before a court judge. Technical challenges are often resolved prior to the actual hearing date. Cyprus has not encountered any problems in relation to the status of the person to be heard via videoconference and the corresponding procedural guarantees to be applied, as a person heard by videoconference is treated the same irrespective if they are a suspect, the accused or a mere witness. In this regard, a victim is also treated as a witness under Cypriot law.

A hearing via videoconference can be conducted at both the pre-trial and trial stage. At the pre-trial stage, the Cypriot police in the position of executing authority would be the authority responsible for administering the videoconference. If the issuing state were to request that the witness take an oath, the Cypriot police would not be allowed to conduct the oath-taking by itself. It may provide a written oath to the interviewed person and have it signed, or if needed, it may refer the case to a judge who would then conduct a judicial interview. Cypriot legislation provides for the possibility to hear the suspect via videoconference.

At the trial phase, the district courts are competent in arranging trials by videoconference. The judge would normally limit themselves to only the technical and administrative parts without any intervention in the course of the videoconference. During the on-site visit, the judge mentioned that she regards the interview as a judicial action of the issuing state, and not a Cypriot action, so would only step in if a fundamental principle of the Cypriot Constitution would be at risk of being breached. No cases were registered on a national level whereby a hearing by videoconference was refused because it would be contrary to the fundamental principles of the law of Cyprus as executing state.

In the position of executing state, regarding the information provided during the on-site visit, Cypriot law allows not only for a videoconference as understood by Article 24 of the EIO Directive (i.e. the issuing state conducts the interview or trial hearing, the executing state only provides technical cooperation, checks the identity of the person being interviewed and passively follows the interview), but also ensures the presence of somebody from the issuing state at an interview conducted by the executing state via videoconference. This would be implemented to ensure that the defence attorney was present if their client were being interviewed, although they would only be allowed to follow the interview, not to ask questions.

A similar approach would be taken if an investigator or prosecutor (investigating judge) from the issuing state wished to join the interview by videoconference – they also would not be allowed to intervene directly during the interview. However, any questions that these persons (both foreign defence attorneys and foreign investigators) had might be suggested to the Cypriot executing authority (which would normally be the police) and they may be asked by the Cypriot interviewer. Nevertheless, so far, no such cases have arisen.

As an executing authority, Cyprus has received EIOs to hear persons during trial proceedings.

By law, Cyprus, in its capacity as both issuing and executing state, does not allow so-called ‘direct videoconferences’, i.e. situations in which a person who is located in the territory of Member State A and whose videoconference interview is required in Member State B is directly contacted by the authorities of Member State B without informing the authorities of Member State A and, if the person agrees, the videoconference interview is done ‘privately’ without any intervention of Member State A. Such a procedure is not permitted in domestic criminal proceedings, hence Cypriot authorities are not allowed to conduct it abroad, not even in the context of an EIO. According to the information provided during the on-site visit, Cypriot authorities in the position of executing state have encountered an EIO requesting such a ‘direct videoconference’, but it was denied as the same action would not have been possible in a domestic case.

Cyprus has already encountered EIOs which requested not only a hearing of a person during the trial, but also ensured the presence of that person at the trial via videoconference (for example as a defendant to follow the trial from beginning to end, not only when they are heard directly, and apply their procedural rights). These were executed and such procedural actions are not considered to fall outside of the scope of the EIO Directive by Cypriot law. This issue was further examined during the on-site visit in connection with the pending *Linte* case (C-285/23), and it was confirmed that Cyprus as the executing state would not have a problem with executing such an EIO issued either in appellate or similar legal remedy proceedings or during proceedings regarding the post-conviction agenda (parole hearings, interruption of an imprisonment sentence, hearing regarding the execution of alternative sanctions, etc.). According to the practitioners, it would be helpful to have some guidelines at EU level in this regard. The expert team agreed that a clarification at EU level would be welcomed and will make a recommendation to the Commission regarding this matter (*see recommendation 19*).

As executing authority, Cyprus had several cases in which the person refused to be heard by videoconference, and after consulting the issuing authority it was decided to proceed and take a statement in writing. During the on-site visit, this idea was further developed. With Cyprus as executing state, if the person refused to be heard by videoconference and the issuing state refused to accept a written statement instead of the videoconference (especially owing to different rules of evidence which would specifically require an oral interview), it would be impossible to conduct the videoconference against the will of the person with whom an interview was requested, as a witness cannot be compelled to submit to a videoconference under Cypriot law. In such a case, the Cypriot executing authorities would consult with the authorities of the issuing state and probably offer to conduct a standard interview and send the protocol (minutes) to the issuing state instead.

If Cyprus was the issuing state and the person refused to be heard by videoconference, Cypriot law allows for a written statement to be accepted instead.

21.3. Hearing by telephone conference

Cyprus reported not having had any problems with formalities or procedures regarding the hearing of a person as a witness, suspect or victim by telephone conference. It has never received an EIO for the hearing of a person by telephone. Cypriot authorities confirmed during the on-site visit that they have not had any experience with this measure and consider it outdated.

