



Digital Skills: Focus on the European Investigation Order and e-CODEX - EU-BALTIC Project Webinar

Online, 10 December 2024



EXCELLENCE IN
EUROPEAN LAW⁷

Speakers

Júlio Barbosa e Silva, Public Prosecutor, Regional Department for Criminal Investigation and Prosecution; European Judicial Network (EJN) Contact Point, International Cooperation Unit, Coimbra

Ramin Farinpour, Senior Lawyer, European Criminal Law Section, ERA, Trier

Anna Riekenberg-Schirm, Seconded Expert, National Unit for Coordination in Matters of e-Justice (NUCE), Member of e-Justice Coordination Point Europe, Ministry of Justice of North Rhine-Westphalia, Düsseldorf; Judge, Duisburg Regional Court

Dr Gert Vermeulen, Professor of Criminal Law and Criminal Procedural Law, Ghent University; Director, Institute for International Research on Criminal Policy (IRCP), Ghent

Key topics

- Common European digital tools that enhance cross-border cooperation and mutual trust
- European Investigation Order (EIO) and e-CODEX

Languages
English, Latvian
(simultaneous interpretation)

Event number
324DT142

Organiser
Ramin Farinpour (ERA) in cooperation with the Estonian Prosecutor General's Office and Supreme Court, Latvian Judicial Training Centre and Public Prosecutor's Office, Lithuanian National Courts Administration and Prosecutor's General Office.

Digital Skills: Focus on the European Investigation Order and e-CODEX EU-BALTIC Project Webinar

Tuesday, 10 December 2024

- 12:40 Connecting to the videoconference platform
- 13:00 **Opening of the webinar**
Ramin Farinpour
- 13:05 **The EIO and how it functions as an instrument of mutual recognition and assistance**
- General principles and distinctive features
 - Grounds for non-recognition or non-execution
 - CJEU case law affecting its use
- Gert Vermeulen*
- 13:45 Discussion
- 14:00 Break
- 14:15 **How the EIO works in practice**
- Issuing and executing EIOs
 - Forms to use
 - Conditions for recognition and execution
 - Time limits for recognition or execution
 - Admissibility of evidence
 - Involving Eurojust and EJM
- Júlio Barbosa e Silva*
- 15:00 Discussion
- 15:15 Break
- 15:30 **e-CODEX in practice**
- Secure digital communication between courts, and between citizens and the courts enabling the secure exchange of judicial documents
 - e-evidence
- Anna Riekenberg-Schirm*
- 16:15 Discussion
- 16:30 End of the webinar

For programme updates: www.era.int

Programme may be subject to amendment.



Times indicated are EET
(Eastern European Time)

Objective

This webinar on digital skills, which is part of a larger project on a Baltic network of EU law experts, focuses on the European Investigation Order (EIO) and e-CODEX, the e-Justice Communication via Online Data Exchange, and how both can assist members of the judiciary in their daily work and with cross-border cases. It will explain the legal basis for both instruments, as well as provide a step-by-step guide on how to effectively use them, with examples being provided.

Who should attend?

Judges, prosecutors and court staff from Estonia, Latvia and Lithuania

Interactive online seminar

The online seminar will be hosted on the Zoom videoconference platform. You will be able to interact immediately and directly with our top-level speakers and other participants. We will make the most of the technical tools available to deliver an intensive, interactive experience. The highest security settings will be applied to ensure that you can participate safely in this high-quality online conference.

Your contacts



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CPD

ERA's programmes meet the standard requirements for recognition as Continuing Professional Development (CPD). Participation in the full programme of this event corresponds to **3 CPD hours**. A certificate of participation for CPD purposes with indication of the number of training hours completed will be issued on request. CPD certificates must be requested at the latest 14 days after the event.

Application

Digital Skills: Focus on the European Investigation Order and e-CODEX - EU-BALTIC Project Webinar

Online, 10 December 2024 / Event number: 324DT142



Terms and conditions of participation

- No registration fee.
- Participants are asked to register using the registration link indicated below.
- A list of participants including each participant's professional address will be made available to all participants unless ERA receives written objection from the participant no later than one week prior to the beginning of the event.
- The participant will be asked to give permission for their address and other relevant information to be stored in ERA's database in order to provide information about future ERA events, publications and/or other developments in the participant's area of interest.
- A certificate of attendance will be issued after the webinar to those who participated in the entire event.

Register online for
Digital Skills: Focus on the European Investigation
Order and e-CODEX – EU-BALTIC Project
Webinar:
[https://applications.european.law/en/Registrations/
Register/324DT142](https://applications.european.law/en/Registrations/Register/324DT142)

Save the date

Preliminary Ruling Procedure, Charter of Fundamental Rights and the Rule of Law

Advanced Training in EU Law for Judges and Prosecutors
Vilnius, 12-14 May 2025

Study Visit to the CJEU and EPPO and an Exchange of Best Practice Among the Baltics' Members of the Judiciary

Advanced Training in EU Law for Judges and Prosecutors
Trier & Luxembourg,
13-17 October 2025

Digital Skills: Focus on e-Evidence

Online, 26 March 2025

Digital Skills: Focus on ECRIS

Online, 17 September 2025

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This 3-hour e-learning course on EU criminal law is a guide through the fundamental characteristics of EU criminal law and aims to provide insight into what EU criminal law entails and what it does not entail.

Further information:
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324DT142

Background Documentation

Digital Skills: Focus on the European Investigation Order and e-CODEX – EU BALTIC-Project Webinar

10 December 2024



***** All documents are hyperlinked *****

A. Main Treaties and Conventions

| | |
|------|---|
| A.01 | Consolidated version of the Treaty on the functioning of the European Union, art. 82-86 (OJ C 326/47; 26.10.2012) |
| A.02 | Consolidated Version of the Treaty on the European Union, art. 9-20 (OJ C326/13; 26.10.2012) |
| A.03 | Explanations relating to the Charter of Fundamental Rights (2007/C 303/02), 26.12.2012 |
| A.04 | Charter of Fundamental Rights of the European Union (OJ. C 364/1; 18.12.2000) |
| A.05 | Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 239; 22.9.2000, P. 19) |
| A.06 | Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ C 197 12.7.2000, p. 3-23) |
| A.07 | Council of Europe: European Convention on Mutual Assistance in Criminal Matters, Strasbourg, 20.IV.1959 ETS No. 030 |

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| A.08 | Council of Europe: Convention for the Protection of Human Rights and Fundamental Freedoms and additional protocols (ETS No. 005; 3.5.1953) |
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B. EUROPEAN INVESTIGATION ORDER (EIO)

B1. Legal Framework

| | |
|-------|--|
| B1.01 | 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/JHA20 |
| B1.02 | Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance), OJ L 141, 05/06/2015, p. 73–117 |
| B1.03 | Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, OJ L 130, 1.5.2014, p. 1–36 |
| B1.04 | Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, (OJ L 294, 6.11.2013, p. 1–12) |
| B1.05 | Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, (OJ L 142, 1.6.2012, p. 1–10) |
| B1.06 | Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings, (OJ L 280, 26.10.2010, p. 1–7) |

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| B1.07 | Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters, (OJ L 350, 30.12.2008, p. 72–92) |
| B1.08 | Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions, OJ L 337, 16.12.2008, p. 102–122 |
| B1.09 | Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (Text with EEA relevance), (OJ L 309, 25.11.2005, p. 15–36) |
| B1.10 | Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence, (OJ L 196, 2.8.2003, p. 45–55) |
| B1.11 | Consolidated text: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) |
| B1.12 | Council Framework Decision of 13 June 2002 on joint investigation teams, OJ L 162, 20.6.2002, p. 1–3 |
| B1.13 | Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, (Official Journal L 008, 12/01/2001 P. 0001 – 0022) |
| B1.14 | Explanatory Report on the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union (2000/C 379/02) |
| B1.15 | Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (2000/C 197/01) |
| B1.16 | Explanatory Report to the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 17.III.1978) ETS No. 99 |

