
STATUTORY INSTRUMENTS

2017 No. 730

The Criminal Justice (European Investigation Order) Regulations 2017

PART 2

Making or validating a European investigation order in the United Kingdom

CHAPTER 2

Additional requirements for certain investigative measures

Interpretation and relationship to Chapter 1

13.—(1) This Chapter makes provision for certain types of investigative measures which may be specified in a European investigation order.

(2) The conditions and requirements imposed by this Chapter apply in addition to the conditions and requirements imposed by Chapter 1.

(3) For the purposes of this Chapter, a European investigation order is issued when it is made by a judicial authority, or made or validated by a designated public prosecutor, and references in this Chapter to “the issuing authority” are to be construed accordingly.

Hearing a person by videoconference or telephone

14.—(1) This regulation applies if a European investigation order is to be issued under this Part—

- (a) where a person is in the territory of a participating State and has to be heard as a witness, expert, suspect or accused person in proceedings in the United Kingdom, for that person to be heard in those proceedings by videoconference or other audiovisual transmission;
- (b) where a person is in the territory of a participating State and has to be heard as a witness or expert in proceedings in the United Kingdom, for that person to be heard in those proceedings by telephone conference.

(2) A European investigation order may only be issued for the purpose mentioned in paragraph (1) (b) where the issuing authority is satisfied that it is not appropriate or not possible for the person to be heard to appear in the United Kingdom in person, and only after having examined other suitable means.

Banking and other financial information

15.—(1) This regulation applies if a European investigation order is to be issued under this Part—

- (a) in order to determine whether any person holds or controls one or more accounts, of whatever nature, in any financial institution located in the territory of a participating State and if so, to obtain all the details of the identified accounts, or
- (b) in order to obtain the details of accounts specified in the order in any financial institution specified in the order and of banking operations which have been carried out during a

defined period through one or more of those accounts, including the details of any sending or recipient account.

- (2) A European investigation order issued for the purpose mentioned in paragraph (1)(a) must—
- (a) include the reasons why the issuing authority considers that the requested information is likely to be of substantial value for the purposes of the investigation or proceedings to which the order relates;
 - (b) include the grounds on which the issuing authority believes that financial institutions in the territory of the participating State hold the account and, to the extent the information is available, specify the institutions concerned; and
 - (c) include any further information the issuing authority considers may facilitate its execution.

(3) A European investigation order issued for the purpose mentioned in paragraph (1)(b) must include the reasons why the issuing authority considers the requested information to be relevant for the purposes of the investigation or proceedings to which the order relates.

Investigative measures requiring the gathering of evidence in real time, continuously and over a certain period of time

16.—(1) This regulation applies if a European investigation order is to be issued under this Part for the purpose of carrying out an investigative measure requiring the gathering of evidence in real time, continuously and over a certain period of time.

- (2) Investigative measures of the type described in paragraph (1) include—
- (a) the monitoring of banking or other financial operations being carried out through one or more accounts specified in the order;
 - (b) controlled deliveries on the territory of a participating State.

(3) A European investigation order issued for the purpose of carrying out an investigative measure of the type described in paragraph (1) must include the reasons why the issuing authority considers that requested information to be relevant for the purposes of the investigation or proceedings to which the order relates.

Covert investigations

17.—(1) This regulation applies if a European investigation order is to be issued under this Part for the purpose of requesting the assistance of a participating State in the conduct of investigations into crime by officers acting covertly (including under false identity).

(2) A European investigation order issued for the purpose mentioned in paragraph (1) must include the reasons why the issuing authority considers that the requested assistance is likely to be relevant for the purposes of the investigation or proceedings to which the order relates.

Provisional measures

18.—(1) This regulation applies if a European investigation order is to be issued under this Part for the purpose of provisionally preventing the destruction, transformation, removal, transfer or disposal of an item in the territory of a participating State that may be used as evidence in relation to the investigation or proceedings to which the order relates.

- (2) A European investigation order issued for the purpose mentioned in paragraph (1) must—
- (a) specify whether the item is to be transferred to the issuing authority or whether it is to remain in the participating State;
 - (b) where the item is to remain in the participating State, specify—
 - (i) the date of lifting of the provisional measure referred to in paragraph (1), or

- (ii) the estimated date of the submission of a request for the item or material to be transferred to the issuing authority.

Interception of telecommunications where technical assistance is needed

19.—(1) This regulation applies if a European investigation order is to be issued under this Part for the interception of telecommunications in a participating State from which technical assistance is needed.

(2) Where it appears to the issuing authority that more than one participating State is in a position to provide the necessary technical assistance for the interception of the same telecommunications, the European investigation order must be sent only to one participating State.

(3) Where—

- (a) paragraph (2) applies, and
- (b) it appears to the issuing authority that the subject of the interception is or will be located in one of the participating States able to provide the necessary technical assistance,

the European investigation order must be sent to that State.

(4) A European investigation order issued for the purpose mentioned in paragraph (1) must—

- (a) contain information for the purpose of identifying the subject of the interception;
- (b) specify the desired duration of the interception;
- (c) contain sufficient technical data, in particular the target identifier, to ensure that the order can be executed, and
- (d) indicate the reasons why the issuing authority considers the requested information to be relevant for the purposes of the investigation or proceedings to which the order relates.