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

In the sphere of banking and other similar financial information, the Implementation Act (Articles 27 and 28) are basically taken over word-for-word from the relevant provisions of the EIO Directive (Articles 26 and 27). There are mostly only petty adaptative alterations.

According to Article 27(1) of the Implementation Act, which transposes Article 26(3) of the EIO Directive, the information in question will also include the account for which the person of interest *acts as a proxy*. Article 26(3) of the EIO Directive operates with the wording '*has powers of attorney*'. During the on-site visit it was clarified that in the Greek original version of the Implementing Law, the expression '*who controls*' is used, which is no doubt broader. This is a subtle yet noteworthy difference, as it allows the Cypriot authorities wider and thus more effective applicability of the provision in question.

In the context of Cyprus as executing state, EIOs requesting banking information are executed by the police. The police have the authority (both with EIOs and in domestic cases) to order the bank or other financial institution to produce the documents without the need to obtain a judicial order (see best practice 13 in part 24.2 of this report). The bank or other financial institution sends the documents with a cover letter explaining what information they are providing. The law on banking confidentiality and the protection of personal data is very strict in Cyprus, but usually the banks cooperate. If the bank does not provide the requested information and there is a dispute regarding the extent of the information the police could have asked for legally, the police consult the AGO, whose legal opinion is binding for the police. Not providing the information legally requested by the police would constitute a criminal offence on the part of the bank or other financial institution.

Banking documents may also be requested regarding a person other than the suspect, as banking information is not covered by a specific fundamental right under the Cypriot Constitution.

During the on-site visit, the scope of the protected information in some similar fields was clarified. The definition of banking goes beyond the strict sense under Cypriot law, so information about cryptocurrencies, regulated market operations, etc. all fall within this category. To all intents and purposes, Cypriot police have the authority to request any document without a judicial order, including medical information, business secrets and any document relating to the provision of legal services by lawyers to their clients, excluding documents falling within the narrow scope of attorney-client privilege, as Cypriot law distinguishes between providing services by lawyers and representing clients as attorneys-in-law.

The only information that cannot be obtained directly by the police is from telecommunications providers regarding telecommunications traffic (see below).

If Cyprus is the executing state and the incoming EIO requests a document regarding exclusively tax or customs information, the respective executing authorities other than the police are competent to execute it. If several documents from multiple categories are requested (for example banking, tax and customs documents together), then the police is the competent authority for the execution of such an EIO.

In Cyprus's capacity as both issuing state and executing state, Cypriot law allows for EIOs that request the identification of a bank account or an account at a different financial institution held by a specific natural or legal person identified in the EIO. There is national central database of bank accounts to which designated members of the Cypriot police have access. In every case two designated police officers from two separate units must apply together for a piece of information from the evidence. Having such a national database significantly facilitates the execution of EIOs and has thus been identified as best practice (*see best practice 13*).

Under national law, the institutions regulated by the law on banks are required to keep records for a period of at least six years once the bank-client relationship has ended. Acting on behalf of Cyprus as the executing state, Cypriot authorities can thus fully satisfy EIOs requesting this information once the bank-client relationship has ended.

Moreover, Cypriot national law does not allow Cypriot authorities (when executing EIOs or in domestic cases) to order real-time monitoring of a bank account (from a certain moment forward for a certain period).

In the position of the executing state, Cypriot authorities also execute EIOs containing so-called 'cascading' (gradual) requests when it comes to banks and similar information, for example requests to find out whether a certain person has one or more bank accounts in Cyprus and, if so, to then provide banking information, etc. Such a forthcoming approach towards 'cascading' requests has also been considered a best practice (*see best practice 4*).

Turning to more practical aspects of banking information, when Cyprus is the executing state, its authorities may require banks (or other providers of documents) to hand over the requested documents in electronic format. However, non-compliance with this requirement by banks has been experienced from time to time. In such cases, the requested documents have been sent in printed form.

It was also verified during the on-site visit that, according to the Cypriot legal order, there is no obligation to notify the holder of the account (or other entitled persons) that information about the account has been requested. Therefore, the police do not give such a notification and hence the banks do not disclose this information either. If the banks were to disclose such information, it would be considered a tip-off, which is a crime under Cypriot law.

It was also discovered during the on-site visit that if a bank document already provided to the police in one criminal proceeding was required to be used in another criminal proceeding, the bank's consent was required. If the bank representative were not to give their consent, a new EIO would need to be issued to obtain the document from the bank for the purposes of the other proceeding. It was confirmed that this was also the case for domestic proceedings – once bank documents have been used in one proceeding, they would have to be requested again. The need to issue a new EIO simply because a private entrepreneur does not agree appears to unnecessarily complicate the swift execution of EIOs. For this reason, Cyprus is invited to reconsider this approach (*see recommendation 1*).

21.5. Covert investigations

The legal regulation of covert investigations in Article 30 of the Implementation Act also matches the wording of Article 29 of the EIO Directive in principle.

The Cypriot legal regulation of covert investigations and individual covert investigative measures in criminal proceedings is very limited. Basically, only undercover investigations or operations are possible.

These activities are regulated by the Regulation of Certain Investigative Powers (Covert Police Officers) Act 2017 (189(I)/2017). This act regulates the domestic procedures of authorisation of undercover police officers who, under the supervision of an investigating officer, may engage in an undercover mission to investigate or prevent a serious criminal offence (crimes punishable by three years of imprisonment or longer). The authorisation process is within the competence of the police. The operation lasts as long as is necessary or until it is terminated by the investigating officer (Article 3(7) of the Covert Police Officers Act). There is no judicial review of the authorisation process or the course of the covert operation.

Evidence obtained during the covert investigation is admissible as evidence before the court and takes the form of a testimony given by the undercover police officer. In general, this is given with full disclosure of the police officer's identity, unless the court issues a decree of non-disclosure (Article 11(3) of the Covert Police Officers Act) or an anonymity order (Article 11(4) of the Covert Police Officers Act), allowing the police officer to testify under a parallel identity among other measures necessary to protect them from possible harm. Apart from giving testimony, the undercover police officer may also take photographs during the covert investigation (operation), but must not record any audiovisual material, as there is a specific and very strict law covering this (see below).

The Covert Police Officers Act provides the possibility for both dispatching a Cypriot undercover police officer abroad with the consent of a foreign state (Article 3(10)(b) of the Covert Police Officers Act) and receiving a foreign undercover police officer on Cypriot territory (Article 3(10)(a) of the Covert Police Officers Act). Both these variants require the consent of the Attorney General and the former is limited only to instances in which the foreign undercover police officer is dispatched on the territory of Cyprus as a part of a JIT from another Member State.

Only a member of the Cypriot police, who holds the rank of at least sergeant, may be authorised as an undercover police officer.

21.6. Interception of telecommunications

The Implementation Act (Articles 31 and 32) follows the same implementation model as previously mentioned provisions – it takes the wording of Articles 30 and 31 of the EIO Directive almost literally and inserts them into domestic law with only minor modifications for the sake of comprehensibility and in accordance with national customs concerning the formulation of legislation.

At present, there is no uniform understanding of the term ‘interception of telecommunications’ within the European Union. Consequently, Member States have different views as to whether certain techniques, such as GPS tracking, the bugging of a car or installing spyware on a device to intercept conversations at the source, or audio/video surveillance, fall under the legal regime of interception of telecommunications (Articles 30 and 31 of the Directive).

However, in Cyprus, the situation is very simple, as the legislation allows the interception of telecommunications only in a very limited form and in the narrowest sense of the term.

In Cyprus, interception of telecommunications is covered by Article 17 of the Constitution and is only permissible for specific criminal offences (murder/homicide, trafficking of adults or minors and offences related to child pornography, drug-related offences, offences related to the currency of the Republic and corruption offences punishable by five years of imprisonment or more).

Under the Cypriot legal system, the applicable laws refer to the monitoring and disclosure of written communication (only for specific offences as mentioned in Article 17 of the Constitution) and the disclosure of telecommunications data for serious offences punishable by five years of imprisonment or more (this refers only to the position and movement of the subject).

An amendment to the law with regard to the period that the service providers can hold data is currently under consideration, as well as a possible amendment to the Constitution to increase the number of offences after which this is possible.

The procedure is also covered by national legislation and by obtaining a court order following an application by the Attorney General of the Republic and only where it is deemed necessary to ensure the security of the Republic. The court sets the time period over which wiretapping will be conducted; it is up to the court to weigh all the relevant circumstances and pick an appropriate period. Usually, this is months – there is no statutory maximum period. Once an order is issued, there is no periodical overview. When the time lapses, another order may be issued.

The only legal form of interception of telecommunications is the wiretapping of communications facilitated by mobile (and other) phone operators. No other form of surveillance or interception of communications with the use of a technological device of the police or with the cooperation of a provider of electronic data, legal hacking, GPS monitoring, bugging, etc. is legally possible. Other than wiretapping, the police are allowed to survey and monitor only by using the resources available to them (for example stakeouts). They can also take photographs during physical surveys.

An apt demonstration of the extent of this problem may be demonstrated by one of the findings made during the on-site visit – an email is an admissible piece of evidence before the court only if both the sender and receiver agree.

This narrow scope of accessible means of special investigation measures may limit the effective execution of EIOs. However, it is a result of the domestic legal regulation, as there is no measure that would be applicable in the domestic case but not when executing an EIO. The expert team therefore considers that this cannot be regarded as a shortcoming on the part of Cyprus in the implementation of the EIO Directive or its application, as the EIO Directive only requests special investigative measures which are available in domestic cases. The evaluation of Cypriot national law clearly falls outside the mandate of this evaluation.

Nevertheless, the evaluation team considers that it would be useful if Cyprus could ensure that the ‘Fiches Belges’ include complete and accurate information on the investigative measures available in Cyprus (*see recommendation 8*).

21.6.1. Scope of the concept of ‘interception of telecommunications’ and use of Annex A or C

According to the response given by Cyprus, the interception of telecommunications covers any form of securing the contents of private communication by any means (electronic, technical, electromagnetic, acoustic or with any appliance or recorder). However, under Cypriot law, interception covers only wiretapping.

Cypriot authorities have never used nor received an Annex C notification from the Member State where the subject of the interception is located and where no technical assistance is needed.

21.6.2. Transmission of intercepts

Cyprus has no experience of this.

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

There are no hard limits for the availability of house searches under Cypriot law. It is always up to the judge to decide whether a search of premises is appropriate, adequate and proportionate. The law does not differentiate between strict conditions for the search of certain categories of premises according to specific criteria (homes vs businesses; lawyer's offices, medical facilities, etc. vs normal businesses, etc.). However, the characteristics of the premises in question may play an important role in the court's assessment of the general criteria. One of the most important criteria is whether the search is to be conducted on premises related to the suspect. If it is not and a search of premises needs be done on premises belonging to a witness or an uninvolved third person, for example, it is in praxis very challenging and rare to obtain a search warrant from the court.

When Cyprus receives an EIO requesting a search of premises in its capacity as executing state, it is executed by the police, who file a motion to the court to issue a search warrant.

Monitoring or even opening and replacing the contents of a controlled delivery does not require a judicial warrant according to Cypriot law. As was clarified during the on-site visit by the representatives of the Cypriot police, as long as there is no direct interaction between the police and the trafficker, the police may do whatever they need to with the delivery, as there is no specific right protecting the contents of a delivery under the Cypriot Constitution. No electronic or GPS monitoring is allowed, though: the delivery may be monitored only physically or by the mail service.

Acting on behalf of Cyprus as the executing state, the police are the competent executing authority, and cooperate closely with the customs authority.

21.8. Cross-border surveillance

It follows from the above that cross-border surveillance does not apply in Cyprus. There is no legal possibility to bug or tag an unregistered and unmarked ship (which has turned off its official positioning system) by technical or electronical means. The Cypriot Maritime Police may monitor them only physically with the use of standard naval equipment and under international naval law. There is close cooperation between the police, the maritime police, customs and the port authority regarding the exchange of information and providing records from their systems. The same applies *mutatis mutandis* to aircrafts.

22. STATISTICS

22.1. Statistics extracted from the Eurojust Case Management System

Eurojust provided statistics extracted from its Case Management System, which included information on:

- (i) the total number of EIO-related cases at Eurojust;
- (ii) the number of bilateral and multilateral cases involving the Cypriot Desk at Eurojust;
- (iii) the number of EIO-related cases in which the Cypriot Desk was either ‘requesting’ or ‘requested’.⁴

All EIO-related cases at Eurojust	2017	2018	2019	2020	2021	2022	2023	Total
Bilateral cases	51	561	986	1293	1897	2286	2538	9612
Multilateral cases	37	231	341	464	419	427	435	2354
Total cases	88	792	1327	1757	2316	2713	2973	11966

EIO cases involving Cyprus	2017	2018	2019	2020	2021	2022	2023	Total
Bilateral cases	0	7	17	32	77	100	120	353
Multilateral cases	1	18	18	16	20	18	20	111
Total cases	1	25	35	48	97	118	140	464

⁴ ‘Requesting’ means that a Cypriot national authority requested that the Cypriot Desk open a case at Eurojust vis-a-vis one or more other Member State; ‘requested’ means that another Desk at Eurojust opened, at the request of its national authority, a case vis-a-vis the Cypriot Desk.

EIO cases involving Cyprus	2017	2018	2019	2020	2021	2022	2023	Total
Requesting cases	0	1	2	15	57	67	94	236
Requested cases	1	24	33	33	40	51	46	228
Total cases	1	25	35	48	97	118	140	464

22.2. Statistics provided by Cyprus

The Central Authority is in charge of collecting statistical data concerning both the issuing and execution of EIOs.

(a) Incoming and outgoing EIOs:

Incoming requests		Outgoing requests	
2019	279	2019	129
2020	314	2020	90
2021	387	2021	128
2022	456	2022	111
2023	459	2023	137

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

Cases of refusal	
2019	1
2020	7
2021	0
2022	1
2023	0

(c) Cases in which the execution of an EIO has been postponed when Cyprus is both the issuing and executing authority:

Cases of postponement	
2019	1
2020	1
2021	0
2022	1
2023	0

No statistical data was provided on the reasons for refusal or postponement, or on the partner Member States as either the issuing or executing authority.

Comprehensive statistics are crucial for analysing and improving cooperation between Member States by identifying gaps and disadvantages in the functioning of international instruments for judicial cooperation and their implementation by the Member States.

In the light of the above, the evaluation team considers it necessary to recommend that, until e-EDS is fully operational, Cyprus improve the collection of statistics on EIOs (*see recommendation 7*).

22.3. Statistics provided by the customs and tax authorities

The customs and tax authorities have not issued any EIOs so far (see also points 4.4 d) and e)). The customs authority has received 14 EIOs (12 of which were issued by one Member State); the tax authority 165. (Logically, these figures are included in the statistics provided by the Central Authority.)

By way of comparison, the table below contains the number of requests and spontaneous exchanges issued and received by the tax authority in accordance with Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC.

	Incoming		Outgoing	
	Requests	Spontaneous exchanges	Requests	Spontaneous exchanges
2019	317	30	58	16
2020	257	28	75	11
2021	215	49	45	16
2022	166	51	40	12
2023	218	30	43	7

23. TRAINING

The Special Department, together with the support of the Central Authority, provides training on EIOs at the Police Academy for police officers once or twice a year.

The judge who was interviewed during the on-site visit and who deals with EIO cases has not received any EIO-related training.

Members of the Bar Association are supposed to receive nine hours of free training a year. They can choose courses from a pool. There are international cooperation courses in the pool that are available both online and offline, but they only deal with EAWs and not EIOs. The trainers are either practitioners or academics. According to the representative of the Bar Association, these courses are not popular among lawyers, who do not consider international cooperation courses useful for their everyday work. At the time the Directive entered into force, there was joint training for lawyers and police officers on EIOs, but there has been no such training since then.

Competent authorities have already received training on e-EDES.

No statistical data was provided on training.

In the light of the information provided by the Cypriot authorities, the evaluation team deems it necessary to recommend that Cyprus provide for more systematic and regular training on EIOs, including the case-law of the CJEU and related materials made available by EJN and Eurojust. Training should be common to all entities and practitioners involved in EIOs. As a matter of urgency, training should be provided to district judges, taking into account the fact that they are the Cypriot issuing authority under Cypriot Implementing Law (Part I(2)(8)) and the Cypriot notification under Article 33(1) of the EIO Directive. Training on EIOs should also be provided to lawyers to ensure that they can effectively exercise the right to request the issuance of an EIO at any stage of the procedure (*see recommendations 3 to 5*).

Such training should also serve to ensure that all the issuing and executing authorities are up-to-date and comply with the jurisprudence of the CJEU in relation to the EIO (*see recommendation 9*).

It is also recommended that the European Judicial Training Network (EJTN) increase the number of courses related to EIOs, perhaps in partnership with national training projects. The training should include the interaction of various instruments for judicial cooperation in criminal matters (*see recommendation 20 to Eurojust/Europol/EJN/EJTN*).

24. FINAL REMARKS, RECOMMENDATIONS AND BEST PRACTICES

24.1. Recommendations

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

The evaluation team saw fit to make several suggestions for the attention of the Cypriot authorities. Furthermore, based on the various good practices, related recommendations are being put forward to the EU, its institutions and agencies, and to Eurojust in particular, as well as to the EJM. Cyprus should conduct an 18-month follow-up to the recommendations referred to below after this report has been adopted by COPEN.

24.1.1. Recommendations to Cyprus

Recommendation No 1: Noting the need for clarification at the EU level regarding the speciality rule in the context of EIOs, Cyprus is, nevertheless, encouraged to reconsider the application of the speciality principle in the context of an EIO and therefore also the practice of requesting the consent of private entities for the use of evidence (e.g. banking information) in other proceedings by the issuing state (*see Chapters 11 and 21.4*).

Recommendation No 2: Ensure that both the central authority and the executing authority to which the EIO is finally transmitted comply with the obligation to inform by completing and sending Annex B, in accordance with Article 16(1)(2) of the EIO Directive (*see Chapter 18*).

Recommendation No 3: Provide for more systematic and regular training on EIOs, including the case-law of the CJEU and related materials made available by EJM and Eurojust. Training should be common to all entities and practitioners involved with EIOs (*see Chapter 23*).

Recommendation No 4: As a matter of urgency, training should be provided to district judges, taking into account the fact that they are the Cypriot issuing authority under Cypriot implementing law (Part I(2)(8)) and the Cypriot notification under Article 33(1) of the EIO Directive (*see Chapter 23*).

Recommendation No 5: Training on EIOs should also be provided to lawyers to ensure that they can effectively exercise the right to request the issuance of an EIO at any stage of the procedure (*see Chapter 23*).

Recommendation No 6: All competent national authorities should be connected to e-EDES as soon as possible to ensure the secure transmission of data (*see Chapter 8*).

Recommendation No 7: Until e-EDES is fully operational, improve the collection of statistics on EIOs (*see Chapter 22.2*).

Recommendation No 8: Ensure that ‘Fiches Belges’ include complete and accurate information on the investigative measures available in Cyprus (*see Chapter 21.6*).

Recommendation No 9: Ensure that all the issuing and executing authorities are up-to-date and comply with the jurisprudence of the CJEU in relation to EIOs (*see Chapter 23*).

24.1.2. Recommendations to the other Member States

Recommendation No 10: Issuing authorities should ensure that translations of EIOs are accurate. They should also use short sentences and precise language when issuing EIOs to allow for easy and accurate translation, and not copy the text of the underlying national order (*see Chapter 6.2*).

Recommendation No 11: Member States should connect all relevant national authorities to e-EDES, as soon as possible, to ensure the secure transmission of data (*see Chapter 8*).

Recommendation No 12: Executing authorities should respect deadlines and promptly inform issuing authorities of any delays (*see Chapter 14*).

Recommendation No 13: Receiving authorities, and Central Authorities where applicable, should always send Annex B and within the time limits foreseen in Article 16 of the Directive (*see Chapter 18*).

Recommendation No 14: Issuing authorities should specify in section I of Annex A of the EIO form if special requirements for the gathering of evidence, as well as for the evidence itself, are applicable under their laws (*see Chapter 10*).

Recommendation No 15: Executing authorities should always engage in consultations with issuing authorities (in accordance with Article 9(6) of the Directive) in the event of difficulties or possible refusal, with a view to facilitate the expeditious and optimal treatment of EIOs (*see Chapter 6.1*).

Recommendation No 16: Executing authorities must comply with procedural formalities requested by the issuing Member State, as these are crucial for the admissibility of evidence, and when the conditions referred to in Article 9(2) of the EIO Directive are met. In any case, direct consultations should take place in order to achieve the most efficient execution of EIOs (*see Chapter 10*).

Recommendation No 17: Before executing an EIO, executing authorities should use the means at their disposal to assess whether there is a possible violation of the ne bis in idem principle (*see Chapter 13.3*).

24.1.3. Recommendations to the European Union and its institutions

Recommendation No 18: The Commission is invited to consider making the Annex A form more user-friendly and restructuring it to avoid the need for repetition (*see Chapter 6.1*).

Recommendation No 19: The Commission is invited to consider amending the Directive to provide clarity regarding the speciality rule (*see Chapter 11*), the concept of confidentiality (*see Chapter 12*) and the application of the EIO to ensure that the accused attends the main trial and post-conviction agenda (*see Chapter 21.2*).

24.1.4. Recommendations to Eurojust/Europol/EJN/EJTN

Recommendation No 20: The EJTN should increase the number of training courses related to EIOs, perhaps in the framework of a partnership with national training projects. Training should include the interaction of the various instruments for judicial cooperation in criminal matters (*see Chapter 23*).

24.2. Best practices

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

Cyprus is to be commended for:

1. The constructive, pragmatic and flexible approach of the Cypriot competent authorities to facilitate the execution of EIOs to their fullest extent (*see Chapters 5, 6.1 and 9.1*).
2. Applying extensively the principle of mutual trust in their daily practice of cross-border judicial and police cooperation when executing EIOs (*see Chapters 5, 6.1 and 9.1*).
3. Conducting regular consultations at an early stage in the execution of EIOs to facilitate their execution and to resolve issues through bilateral consultations with the issuing state, and for complying with the duty to inform the issuing state whenever possible of its recourse to a less intrusive investigative measure other than that indicated in the EIO (*see Chapters 6.1, 7 and 9.1*).

4. Executing ‘cascading’ requests in the same EIO, without imposing additional formalities (*see Chapters 6.3 and 21.4*).
5. Seeking assistance from the national desk at Eurojust when direct contacts are not sufficient (*see Chapter 8*).
6. Sending a reminder to the issuing state when a request to obtain additional information essential to proceed with the execution of the EIO has not been received within three weeks and informing the issuing state that, in the absence of a reply to said request, the execution will be halted until further communication with Cyprus (*see Chapter 8*).
7. Having established a specialised unit within the Cyprus Police, with national territorial competence, for the execution of EIOs (*see Chapter 4.1*).
8. When complying with the obligation to accept an additional language (Article 5 of the EIO Directive), having chosen one language (English) which is commonly used in the EU (as recommended in Recital 14 of the Directive) (*see Chapter 6.2*).
9. Ensuring the quality of translations of EIOs, either incoming or outgoing, by always using sworn translators (*see Chapter 6.2*).
10. Executing EIOs received in English without mandatorily waiting for their translation into Greek (*see Chapter 6.2*).
11. Facilitating cross-border judicial cooperation by executing EIOs in cases where an MLA should have been used (*see Chapters 5 and 9.1*).
12. Using recurrently the EIJN Atlas to find the competent executing authority in another Member State (*see Chapter 4.3*).
13. Having established a central database of bank and financial accounts with direct access by the police as part of their investigative powers (*see Chapter 21.4*).