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| B1.17 | European Convention on Mutual Assistance in Criminal Matters Strasbourg, 20.IV.1959 ETS No. 030 |
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B2. Recent Court of Justice of the European Union (CJEU) Case Law

| | |
|-------|--|
| B2.01 | Case C-760/22, Judgment of the Court (First Chamber) of 4 July 2024 |
| B2.02 | Joined Cases C-255/23 and C-285/23, Judgment of the Court (Sixth Chamber) of 6 June 2024 |
| B2.03 | Case C-670/22, Judgment of the Court (Grand Chamber) of 30 April 2024 |
| B2.04 | Case C-281/22, Judgment of the Court (Grand Chamber) of 21 December 2023 |
| B2.05 | Case C-16/22, Judgment of the Court (Third Chamber) of 2 March 2023 |
| B2.06 | Case C-66/20, Judgment of the Court (Fourth Chamber) of 2 September 2021 |
| B2.07 | Case C-724/19, Judgment of the Court (Fourth Chamber) of 16 December 2021. |
| B2.08 | Case C-852/19, Judgment of the Court (First Chamber) of 11 November 2021 |
| B2.09 | Case C-505/19, Judgment of the Court (Grand Chamber) of 12 May 2021 |
| B2.10 | Case C-746/18, Judgment of the Court (Grand Chamber) of 2 March 2021 |
| B2.11 | Case C-584/19, Judgment of the Court (Grand Chamber) of 8 December 2020 |
| B2.12 | Case C-314/18, Judgment of the Court (Fourth Chamber) of 11 March 2020 |
| B2.13 | Case C-324/17, Judgment of the Court (First Chamber) of 24 October 2019 |
| B2.14 | Case C-452/16 PPU, Judgment of the Court (Fourth Chamber) of 10 November 2016 |

B3. Useful Links and Websites

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|-------|---|
| B3.01 | European Judicial Network (EJN): Compendium, 2024 |
| B3.02 | Eurojust: European Investigation Order, 2024 |
| B3.03 | European Judicial Network (EJN): Fiches Belges, Find and compare concise and practical legal information on the following judicial cooperation measure, 2024 |
| B3.04 | European Judicial Network (EJN): Search Competent Authorities (EIO), 2024 |
| B3.05 | European Judicial Network (EJN): Useful tools and information for the practical application of the European Investigation Order (EIO) Directive, 2024 |
| B3.06 | Eurojust: Annual report 2023, 30 May 2024 |
| B3.07 | European Judicial Network (EJN): European Investigation Order, Last reviewed on 27 September 2023 |
| B3.08 | Status of Transposition of the EIO Directive, last reviewed on 27 September 2023 |
| B3.09 | Ramos, V. C. (2023). The EPPO and the equality of arms between the prosecutor and the defence. <i>New Journal of European Criminal Law</i> , 14(1), 43-70. https://doi.org/10.1177/20322844231157078 , March 27, 2023 |
| B3.10 | EJN Conclusions 2022 on the application of cross-border surveillance, controlled delivery and interception of telecommunication, 13 December 2022 |
| B3.11 | EIO Code of Best practices – Proposals for 100 Best Practices, 23 June 2022 |
| B3.12 | Joint compilation by Eurojust and the EJN - The impact of the judgment of the CJEU in Case C-852/19 (Gavanozov II), 13 May 2022 |
| B3.13 | EJN Conclusions 2021 on the European Investigation Order (videoconference without EIO/MLA), 23 February 2022 |
| B3.14 | Ramos, V. C.: “Gavanozov II and the need to go further beyond in establishing effective remedies for violations of EU fundamental rights”, EU Law Live, 22 November 2021 |

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| B3.15 | Report from the Commission to the European Parliament and the Council on the implementation of Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, Brussels, 20.7.2021 COM (2021) 409 final |
| B3.16 | Eurojust: The Impact of COVID-19 on Judicial Cooperation in Criminal Matters, 17 May 2021 |
| B3.17 | EJN Conclusions 2019 on the European Investigation Order, 11 May 2021 |
| B3.18 | Report on Eurojust's casework in the field of the European Investigation Order, November 2020 |
| B3.19 | EJN Conclusions 2018 on the European Investigation Order, 19 June 2020 |
| B2.20 | Eurojust: Key Features, European Investigation Order, 3 February 2020 |
| B2.21 | Best Practices for European Coordination on investigative measures and evidence gathering, EuroCoord (2014-2020) |
| B2.22 | Guidelines on the European Investigation Order forms, 30 January 2020 |
| B2.23 | E-Justice: European Investigation Order, mutual legal assistance and Joint Investigation Teams, Last reviewed 25 November 2019 |
| B2.24 | Joint Note of Eurojust and the European Judicial Network on the practical application of the European Investigation Order, 26 June 2019 |
| B2.25 | Outcome report of the Eurojust meeting on the European Investigation Order, 20 September 2018 |
| B2.26 | EJN Conclusions 2017 on the European Investigation Order (48th and 49th EJN Plenary meetings), 11 December 2017 |
| B2.27 | E-Evidence Digital Exchange System eEDES |

C. E-Evidence

C1. Legal Framework

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| C1.01 | Directive (EU) 2023/1544 of the European Parliament and of the Council of 12 July 2023 laying down harmonised rules on the designation of designated establishments and the appointment of legal representatives for the purpose of gathering electronic evidence in criminal proceedings (OJ L 191, 28.7.2023, p. 181-190) |
| C1.02 | Regulation (EU) 2023/1543 of the European Parliament and of the Council of 12 July 2023 on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings and for the execution of custodial sentences following criminal proceedings (OJ L 191, 28.7.2023 p. 118–180) |
| C1.03 | Second Additional Protocol to the Cybercrime Convention on enhanced co-operation and disclosure of electronic evidence, Strasbourg, 12.V.2022 (CETS No. 224) |
| C1.04 | Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA relevance) (OJ L 277, 27.10.2022, p. 1–102) |
| C1.05 | Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (Text with EEA relevance) (OJ L 172, 17.5.2021, p. 79–109) |
| C1.06 | Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast), (OJ L 405, 02/12/2020, p. 1–39) |
| C1.07 | Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast)Text with EEA relevance (OJ L 321, 17.12.2018, p. 36–214) |
| C1.08 | Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89–131) |

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| C1.09 | Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance) (OJ L 119, 4.5.2016, p. 1–88) |
| C1.10 | Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, (OJ L 130, 1.5.2014, p. 1–36) |
| C1.11 | Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36–68) |
| C1.12 | Agreement on mutual legal assistance between the European Union and the United States of America, (OJ L 181, 19.7.2003, p. 34–42) |
| C1.13 | Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, Strasbourg, 28.I.2003 (ETS No. 189) |
| C1.14 | Convention on Cybercrime, Budapest 23.XI.2001 (ETS. No. 185) |

C.2 Useful Links and Websites

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|-------|---|
| C2.01 | Council of the European Union: Better access to e-evidence to fight crime, Last reviewed 11 January 2024 |
| C2.02 | Council adopts EU laws on better access to electronic evidence, 27 June 2023 |
| C2.03 | eEvidence: After 5 years of debate European Parliament greenlights agreement, 13 June 2023 |
| C2.04 | Plenary vote on the “e-evidence package” Regulation and Directive on “European production and preservation orders for electronic evidence in criminal matters” and “legal representatives”, Brussels 12 June 2023 |
| C2.05 | Electronic evidence: Council confirms agreement with the European Parliament on new rules to improve cross-border access to e-evidence, 25 January 2023 |

