

SECTION 2

Rules on investigation measures and other measures

Article 30

Investigation measures and other measures

1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:

- (a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;
- (b) obtain the production of any relevant object or document either in its original form or in some other specified form;
- (c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council [\[20\]](#);
- (d) freeze instrumentalities or proceeds of crime, including assets, that are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
- (e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;
- (f) track and trace an object by technical means, including controlled deliveries of goods.

2. Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.

3. The investigation measures set out in points (c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.

4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in paragraph 1.

5. The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The procedures and the modalities for taking the measures shall be governed by the applicable national law.

Article 31

Cross-border investigations

1. The European Delegated Prosecutors shall act in close cooperation by assisting and regularly consulting each other in cross-border cases. Where a measure needs to be undertaken in a Member State other than the Member State of the handling European Delegated Prosecutor, the latter European Delegated Prosecutor shall decide on the adoption of the necessary measure and assign it to a European Delegated Prosecutor located in the Member State where the measure needs to be carried out.

2. The handling European Delegated Prosecutor may assign any measures, which are available to him/her in accordance with Article 30. The justification and adoption of such measures shall be governed by the law of the Member States' of the handling European Delegated Prosecutor. Where the handling European Delegated Prosecutor assigns an investigation measure to one or several European Delegated Prosecutors from another Member State, he/she shall at the same time inform his supervising European Prosecutor.

3. If judicial authorisation for the measure is required under the law of the Member State of the assisting European Delegated Prosecutor, the assisting European Delegated Prosecutor shall obtain that authorisation in accordance with the law of that Member State.

If judicial authorisation for the assigned measure is refused, the handling European Delegated Prosecutor shall withdraw the assignment.

However, where the law of the Member State of the assisting European Delegated Prosecutor does not require such a judicial authorisation, but the law of the Member State of the handling European Delegated Prosecutor requires it, the authorisation shall be obtained by the latter European Delegated Prosecutor and submitted together with the assignment.

4. The assisting European Delegated Prosecutor shall undertake the assigned measure, or instruct the competent national authority to do so.

5. Where the assisting European Delegated Prosecutor considers that:

(a) the assignment is incomplete or contains a manifest relevant error;

(b) the measure cannot be undertaken within the time limit set out in the assignment for justified and objective reasons;

(c) an alternative but less intrusive measure would achieve the same results as the measure assigned; or

(d) the assigned measure does not exist or would not be available in a similar domestic case under the law of his/her Member State,

he/she shall inform his supervising European Prosecutor and consult with the handling European Delegated Prosecutor in order to resolve the matter bilaterally.

6. If the assigned measure does not exist in a purely domestic situation, but would be available in a cross-border situation covered by legal instruments on mutual recognition or cross-border cooperation, the European Delegated Prosecutors concerned may, in agreement with the supervising European Prosecutors concerned, have recourse to such instruments.

7. If the European Delegated Prosecutors cannot resolve the matter within 7 working days and the assignment is maintained, the matter shall be referred to the competent Permanent Chamber. The same applies where the assigned measure is not undertaken within the time limit set out in the assignment or within a reasonable time.

8. The competent Permanent Chamber shall to the extent necessary hear the European Delegated Prosecutors concerned by the case and then decide without undue delay, in accordance with applicable national law as well as this Regulation, whether and by when the assigned measure needed, or a substitute measure, shall be undertaken by the assisting European Delegated Prosecutor, and communicate this decision to the said European Delegated Prosecutors through the competent European Prosecutor.

Article 32

Enforcement of assigned measures

The assigned measures shall be carried out in accordance with this Regulation and the law of the Member State of the assisting European Delegated Prosecutor. Formalities and procedures expressly indicated by the handling European Delegated Prosecutor shall be complied with unless such formalities and procedures are contrary to the fundamental principles of law of the Member State of the assisting European Delegated Prosecutor.

Article 33

Pre-trial arrest and cross-border surrender

1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person in accordance with the national law applicable in similar domestic cases.

2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA