

First Case on Interpretation of EIO Brought Before CJEU

Thomas Wahl

News

The first preliminary ruling procedure on substantial matters of the Directive is currently pending at the CJEU. A Bulgarian court lodged the reference in May 2017 ([Case C-324/17 – Criminal proceedings against Ivan Gavanov](#)). The Bulgarian court referred the following questions to the CJEU:

1. Are national legislation and case-law consistent with Art. 14 of Directive 2014/41/EU regarding the European Investigation Order in criminal matters, in so far as they preclude a challenge, either directly as an appeal against a court decision or indirectly by means of a separate claim for damages, to the substantive grounds of a court decision issuing a European investigation order for a search on residential and business premises and the seizure of specific items, and allowing examination of a witness?;
2. Does Art. 14(2) of the directive grant, in an immediate and direct manner, to a concerned party the right to challenge a court decision issuing a European investigation order, even where such a procedural step is not provided for by national law?;
3. Is the person against whom a criminal charge was brought, in the light of Art. 14(2) in connection with Art. 6(1)(a) and Art. 1(4) of the directive, a concerned party, within the meaning of Art. 14(4), if the measures for collection of evidence are directed at third party?;
4. Is the person who occupies the property in which the search and seizure was carried out or the person who is to be examined as a witness a concerned party within the meaning of Art. 14(4) in connection with Art. 14(2) of the directive?

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