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| C2.06 | E-evidence Regulation and Directive Published, 9 November 2023 (updated February 2024) |
| C2.07 | e-Evidence: Commission welcomes political agreement to strengthen cross-border access for criminal investigations, 29 November 2022 |
| C2.08 | Eurojust: E-Evidence Digital Exchange System: eEDES, 16 December 2021 |
| C2.09 | Commission Staff Working Document Impact Assessment Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters and Proposal for a Directive of the European Parliament and of the Council laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings, SWD/2018/118 final, Brussels 17.4.2021 |
| C2.10 | Frequently Asked Questions: New EU rules to obtain electronic evidence, 17 April 2018 |
| C2.11 | Position papers submitted to the 2017 public consultation on improving cross border access to electronic evidence in criminal matters, 16 April 2018 |
| C2.12 | Security Union, Facilitating Access to Electronic Evidence, April 2018 |
| C2.13 | Public consultation on improving cross-border access to electronic evidence in criminal matters, 27 October 2017 |

D. Videoconferencing and Evidence

D.1 Relevant Legislation

| | |
|-------|---|
| D1.01 | Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation, OJ L, 2023/2844, 27.12.2023 |
| D1.02 | Council Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast), OJ L 178, 2.7.2019, p. 1–115 |

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| D1.03 | Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders, OJ L 303, 28.11.2018, p. 1–38 |
| D1.04 | Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, OJ L 65, 11.3.2016, p. 1–11 |
| D1.05 | Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, OJ L 130, 1.5.2014, p. 1–36 |
| D1.06 | Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, OJ L 294, 6.11.2013, p. 1–12 |
| D1.07 | Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14/11/2012, p. 57–73 |
| D1.08 | Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings, OJ L 142, 1.6.2012, p. 1–10 |
| D1.09 | Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order, OJ L 338, 21.12.2011, p. 2–18 |
| D1.10 | Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention, OJ L 294, 11.11.2009, p. 20–40 |
| D1.11 | Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions, OJ L 337, 16.12.2008, p. 102–122 |

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| D1.12 | Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, OJ L 327, 5.12.2008, p. 27–46 |
| D1.13 | Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, OJ L 261, 6.8.2004, p. 15–18 |
| D1.14 | 2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision, OJ L 190, 18.7.2002, p. 1–20 |
| D1.15 | Council Framework Decision of 13 June 2002 on joint investigation teams, OJ L 162, 20.6.2002, p. 1–3 |
| D1.16 | Council of Europe – Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182), Strasbourg, 8.XI.2001 |
| D1.17 | 2001/220/JHA: Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings, OJ L 82, 22.3.2001, p. 1–4 |
| D1.18 | Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union (OJ C 197 12.7.2000, p. 3-23) |
| D1.19 | European Convention on Mutual Assistance in Criminal Matters Strasbourg, 20.IV.1959 ETS No. 030 |

D2. Useful Links and Websites

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|-------|--|
| D2.01 | European Judicial Network: Judicial Cooperation in Criminal Matters |
| D2.02 | E-justice: General information, Last reviewed 17 November 2021 |
| D2.03 | Eurojust: The Impact of COVID-19 on Judicial Cooperation in Criminal Matters, 17 May 2021 |
| D2.04 | European Criminal Bar Association, Statement of Principles on the use of Video-Conferencing in Criminal Cases in a Post-Covid-19 World, 6 September 2020 |

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| D2.05 | Final Report Informal Working Group on Cross-border Videoconferencing, 2 March 2014 |
| D2.06 | General Secretariat of the Council: Guide on videoconferencing in cross-border proceedings, 2013 |
| D2.07 | Booklet, Videoconferencing as a part of European e-Justice, The Essentials of Videoconferencing in Cross-Border Court Proceedings, 2009 |

E. e-CODEX

E.1 Relevant Legislation

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|-------|---|
| E1.01 | Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726, OJ L 150, 1.6.2022, p. 1–19 |
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E2. Useful Links and Websites

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| E2.01 | e-CODEX and citizen-centered justice YouTube video |
| E2.02 | iSupport and e-CODEX YouTube video |
| E2.03 | e-Justice – Collaboration YourTube video |
| E2.04 | eu-LISA - e-CODEX |
| E2.05 | Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Digitalisation of justice in the European Union – A toolbox of opportunities, Brussels, 2.12.2020, COM(2020) 710 final |
| E2.06 | Commission Staff Working Document Accompanying the Communication, Brussels, 2.12.2020 SWD(2020) 540 final |
| E2.07 | 2019-2023 Strategy on e-Justice, OJ C 96, 13.3.2019, p. 3–8 |

The European Investigation Order and how it functions as an instrument of mutual recognition and assistance

Digital Skills: Focus on the European Investigation Order and e-CODEX
EU-BALTIC Project Webinar, 10 December 2024

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Structure

10 December 2024 | The European Investigation Order | EU-BALTIC Project Webinar

pre EIO

- Traditional MLA framework: adequate but fragmented
- Icing on the cake: free movement of evidence

EIO

- EIO proposal | Feather in Belgium's cap?
- Single evidence gathering instrument?
- Nothing but a con: More fragmentation
- Mutual recognition: The new religion
- Nothing like a free lunch
- The self-restriction joke
- Mutual distrust: The new black
- CJEU on competent authorities & legal remedies
- Grounds for refusal
- Specific investigative measures: Marginal progress
- No free movement of evidence

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research

publications

consultancy

conferences

Traditional MLA framework | Adequate but fragmented

10 December 2024 | The European Investigation Order | EU-BALTIC Project Webinar

overview (non-limited)

- 1962 Benelux Treaty
- CoE 1959 MLA Convention + Protocols 1978 & 2001
- 1990 Schengen Implementing Convention
- 1997 Naples II Convention
- EU 2000 MLA Convention + 2001 Protocol [infra]
- 2004 Benelux Police Treaty [update: Benelux Police Treaty 2028]
- EU 2006 'Swedish' FD [update: Directive 2023/977]
- Prüm Convention/2008 Prüm Decisions [update: Regulation 2024/982 (Prüm II)]
- [2023 e-evidence Regulation and Directive]

principal rules of play

- inter-state cooperation
- coercive/intrusive measures/actions: exequatur or transfer procedure, compatibility with law requested state + dual criminality

convention shopping for certain (special) cooperation forms

- hot pursuit, cross-border surveillance, controlled delivery, covert investigations, JITs

research

publications

consultancy

conferences

EU 2000 Convention & Protocol 2001

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- compliance with
 - formalities and procedures of requesting MS
 - deadlines set by requesting MS
- interception of telecommunications
- controlled deliveries
- covert investigations (infiltration)
- joint investigation teams
- spontaneous exchange of information
- sending and service procedural documents
- hearing by video or telephone conference
- temporary transfer detainees to requested MS
- direct transmission of requests
- account and transaction information
- account monitoring

research | publications | consultancy | conferences

Icing on the cake: free movement of evidence?

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Mutual recognition

Fragmented introduction in MLA

- 2003 FD European Freezing Order [infra]
- 2008 European Evidence Warrant (EEW)

2003 Explanatory Memorandum to EC proposal for EEW

- more FDs announced, to be consolidated in single MR instrument for all MLA
- MR of evidence (if lawfully collected in locus MS?)

2007 TFEU (post-Lisbon): approximation admissibility of evidence

2009 Action Plan for the Stockholm Programme

- study on the laws of evidence in criminal proceedings throughout the EU
- = 2009-10 IRCP EC study cross-border evidence gathering & use ([open access](#))

2009 EC Green Paper cross-border collection and admissibility of evidence

Spring 2010 | results Evidence study & Green Paper response presented to MS

2010 proposal for a directive on a European Investigation Order (EIO)

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EIO proposal | Feather in Belgium's cap?

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2010/2 Belgian EU Presidency

- despite clash with former Justice Commissioner Reding
- obstinate in tabling its proposal
- co-sponsors: Austria, Bulgaria, Estonia, Slovenia, Spain, Sweden

end 2011: general approach agreed in JHA Council

2012-2013 EP and trilogue

3 April 2014 Directive 2014/41/EU adopted

transposition legislation required by 22 May 2017

- deadline missed by most MS

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Single evidence gathering instrument?

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replacing the fragmented MLA instrumentarium in its entirety?

in same procedures as EU2000 (slight reformulation only, Art. 4)

- i.e. including for ‘administrative offences’ and in case of corporate liability

most MS bound by EIO directive

- opt-out by Denmark, no opt-in by Ireland, opt-in by UK (until Brexit)

EIO directive replaces, between MS bound by it

- 2003 European Freezing Order

- “corresponding” provisions of

- CoE 1959 MLA Convention + 1978 and 2001 Protocols

- 1990 Schengen Implementing Convention

- 2000 EU MLA Convention + 2001 Protocol

- EJN (early 2017) asked for MS’ individual positions on which provisions they considered to be “corresponding” ...

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Nothing but a con: More fragmentation | 1

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MS bound will continue to apply (at least in part) all 'replaced' instruments amongst them

- sending and service of judicial documents (CoE 1959 MLA + EU 2000)
- cross-border invitation/subpoena of witnesses or experts (CoE 1959 MLA)
- denunciation (CoE 1959 MLA + EU 2000)
- spontaneous information exchange (EU 2000)
- joint investigation teams (EU 2000, except 13.8)
- cross-border observation (SIC, 2nd Protocol 1959 CoE MLA)
- entirety of traditional MLA instrumentarium for MLA re (via 49.b-f SIC)
 - in proceedings for claims for damages, in clemency proceedings, in civil actions joined to criminal proceedings, in the service of judicial documents relating to the enforcement of a sentence or a preventive measure, the imposition of a fine or the payment of costs for proceedings, in respect of measures relating to the deferral of delivery or suspension of enforcement of a sentence or a preventive measure, to conditional release or to a stay or interruption of enforcement of a sentence or a preventive measure
- mediation role Eurojust? (EU Protocol 2001, only for traditional MLA?)

Nothing but a con: More fragmentation | 2

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MS bound will continue to apply amongst them, in parallel with the EIO

- 1962 Benelux Treaty
- 1997 Naples II Convention
- 2004 Benelux Police Treaty [update: Benelux Police Treaty 2028]
- EU 2006 'Swedish' FD [update: Directive 2023/977]
- Prüm Convention/2008 Prüm Decisions [update: Regulation 2024/982 (Prüm II)]
- [2023 e-evidence Regulation and Directive]

in their relations with Denmark-Ireland, MS bound by EIO will continue to apply

- 2003 FD European Freezing Order
- CoE 1959 MLA Convention + Protocol 1978
- 1990 Schengen Implementation Convention
- EU 2000 MLA Convention + 2001 Protocol (Denmark)
- Protocol 2001 to CoE 1959 MLA Convention (Ireland)

Schengen *acquis* | relations between bound MS and Norway-Iceland-Switzerland-Liechtenstein

- CoE 1959 MLA Convention + Protocol 1978
- 1990 Schengen Implementation Convention
- Norway-Iceland: also EU 2000 MLA Convention + 2001 Protocol
- Switzerland-Liechtenstein: some provisions EU MLA Convention

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Mutual recognition: The new religion

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MR fetish

- belief paradigm, linked to superiority paradigm

characteristics

- execution of ‘orders’ instead of granting assistance as ‘requested’
- speediness and prioritisation as in national cases (30/90 days)
- for any investigative measure
 - v ‘widest measure of mutual assistance’ (CoE 1959 Convention)
- “alternatives” if a measure “does not exist” or is “not available in a similar domestic case”
- investigative measures that must be “always available”
 - existing evidence
 - information from police or judicial databases, directly accessible in criminal matters
 - hearing of witness, expert, victim, suspect or accused or third party
 - non-coercive investigative measures
 - identification of persons via telephone numbers and IP addresses

realistic? [no]

- IRCP/EC Study on the laws of evidence (infra)
- Study on execution MLA requests BE-NL (IRCs also deliberately kept by NL after EIO)

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Nothing like a free lunch

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EIO: places unrealistic burden upon executing MS

- any measure obligatory, appealing to self-restraint only (supra)
- related cost in principle borne by executing MS (infra: negotiation margin)

v IRCP study on the laws of evidence

- keep flexibility of ‘widest measure’
- financial capacity
 - cost-sharing
 - 50/50 for costs above 10.000 EUR (or lower) threshold?
 - more costs potentially borne by requesting MS
 - *acquis* EU2000: video links, telecom interception, expert fees
 - extension necessary for, e.g. for covert operations
 - possible creation legal basis to suggest/replace with less costly alternatives
- operational capacity
 - new *aut exequi aut tolerare* rule?
 - JIT and Naples II *acquis* – no constitutional hurdles

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The self-restriction joke

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EIO solution to avoid disproportionate impact on executing MS:
mandatory *self*-restriction by issuing authority ...

Article 6 | Conditions for issuing and transmitting an EIO

1. The issuing authority may only issue an EIO where the following conditions have been met:

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

2. The conditions [...] shall be assessed by the issuing authority in each case.

3. Where the executing authority has reason to believe that the conditions [...] have not been met, it may consult the issuing authority on the importance of executing the EIO. After that consultation the issuing authority may decide to withdraw the EIO.

cfr wide recognition disproportionate use EAW (notwithstanding threshold)

- hearing suspects, establishing place of residence, payment of fines, summoning, ...

Mutual distrust: The new black

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consultation & withdrawal possibility in case of doubts about self-restriction

negotiation margin in case of elevate/exceptional costs

“alternatives” if “same result would be achieved by less intrusive means”

refusal possibility where measure not allowed for ‘administrative’ offences (step back)

especially pushed by EP and (some) Eastern European MS

- strict judicialisation (half a century back in time)
 - traditional MS discretion to appoint competent ‘judicial’ authorities
 - contemporary landscape blurred anyway (5 additional authorities)
 - often built-in authority-flexibility in traditional CoE and pre-EIO EU instruments
 - procedural safeguards do not depend on ‘judicial’ authorities, but on respecting procedural guarantees
- introduction fundamental rights exception (Article 6 TEU and Charter)
 - Azerbaijan contradiction
- introduction legal ‘remedies’
 - applicability legal remedies equivalent to those in a similar national case
 - except where undermining the need to ensure confidentiality (sic)

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CJEU on competent authorities & legal remedies

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Competent authorities

- Case C-584/19 *A and Others* (public prosecutor as issuing authority)
- Case C-724/19 *HP* (competence public prosecutor to issue EIO for obtaining traffic and location data)
- Case C-16/22 *MS* (tax authority)

Legal remedies

- Case C-324/17 *Gavanozov*
- Case C-852/19 *Gavanozov II* (legal remedies against issuing the EIO)

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Grounds for refusal

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Article 11

PM: administrative offences & fundamental rights exception (supra)

traditional MR (EAW, EBB) exceptions

- immunity or privilege, rules on determination and limitation of criminal liability relating to freedom of the press or of expression in other media
- ordre public
- ne bis in idem
- extraterritoriality

hardly surprising: no refusal based on lack of dual criminality

- as in EAW cases (32 list, 3 years)
- + for *per se* available investigative measures (= *de facto* continuity)

optional refusal where measures are not “allowed” for the offence concerned

- new and good!
- even if counter to MR logic

Specific investigative measures: Marginal progress

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continuity and marginal improvement

- transfer of detainees (both directions)
- video conference hearings
 - *acquis* broadened to suspects/accused
 - allowance 'other' audiovisual means of transmission
- teleconference hearings
- controlled deliveries
- covert investigations
- interception of telecommunications
 - simplified formulation, decoding/decryption
- information on financial accounts or transactions, and monitoring thereof
 - broadened to non-bank financial institutions

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No free movement of evidence

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EIO plainly irrelevant

simply continuing *forum regit actum* (FRA) principle

- FRA break-through at the time (EU2000)
- no per se admissibility, grey zone maintained re lawfulness of evidence
- 1-on-1 solution at best
- fully counter to MR logic

missed momentum | future?