ANNEX A: PROGRAMME FOR THE ON-SITE VISIT

Tuesday, 20 February 2024 – Location: Ministry of Justice and Public Order, Nicosia	
Time	Programme
08:30-09:30	Welcoming speeches. Presentation of a general overview of the Cypriot legal system.
09:45-10:00	Coffee break
10:00-11:30	Meeting with practitioners (Ministry of Justice, representatives of the Cyprus Police, District Judge (Nicosia), Attorney General's Office), presentations and exchanges of views.
11:30-12:30	Lunch break
12:45-15:00	Continuation of discussions with practitioners

Wednesday, 21 February 2024- Location: MJPO	
Time	Programme
08:30-09:30	Meeting with practitioners – Ministry of Justice, Attorney General's Office and representatives of the Cyprus Police
09:45-10:00	Coffee break
10:00-11:30	Continuation of discussions with practitioners
11:45-12:00	Coffee break
12:00-12:45	Continuation of discussions with practitioners - Commission of Taxation and Directorate of Customs
13:00-14:00	Meeting with representatives of the Bar/Defence Lawyer
14:00	Lunch break

Thursday, 22 February 2024- Location: MJPO	
Time	Programme
09:00-10:00	Final Q&A
10:00-10:15	Coffee break
10:15-11:15	Preliminary conclusions

ANNEX B: THE CYPRIOT LEGAL AND JUDICIAL SYSTEM

Legal System⁵

Cyprus was a British colony until 1960, when the island became an independent republic. Until independence, the legal system was based on the English legal system. The laws enacted for the colony applied to Cyprus the principles of common law and equity. Many of those laws are still in force today.

After independence in 1960 the English legal system was largely preserved. The applicable laws are the following:

the Constitution of the Republic of Cyprus;

the laws retained in force by virtue of Article 188 of the Constitution;

the principles of Common Law and Equity;

the Laws enacted by the House of Representatives.

Following the accession of the Republic of Cyprus to the European Union in 2004, the Constitution was amended so that European law has supremacy over the Constitution and national legislation.

Summary of the criminal process⁶

The following is a summary of the normal stages in a criminal process:

A person suspected of involvement in a crime may be questioned by the police. The police are responsible for the investigation of the crime.

The suspect may be arrested on the strength of a judicial warrant except in the case of a flagrant offence.

⁵ [Legal System \(supremecourt.gov.cy\)](http://supremecourt.gov.cy).

⁶ [European e-Justice Portal - Defendants \(criminal proceedings\) \(europa.eu\)](http://europa.eu).

Before being questioned by police, the suspect must be informed of their right to contact a lawyer and must be cautioned.

At the conclusion of the investigation, if incriminating evidence emerges against the suspect, they are formally charged by the police. In serious criminal cases the decision to prosecute is taken by the Attorney General (Genikos Eisaggeleas). This power of the police is always under the overall supervision of the Attorney General, who under the Constitution has the power to institute, conduct, take over and continue or discontinue any criminal proceedings.

A charge sheet setting out the offence(s) is submitted by the police to a district judge for approval. If approved, the accused is summoned to appear before the court on a specified date.

Depending on their gravity, criminal cases may be heard:

(a) summarily by a single judge of the district court (Eparchiako Dikastirio) with jurisdiction in the district where the offence was committed;

(b) on information by the Attorney General, by the assize court (Kakourgiodikeio), composed of three district court judges and presided over by a president of a district court.

In summary proceedings, on the date the accused is summoned to appear before the court, they answer to the charge(s) by pleading guilty or not guilty. In cases heard by the assize court, on the appointed date a preliminary enquiry is held before a district court judge. A preliminary enquiry may be dispensed with if the Attorney General deems it unnecessary. The current practice is to dispense with the holding of a preliminary enquiry.

The victim of a crime has the right to file a complaint.

The Attorney General has overall responsibility for criminal prosecutions, including the right to discontinue a prosecution.

There is no trial by jury in Cyprus.

If the court on enquiry determines that the accused is unfit to plead guilty or not guilty because of a mental disturbance or other incapacity, the court may order that they be treated in an appropriate institution.

The accused may raise preliminary objections to the charges on the grounds of:

- a) lack of jurisdiction, substantial or territorial;
- b) previous acquittal or conviction for the same act(s);
- c) a pardoning of the offence(s);
- d) incompleteness or repetition of the charges.

