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NOTE

Subject: Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters
- Financial Statement

Delgations will find attached a Financial Statement relating to the initiative by a group of Member States for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters.

FINANCIAL STATEMENT FOR THE

Proposal for a Directive of the European Parliament and the Council regarding the European Investigation Order in criminal matters

The proposed Directive is expected to place no addition burden on the budget of the European Union or the Member States, national governments or regional or local authorities.

Indeed, the proposal does not impose the creation of a new mechanism of financing nor any measure which will increase the already existing expenditure for this matter.

The current legal framework to obtain evidence in other Member States consists of two different regimes, mutual legal assistance and mutual recognition, and the future application of the FD on the EEW (in January 2011) will reinforce the coexistence of both regimes. The application of the regimes depends on the type of evidence and on the choice of the issuing/requesting State.

Both regimes are however not similar and it can be pointed out that some characteristics brought by the mutual recognition would have a firm positive impacts in terms of expenditures to the Member States.

The switchover to a single regime of mutual recognition will bring simplification of the procedure of gathering evidence and will create an acceleration of the criminal proceeding in general due to the following elements:

- **Simplification of the procedure due to the use of a standardized form**

The new proposal will be accompanied by a certificate (standardized form), which will be translated in all national languages. The MLA instruments do not provide this kind of standardized form, and each requesting authority has, as a consequence, its own forms to request evidence in another Member State. The setting up of a standardized form will entail time-savings to every competent authorities, as issuing authority (single and easy-to-use form, already tested and approved by practitioners in other fields like EAW) and as executing authority (easy understanding of the request, which is not the case at the moment due to the variety of forms among the Member States, and sometimes also in one Member State)

- **Simplification of the translation procedures**

While the obligation to translate the request in a national language of the executing state - or in a language chosen by them - remains, the standardized form is already translated in all national languages. Therefore, only small passages of the form have to be translated, like the description of the investigative measure, the reasons to issuing the European investigation order, or the eventual requirements as regards to formalities and procedures. In terms of costs, it will entail an important time and money-savings, mostly for the issuing state, but also for the executing state (sometimes, translation are difficult to understand).

- **Acceleration of the procedures**

Due to the setting up of deadlines, it can be reasonably expected that the procedures to obtain evidence will be faster. The current legal framework, mainly composed by MLA instruments, does not provide such deadlines. The efficiency and fastness of the gathering of evidence depends thus entirely on the good will of the executing state.

In the light of all above, it seems to be obvious that the replacement of the current legal framework by the proposal will entail substantive economies for the Member States. However, the estimation of these gains seems to be rather difficult to evaluate concretely.

Like all EU proposal, the implementation of the new measures has a cost and it takes time to the recipients for integrating new rules. Indeed, after the implementation of the proposal, the practical application needs often some period of adaptation. Such period has in general a cost for the Member State. However, if the new legal framework introduced by this initiative has to be integrated, the adaptation would not cause problems because practitioners already know the general features of mutual recognition, and already use standardized forms, e.g. with the EAW.

Because there would be a significant improvement of the judicial cooperation, it is likely that the intensity of the cooperation among the Member States will increase, which could result in a rise in the charges for the competent authorities which are executing more requests. The financial consequences of these extra-charges will however be compensated for by the benefits resulting from the better prosecution of criminality.

Indeed, as it was already analysed in the detailed statement, the improvement of tools made available to the practitioners results in a more effective criminal justice system. The means- and time-savings could be allocated to reinforce other needs of the judicial or police authorities. Higher quality of life, depending on the feeling of security and the efficient ability of the State to combat crime, has also positive impact on the development of the society and therefore, on the budget of the State. However, it would certainly be difficult to calculate the amount of benefits this kind of improvement will involve.

Finally, this initiative will not involve any additional costs for the budget of the European Union's institutions, or any increase in costs for economic operators or for the public, as it does not provide for any practical action that they would have to undertake or carry out.