- common minimum standards for per se inadmissibility
 - torture, forced self-incrimination, deceit/provocation, ...
- common minimum standards for per se admissibility
 - procedural: ECHR-based per investigative measures (Vermeulen, Kusak)
 - scientific (techniques, staff) (Depauw) | European Forensic Area
- + MR of guarantees | best of two worlds
- study COM March 2022 Milieu (senior legal expert)

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Discussion | Q&A

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**Digital Skills: Focus on the
European Investigation
Order and e-CODEX -
EU-BALTIC Project Webinar
Online, 10 December 2024**

The EIO in Practice

**Júlio Barbosa e Silva
Regional Department for Criminal Investigation and
Prosecution of Coimbra, Portugal**



**Co-funded by
the European Union**

Issuing and Executing EIOs

Responsibility and Clarity

Annex A implies responsibility, clarity and pragmatism (simple, concise and direct writing)

Authorization or decision by Judges

To each its own.
It's essential to clarify who issues the EIO, especially when judge authorization or decision is required. Any required information on who issued such authorization must be included in the EIO.

Self-Sufficiency of EIOs

The EIO should be viewed as a self-sufficient decision, distinct from other documents like lists of questions, forms, photos and other

Attachment of Authorizations/decisions?

Do not attach authorizations/decisions or articles of national law.

Comprehensive EIOs

Issuing **one** comprehensive EIO with all necessary or conditional/alternative investigative measures is preferred for efficiency sake.

Challenges with Multiple Requests/ Conditional/Cascading EIO's

Many member states resist and disagree with such EIOs, although its not a ground for non execution.

Issuing and Executing EIOs

Challenges with Multiple Requests/ Conditional/Cascading EIO's

Executing authorities mustn't ask for other certified copies or other EIO's when several executing authorities are involved (hearing witnesses in different locations)

Sending an EIO

A simple email from an official email account will suffice, attaching documentation if needed.
No need to send by post.
Safety reasons/especially confidential cases: police or EJM secure channels may be used

Multiple Requests

It lies upon the internal organization of the executing MS and should face it as an internal request from the moment they receive the EIO (split the EIO).

Bear in mind special needs for coordination/simultaneous/joint action;

Executing an EIO

Transmission of partial results of the execution instead of waiting for the full completion of all the investigative measures:
Allows issuing Authority to start working on that evidence or allow swift action in urgent cases);

Wrong Executing authority?

"Return to sender:
The court of XX isn't competent for that area of residence, the competent court is XX"
Solution: use Annex B

Transfer of evidence

Banking information: ask for electronic format and assure confidential/non disclosure to the account holder;
SIENA LFE (Large Files Exchanger) ensures secure and efficient transfer of substantial evidence across borders.

Hearing witnesses at pre-trial or trial stage without issuing an EIO for that purpose

The Latvian and Estonian law

Using only webex or similar, even with the consent of that person.

Latvian and Estonian legislation allows judicial authorities, whenever the technical situation allows, to question a witness, an expert or a suspect in another State (both within and outside the EU) without the help of that other State and without notification (a priori or a posteriori)

ECJ Ruling

6 June 2024: no ruling given the referring court continued the hearings against the defendants in the main proceedings after the launch of the reference for preliminary ruling (the procedural steps taken by the Economic court prevented the court from complying with a possible ECJ judgment).

This is considered as a means to side-step the formal issuing of EIO, having no European legal basis, thus in clear violation of the Directive (what's the point of those articles then?), giving rise to sovereignty issues (collection of evidence in a foreign country);

The future?

Reality has clearly surpassed the law and practices and the EU legislator must address and eventually allow a more flexible approach, possibly ensuring the identification by an authority and free testimony as well as reliability of the hearing;

A missed opportunity...

Joined Latvian Cases C-255/23 and C-285/23, AVVA and Others (Trial by videoconference in the absence of a European Investigation Order):

The e-EDES system (e-Evidence Digital Exchange System) in a micro nutshell:

Overview of the e-Evidence Digital Exchange System and Its Current Status

01

e-EDES System Overview

The e-EDES system is designed for the efficient exchange of EIOs and MLAs requests among MS.

e-EDES is essentially the name given to the digital platform created specifically for exchanging those instruments

02

Article 7^o of the EIO Directive

The EIO must be transmitted from the issuing authority to the executing authority in a manner that ensures a written record and authenticity and outlines that further official communications are made directly

03

Current Access Status of Baltic MS

Currently, only Latvia (Riga) has access to the e-EDES system, and roughly more than half of the MS don't have pilot departments, thus limiting the platform's utilization across the EU.

04

Lithuanian IBPS Link

The integration of the Lithuanian International Legal Assistance Modelue (IBPS) with e-EDES is in progress, which will expand the system's accessibility.

05

Future Developments

The Commission is set to adopt implementing acts for the EIO, EAW, and Regulation 2018/1805 (Freezing Orders) on [January 17, 2026](#) (Regulation 2023/2844 on digitalisation of judicial cooperation)

Forms and some issues

Understanding Forms, Consent, and Surveillance in EIO Procedures



Annex B

Annex B must be used to acknowledge reception in seven days (article 16° 1 EIO Dir.).

Annex B is crucial for establishing counterparts and direct contacts in the executing MS.

It is advisable to send Annex B to two separate emails: one to the prosecutor



Interception of Telecommunications

To some, this concept may include methods such as GPS tracking, car bugging, audio/video surveillance and malware/spyware installation and fall under the legal regime of articles 30/31 of the Directive.

To others, some of these methods may be mere surveillance of an object and out of this scope.



Importance of Annex C

Typical case: interception of communications in another country.

Notification in the form of Annex C may be submitted by the issuing State prior to, during or after the interception (ex post notification).

The absence of a reply to Annex C leads to the conclusion of an implicit consent of the notifying State to use the information as evidence.

However, a clarification from the EU legislator on this matter would be beneficial.



Cross-Border Surveillance

Can also be a standalone investigative measure determined by a Prosecutor and not only a police measure within CISA (article 40), thus an EIO may be issued.

This possibility ensures the admissibility of evidence gathered through police surveillance (see 'Comments and Conclusions of the 59th Plenary Meeting of the European Judicial Network (EJN) (Prague, 9 - 11 November 2022)')

EIO and Videoconferencing

A few tips for Effective Implementation

01

Introduction to Videoconferences

Videoconferences are increasingly utilized during trial stages to facilitate remote participation, ensuring accessibility for all parties involved.

02

Technical Information Importance

03

Recommendations

EIO and Videoconferencing

A few tips for Effective Implementation

01

Introduction to

02

Technical Information Importance

Including technical information and contact details in Section H2 of annex A is crucial for establishing direct contacts between authorities, allowing for effective communication and discussion of all technical details prior to hearings.

03

Recommendation for Test Calls

04

Preparati



EIO and Videoconferencing

A few tips for Effective Implementation

02

Technical Information

03

Recommendation for Test Calls

Conducting test calls 2-3 days before the scheduled hearing is encouraged to troubleshoot any technical issues and ensure a smooth videoconference experience.

04

Preparation Time

05

Time Zone



EIO and Videoconferencing

A few tips for Effective Implementation

03

Recommendation for Test

04

Preparation Time

Adequate preparation time is essential for setup and summoning witnesses, ensuring a seamless transition into the videoconference.

05

Time Zone Considerations

06

Adhering to

EIO and Videoconferencing

A few tips for Effective Implementation

04

Preparation Time

05

Time Zone Considerations

When scheduling hearings, be mindful of time zone differences to accommodate all participants effectively and avoid confusion.

06

Adhering to Schedule

07

Indicating



EIO and Videoconferencing

A few tips for Effective Implementation

05

Time Zone Considerations

06

Adhering to Schedule

Sticking to the established schedule is vital to prevent delays, prioritizing the hearing to avoid keeping authorities waiting.

07

Indicating Duration

08

Alternativ



EIO and Videoconferencing

A few tips for Effective Implementation

06

Adhering to Schedule

07

Indicating Duration

Whenever possible, indicate the expected duration of the videoconference to manage reservations and ensure adequate time for discussions.