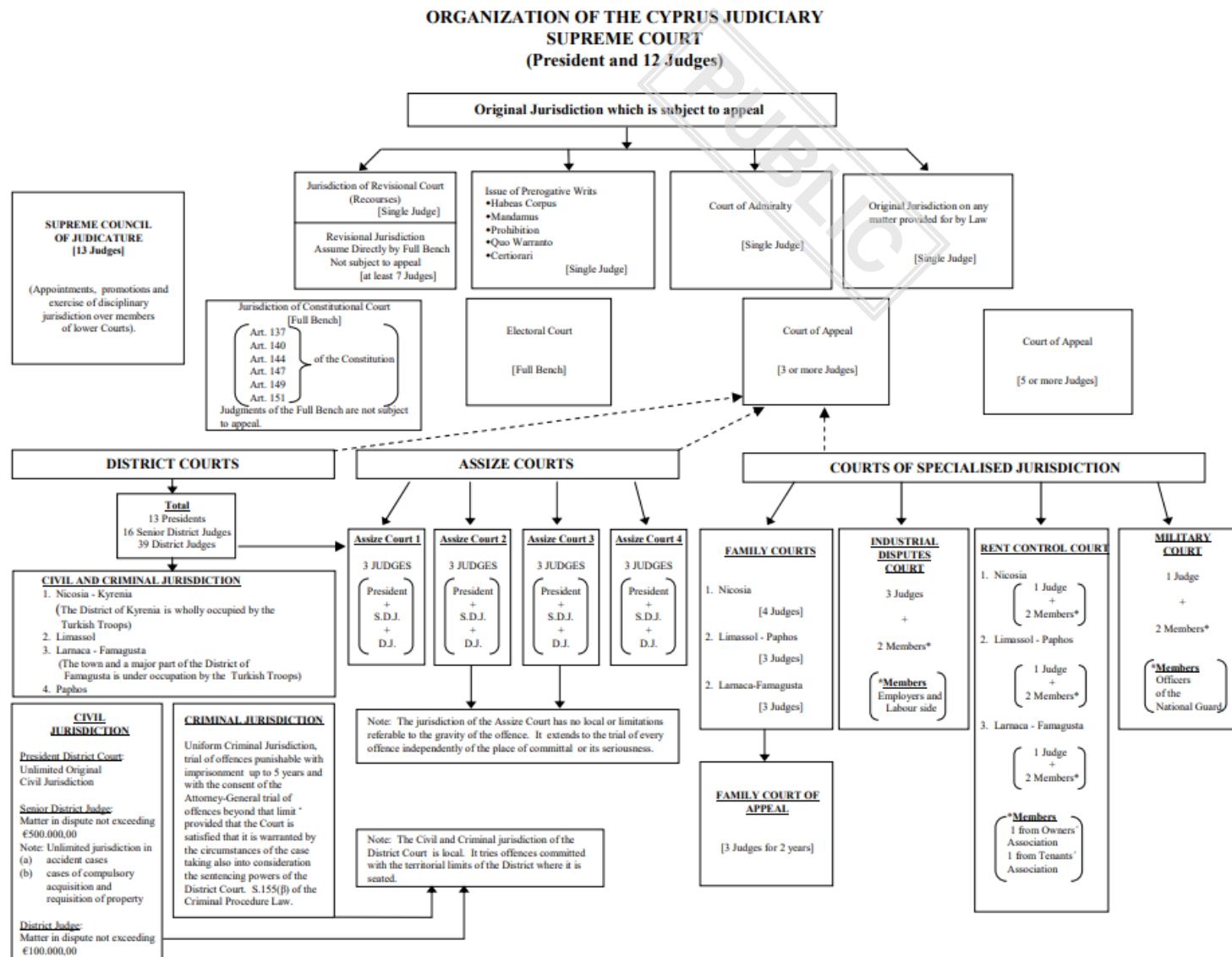
More than one person may be charged under the same indictment for related criminal conduct. If this is considered unjust, the court may order the apportionment of the charges for the purposes of the trial.

The trial starts with the evidence of the prosecution (katigorousa archi). At the close of the prosecution case, the court determines whether the accused has a case to answer. If so, the accused is called by the court to make a defence and is informed of their right to remain silent or make a statement from the dock or give evidence under oath. The accused may always call evidence in their defence. No adverse inferences can be drawn from the exercise of the right to silence. Once the defence case is closed, the parties make their final submissions, and the court delivers its judgment.

All witnesses who give sworn evidence in court must be cross-examined.

The trial process must adhere to the norms of a fair trial. The presumption of innocence operates throughout the trial. The burden of proof is at all times on the prosecution. If at the end of the trial the court is not certain beyond all reasonable doubt of the guilt of the accused, they must be acquitted.

If the accused is convicted, the sentencing process follows.



Source: <https://rm.coe.int/organization-of-the-cyprus-judiciary-supreme-court-president-and-12-ju/168078f2ae>

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	TITLE
AGO	Attorney General's Office
CATS	Coordinating Committee in the area of police and judicial cooperation in criminal matters
CISA	Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders
CJEU	Court of Justice of the European Union
Constitution	Constitution of the Republic of Cyprus
COPEN	Working Party on Cooperation on Criminal Matters
EIO Directive or Directive	Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 on the European Investigation Order in criminal matters
EAW	European arrest warrant
e-EDES	e-Evidence Digital Exchange System
EIO	European Investigation Order
EJN	European Judicial Network in criminal matters
EJTN	European Judicial Training Network
Eurojust Regulation	Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA
Gavanozov I	CJEU Judgment given in Case C-324/17 (ECLI:EU:C:2019:892)
Gavanozov II	CJEU Judgment given in Case C-852/19 (ECLI:EU:C:2021:902)
IJCCM	International Judicial Cooperation in Criminal Matters
JIT	Joint investigation team
MLA	Request for mutual legal assistance

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	TITLE
CPL	Criminal Procedure Law
Implementing Law	Law No 181 of 2017 (entered into force on 15 December 2017) providing for the European Investigation Order in Criminal Cases and related matters, and Laws Nos 50(I) of 2021 and 57(1) of 2023.
MJPO	Ministry of Justice and Public Order