08

Alternative Interrogation Methods



EIO and Videoconferencing

A few tips for Effective Implementation

07

Indicating Duration

08

Alternative Interrogation Methods

If a suspect does not consent to participate in the videoconference, consider requesting a list of questions and documents from the issuing authority for alternative interrogation methods.



Recognition and Execution Conditions

An overview of the conditions for recognition and execution of European Investigation Orders

- **Conditions for Recognition and Execution**

Generally, there's an obligation to execute EIOs without additional formalities. However, a formal recognition decision is advisable, using, for example, a simple written decision, merely stating there are no grounds for non-execution and nothing forbids the execution of the EIO. There are countries, such as Italy, where the recognition decision where notification to the defense is required and some serious legal issues have already surfaced regarding the recognition decision.

- **Proportionality Test for Execution**

Executing authorities must not assess the proportionality of the EIO themselves. They only need to verify if the investigative measures could be taken in national procedures or if less invasive alternatives exist in order to achieve the same goal.

- **Importance of Backup Copies**

It's crucial to maintain backup copies of EIO executions (digital format) for a certain period of time, especially in cases where the materials are sent only by post or in cases regarding the collection of e-evidence/digital files/telephones/computers, etc. in which the proceedings of collection and integrity of the evidence (chain of evidence, etc) may be challenged.

- **Cost Considerations**

Prior to execution, agreeing on who bears exceptional costs, such as boats in marinas; transfer of cars; expert reports/examinations; translation of dozens or hundreds of documents, etc., is vital.

Article 31 of REGULATION (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders provides a balanced solution:

“2. The executing authority may submit a proposal to the issuing authority that the costs be shared where it appears, either before or after the execution of a freezing order or confiscation order, that the execution of the order would entail large or exceptional costs.

Such proposals shall be accompanied by a detailed breakdown of the costs incurred by the executing authority. Following such a proposal the issuing authority and the executing authority shall consult with each other. Where appropriate, Eurojust may facilitate such consultations.

The consultations, or at least the result thereof, shall be recorded by any means capable of producing a written record.”

Time Limits for Recognition or Execution

Understanding the timelines and urgency in EIO execution

- **Time limits for recognition or execution**

Recognition requires 7 days to send annex B, with a standard decision time of 30 days, extendable to 60 days in exceptional cases.

Execution generally must occur within 90 days.

- **Urgency substantiation**

It is crucial to substantiate claims of urgency, ideally providing specific dates to demonstrate the necessity for expedited action.

- **Examples of urgent cases**

Certain crimes, such as domestic violence in Portugal, or investigations with pre trial detention are categorized as urgent, necessitating immediate attention and expedited processes.

- **Imminent actions**

In cases with imminent action days involving other countries, it's essential to ensure timely execution of EIOs.

- **Judicious use of urgency**

Careful consideration must be applied to the use of the term 'urgency' to avoid misuse and ensure genuine cases are prioritized.

- **Non-compliance/Postponement situations**

Situations such as judicial holidays; need of the sought object in a national pending case or lack of adequate translation of the EIO may lead to non-compliance with deadlines.

- **Informing issuing authority**

Authorities must be promptly informed of any delays or non-compliance with established time limits to maintain transparency and manage expectations.

- **Contacting EJV or EJ national desk**

In cases of information gaps regarding execution status, contacting the EJV contact point or EJ national desk is necessary to resolve issues.

Admissibility of evidence

The need to comply with formalities of the issuing MS

- **Explain the rationale inherent to those formalities**

What may be easy to understand and justify to me may be difficult to understand by the executing authorities given some national legal idiosyncrasies

- **As a general rule, executing authorities must make every effort to comply with the issuing MS formalities,**

Except in those rare cases where compliance with those instructions would be contrary to general principles of the executing MS;

- **View the case with foreign eyes**

Do not use the lack of national law or the inconvenience of those formalities on our daily work not to comply

Hearing of a witness by a prosecutor: even if national law does not foresee that possibility, it does not prohibit either, therefore, that hearing shall take place.

- **Non discrimination clause**

Evidence acquired as a result of international cooperation and in accordance with the criminal procedure specified in a foreign country must be made equivalent to evidence acquired in our own country;
In case of incompatibility or violation of general principles of the executing MS, consultations are needed in order to reach possibilities

- **Speciality rule**

The importance of seeking authorization to use the evidence collected in an EIO in other criminal proceedings.

Even if there are doubts whether the speciality rule applies to mutual recognition instruments, it may be a matter of respect towards the executing authorities jurisdiction?

EIO CHALLENGES

Involving Eurojust and EJNI

Addressing Challenges and Solutions in European Investigation Orders

01

Executing authority non-compliance

There are instances where the executing authority fails to adhere to the instructions outlined in the EIO, leading to ineffective cooperation.

02

Language barriers

The EIO is not translated into the language of the executing authority or is of poor quality, hindering clear communication and understanding.

03

Lack of inquiries

Sometimes, the executing authority may not fully comprehend the EIO but does not seek clarification, resulting in misinterpretations and delays.

04

Missing documents

The absence of necessary documents, such as Annex B, a list of questions, forms or documents can lead to complications and delays in processing the EIO.

05

Indifference to instructions

In some cases, the executing authority may disregard specific and clear instructions provided in the EIO, affecting the execution process.

06

Lost EIOs

There are instances where EIOs can become lost or misplaced within the system, leading to significant delays in legal proceedings.

07

Unjustified obstacles

At times, the executing authority places obstacles without clear reasons, complicating the cooperation process and causing frustrations.

08

Engaging in dialogue: the EIO Directive encourages consultations

Establishing open lines of communication is crucial. Continuous dialogue can help clarify ambiguities and resolve issues effectively.

09

Practical solutions

Whenever feasible, practical and pragmatical solutions should be implemented, including direct contact with foreign colleagues to facilitate better understanding and cooperation.

10

Specialized contacts

Prioritizing contact with specialized colleagues within the country can enhance the efficiency and effectiveness of the EIO proceedings.

11

EJN Contact Points

Utilizing European Judicial Network (EJN) Contact Points can provide additional support and resources to streamline cooperation among member states.

12

Eurojust National Desk

Engaging the Eurojust National Desk can offer strategic assistance and guidance in managing cross-border judicial cooperation challenges.

General Rules and Best Practices

Framework for Effective Judicial Cooperation with the help of EJM and Eurojust

Role of EJM

The European Judicial Network (EJM) serves as a contact point for minor crimes and facilitates informal contacts and information exchange among member states.

Role of Eurojust

Eurojust is tasked with handling the facilitation within serious crimes and enabling formal and informal contacts between judicial authorities across Europe, establishing bridges with other EU agencies such as Europol and providing essential support setting up a Joint Investigation Team or urgent delivery of EIOs

Coordination Meetings

Coordination meetings organized by Eurojust are essential for improving judicial cooperation, allowing authorities to discuss and strategize on case management, helping decisions, for example on which jurisdiction is better placed to take on the whole investigation or trial, setting up a date for an action day or coordination centres and provide expert support for solutions.

Assistance

In instances of uncertainty regarding competent authorities, central authorities and networks like EJM and Eurojust can provide critical support. Also in cases where direct contact is difficult or a standstill has been reached between authorities

Resolving Execution Issues

When execution of an EIO encounters difficulties, alternative investigative measures must be explored under the laws of the executing member state.
Coordination of the execution of different EIOs in different MS and/or in combination with other legal instruments should/must involve Eurojust (and sometimes Europol).



**Thank you for
listening!**

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**P.S. I´d really like to know more about the
Lithuanian IBPS module.**



e-CODEX and its role in e-Evidence

TRAINING COURT STAFF AND BAILIFFS IN EUROPEAN CROSS-BORDER CRIMINAL LAW PROCEDURES



e-CODEX



e-CODEX

Introduction to e-CODEX

- **What is e-CODEX?** e-Justice Communication via Online Data Exchange is an digital platform designed to facilitate secure, standardized communication between judicial authorities across Member States.
- **What is the purpose?** Streamlining judicial cooperation, especially in cross-border civil, commercial, and criminal matters.
- **Why is it important?**



e-CODEX

Cross-Border Legal Challenges before e- CODEX:

Complexity of Different
National Systems
Delays and High Costs
Lack of Standardization



The Emergence of Digital Justice in the EU:

EU's Commitment to Digital
Transformation



e-CODEX

Key Project Objectives

- **Secure Communication**
- **Interoperability**
- **Cost and Time Efficiency**
- **Citizen Access**



e-CODEX

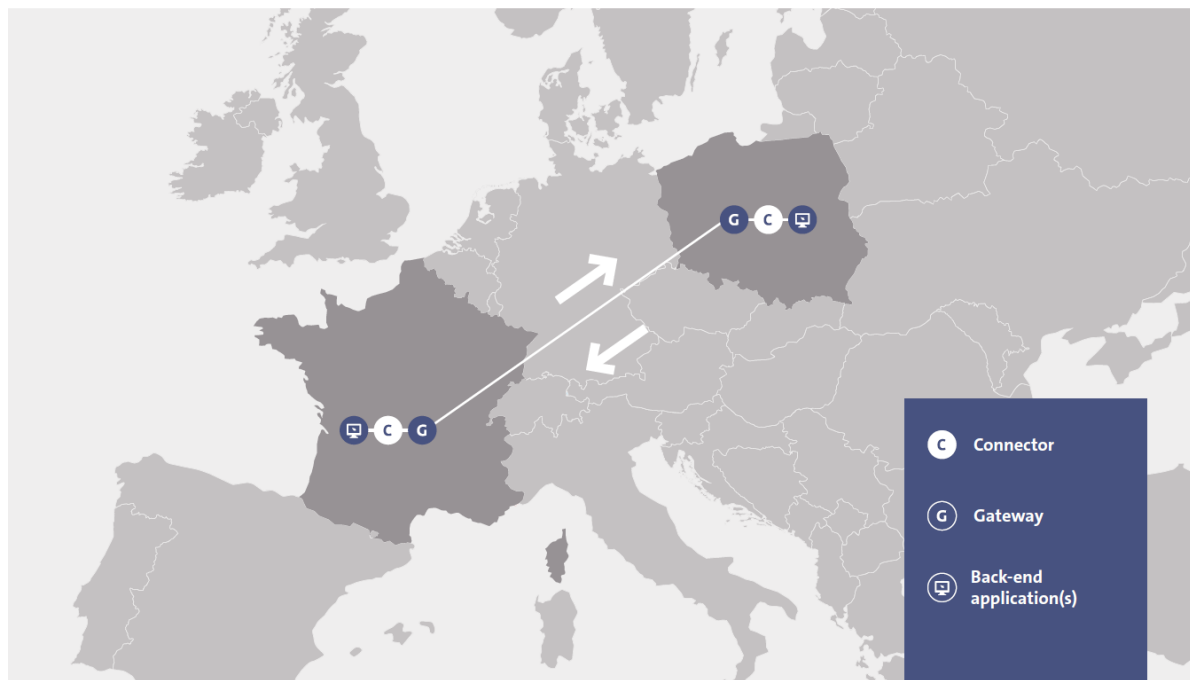
Launch of e-CODEX Project(s) (2010–2016)

- E-CODEX was launched in **2010** under the **Competitiveness and Innovation Framework Programme (CIP)**.
- **Objectives:** Focused on building a secure, interoperable, decentralized digital infrastructure to connect national legal systems and streamline cross-border judicial communication.
- **Scope:** Addressing civil, criminal, and commercial legal matters through a standardized digital approach.



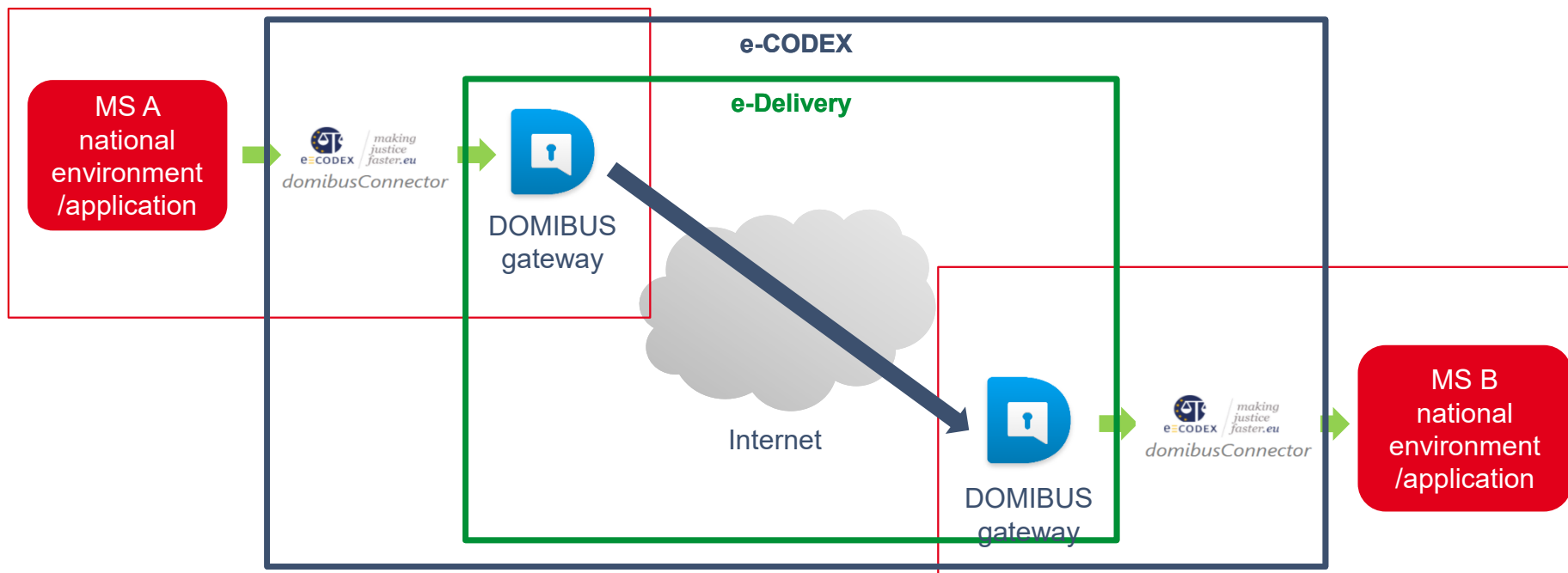
e-CODEX

e-CODEX / Technical infrastructure





e-CODEX





e-CODEX

Pilot Projects and Early Testing

- Successful **pilots** demonstrated that e-CODEX significantly reduced case handling times and improved cross-border communication.
- Continuous **feedback** from national courts allowed improvements to the platform, ensuring better integration and usability.
- E-CODEX became an integral part of the EU's **e-Justice Digital Strategy**, which aimed to digitize all aspects of cross-border legal cooperation.
- **“Gold-standard”** of cross-border communication



e-CODEX

e-CODEX's Role in EU Policy Development (2016–2020)

- **Key Component of EU Digital Justice Policy**
- **Political Support**
- By 2016, the European Commission and Member States recognized the need to make e-CODEX a **permanent system**
- **Sustainability Plan**



e-CODEX

Legislative Formalization of e-CODEX

- **Regulation (EU) 2022/850:** Formalizes the role of e-CODEX in the EU legal framework.
- **Significance:** This regulation provided the legal basis for the long-term sustainability of the e-CODEX system.
- **Transition to Permanent Management:** Laid the foundation for transferring e-CODEX management to an EU agency, euLISA.



e-CODEX

eu-LISA: The New Administrator of e-CODEX

- European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security, and Justice.
- **Why eu-LISA?:** The agency's expertise in managing large-scale IT systems made it the ideal body to manage and maintain e-CODEX.
- **Official Transfer on July 1st, 2023**
- The system is now steered by the **Advisory Group (AG)** and the **Program Management Board (PMB)**



e-CODEX

Current Operational Status (2023–Present)

- **Operational in Multiple Member States.**
- **Supported Procedures:** Primarily used for cross-border civil, criminal, and commercial procedures like the European Payment Order and Small Claims Procedure.
- First use-cases that make the **use** of e-CODEX **obligatory** for all Member States (starting May 2025).



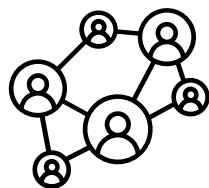
e-CODEX

Summary of Benefits

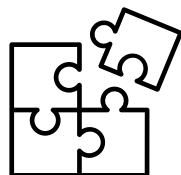
- **Efficiency**
 - Facilitating Communication between Legal Authorities
 - Simplifying Justice for Citizens and Businesses
- **Cost Savings**
- **Transparency**
- **Trust**



e-CODEX is



decentralised



efficient



reliable

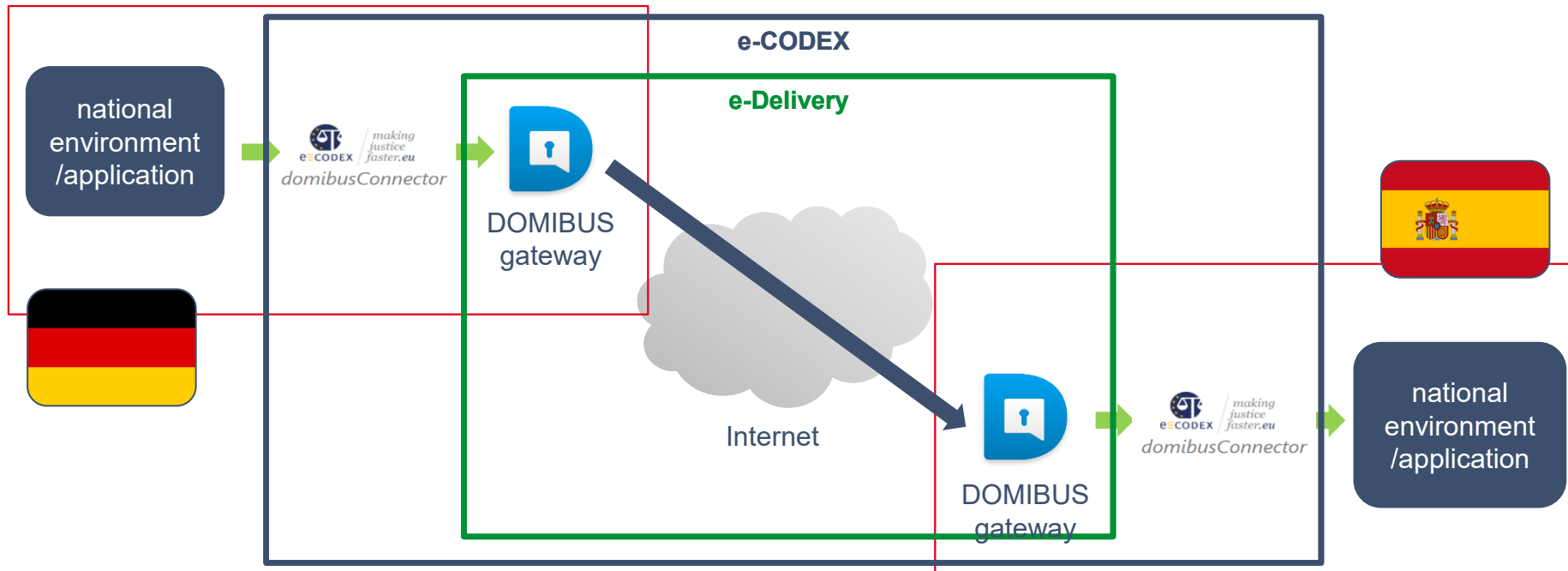


secure

but how to actually use it?

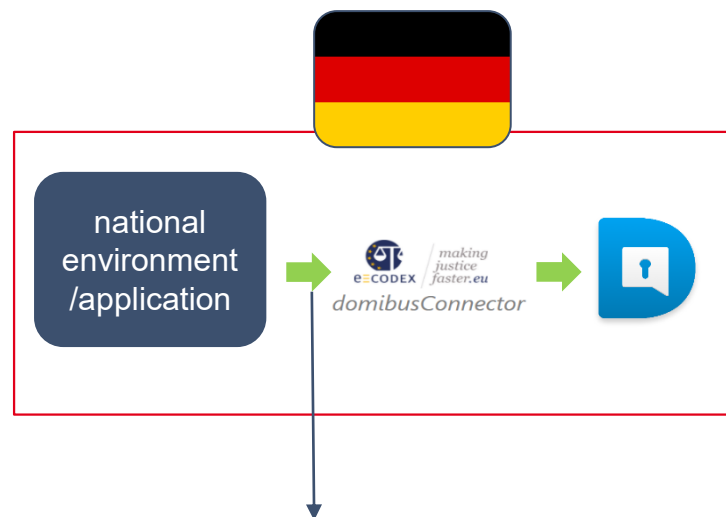


e-CODEX





e-CODEX



XML-file with basic information needed (addressee, use case etc).

&

Data to be send (payload)







What is a Reference Implementation?

- A **reference implementation** provides a model or blueprint for how electronic service of documents should be implemented.
 - Serves as a standard for compliance with the regulation's requirements.
- **Purpose:** Ensuring consistency, interoperability, and security in the electronic exchange of documents.



Technical and Legal Aspects of a Reference Implementation

- Secure Communication Protocols
- Data Standardization
- Authentication and Encryption
- Audit Trails



Advantages of Following a Reference Implementation

Key Benefits:

- Harmonization
- Reduced Costs
- Faster Resolution
- Minimized Errors
- Centralized Development



Importance of a Reference Implementation

Key Objectives:

- **Interoperability:** Seamless communication between different member states' systems.
- **Efficiency:** Speed up the process of document service, reducing delays in cross-border cases.
- **Security:** Protect sensitive legal data, ensuring confidentiality and integrity.
- **Legal Compliance:** Ensures adherence to EU data protection laws and the regulation itself.



The e-Evidence dossier



e-Evidence

The e-Evidence dossier consists of a Directive (EU) 2023/1544 and a Regulation (EU) 2023/1543, both dated July 12th, 2023.

The Regulation creates a new legal framework for the direct cross-border retrieval of electronic evidence by a law enforcement authority from a service provider.

The directive obliges the Member States to adopt the legal and administrative provisions necessary for implementation by February 18th, 2026. In Germany, the adoption of an e-Evidence Implementation Act is planned



European Production Order - EPOC

Orders the surrender of digital evidence.

Issued by a law enforcement agency and sent directly to the service provider, if necessary after validation.

Data is then transmitted immediately.



EPOC can refer to:

Subscriber Data

Access Data

Transactional Data

Content Data



European Preservation Order - EPOC-PR

Orders the preservation of digital evidence.

Issued by a law enforcement agency and sent directly to the service provider, if necessary after validation.



EPOC-PR can refer to the same data as EPOC.

provisional securing of data.

limited to 60 days (extendable once by 30 days).

Usually precedes the EPOC.



e-Evidence

Every service provider operating in Europe must designate (at least) one representative who is responsible for requests (also MS, Meta, Google etc.).

Authorities in the state of the provider representative are (only) 'notified' in certain cases and have the right to object.

Communication to take place entirely via e-CODEX

Significant shortening of deadlines - 10 days in normal cases, 96 hours in urgent cases.

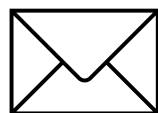
Severe sanctions against providers in the event of non-compliance.



Live Demo



Thank you!



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