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CATS 8
DROIPEN 8
JAIEX 6
EUROJUST 15
ENFOPOL 25
TELECOM 11
DATAPROTECT 15
EJUSTICE 14
MI 20

NOTE

From: Presidency
To: CATS

Subject: Report on the outcome of the "Digital Cross-Border Cooperation in Criminal Justice" Conference,
- Brussels 21-22 of January 2020

Delegations will find attached a report provided by the Commission services on the outcome of the 'Digital Cross-Border Cooperation in Criminal Justice' Conference held in Brussels on 21-22 January 2020 within the joint framework of the EVIDENCE2e-CODEX, EXEC and e-Evidence Projects.

The 'Digital Cross-Border Cooperation in Criminal Justice' Conference was organised as a joint event between three projects – EVIDENCE2e-CODEX, EXEC and e-Evidence – to better illustrate the efforts of EU stakeholders towards the electronic exchange of evidence under the European Investigation Order and Mutual Legal Assistance instruments in a trusted, secure and admissible way, and to present the projects' tools and their potential for EU-wide implementation.

The event provided an overview of digital cross-border cooperation in criminal matters at EU level by bringing together policymakers, judicial authorities, law enforcement agencies, service providers, civil society organisations and academia in a series of expert presentations and active discussions on:

- the latest legal and policy issues in the field of digital cross-border cooperation;
- the most recent IT and infrastructure developments facilitating the implementation of the legal instruments;
- evidence exchange and standards facilitating cross-border investigations;
- changes in the legal professions with a view to reflecting on the pressing legal and technology needs;
- the active involvement of law enforcement agencies in the judicial cooperation chain;
- the role of the private sector in the judicial cooperation data flow; and
- EU best practices and lessons learnt on the adoption of the cross-border cooperation tools.

The event closed with short presentations on the action plans and steps forward undertaken by the project partners to roll out and continue their efforts in the field.

The Presidency invites delegations to inform it of any comments they might have in view of the participation of their MS in the respective projects and possible future steps.



EVIDENCE2E-CODEX
Linking EVIDENCE into e-CODEX for EIO and MLA procedures in
Europe
&
EXEC
Electronic Xchange of e-Evidences with e-CODEX
&
e-Evidence Project
European Commission, DG Justice and Consumers

JOINT CONFERENCE
DIGITAL CROSS-BORDER COOPERATION IN
CRIMINAL JUSTICE

21-22 January 2020

JENK Meeting Room

**Building Charlemagne, Rue de la Loi, 170 Brussels,
Belgium**

The e-Evidence Project led by the European Commission, DG Justice and Consumers, 'Electronic Xchange of e-Evidences' (EXEC) and 'Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe' (EVIDENCE2e-CODEX) Projects are implemented with the financial support of the European Union.

Tuesday, 21 January 2020

09:00 – 09:30	Registration & Welcome Coffee
09:30 – 09:45	Opening by Didier Reynders , European Commissioner for Justice via video message
	Keynote Address by Alain Pilette , Deputy Director Justice, DG JAI Justice and Home Affairs at Council of the European Union
Making Cross-border Cooperation Easy: Best IT Practices	
09:45 – 11:00	Introductory Comments Dr Martin Schneider , Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Austria
	e-CODEX in a Nutshell Isabelle Biallaß , Dr Gereon Laumann , Ministry of Justice of North Rhine-Westphalia Frank Woud , e-CODEX Community & External Relations Management, Ministry of Justice and Security, the Netherlands Luc Ferrand , Senior Legal Advisor, European Bailiffs' Foundation
	German-Dutch Pilot on Mutual Legal Assistance Guido Schreiner , Public Prosecutor, Public Prosecution Office Aachen, Germany
	Portuguese Example on How the Judiciary Reform Affected the Use of Technology in the Criminal Justice Cooperation Field Pedro Tavares , Digital Advisor, Ministry of Justice, Portugal
	Digitalisation of Cross-border Judicial Procedures Gösta Petri , Deputy Head of Unit, DG Justice and Consumers, European Commission

11:00 – 11:30	Coffee Break
Law Enforcement Agencies' Data Exchange Within and Outside the EU	
11:30 – 12:45	<p>INTERPOL's Global Communications System and Data Exchanges with the Private Sector <i>John Barry, Assistant Director ICT Law, Office of Legal Affairs, INTERPOL General Secretariat</i></p> <p>SIRIUS EU Digital Evidence Situation Report <i>Tomas Penna, Project Outreach Agent at the European Counter Terrorism Centre, Europol</i></p>

The e-Evidence Project led by the European Commission, DG Justice and Consumers, 'Electronic Xchange of e-Evidences' (EXEC) and 'Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe' (EVIDENCE2e-CODEX) Projects are implemented with the financial support of the European Union.

	EIO Workflow between Austria and Germany <i>Christian Förster</i> , Lawful Interception, Central Office for Information Technology in the Security Sphere (ZITIS), Germany
	Judicial Cooperation: Practical and Legislative Aspects <i>Dr. Judith Herrnfeld</i> , Prosecutor, Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Austria
	Panel Discussion Moderated by John Barry
12:45 – 13:45	Lunch
Cross-Border Access to e-Evidence: Designing Rules for the EU	
13:45 – 14:45	Introductory Comments <i>Prof Jeanne Mifsud Bonnici</i> , University of Groningen, the Netherlands
	Panel Discussion <i>Tania Schröter</i> , Deputy Head of Procedural Criminal Law Unit - DG Justice and Consumers, European Commission <i>Jorge Espina</i> , Assistant to the National Member for Spain, Spanish Desk at Eurojust <i>Sónia de Sousa Pereira</i> , Data Protection Unit, Europol Moderated by Prof Jeanne Mifsud Bonnici

Building up: Electronic Exchange of Evidence in European Investigation Order	
14:45 – 16:00	e-Evidence Digital Exchange System <i>Cristian Nicolau, Head of Unit eJustice, IT and Document Management, DG Justice and Consumers, European Commission</i> <i>Djamila Ben Miloud, Project Manager, DG Justice and Consumers, European Commission</i>
	EVIDENCE2e-CODEX: Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe <i>Dr Maria Angela Biasiotti, Researcher, Institute of Legal Informatics and Judicial Systems at the National Research Council, Italy</i>
	EXEC: Electronic Xchange of e-Evidences with e-CODEX <i>Mathias Maurer, Project Coordinator, Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Austria</i>
16:00 – 16:30	Coffee Break

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Private Sector and e-Evidence	
16:30 – 17:30	Introductory Comments <i>Dr Maria Angela Biasiotti, Researcher, Institute of Legal Informatics and Judicial Systems at the National Research Council, Italy</i>
	Panel Discussion <i>Dr Maximilian Schubert, Chairman, EuroISPA</i> <i>Jiri Novak, Chair IT Law Committee, Council of Bars and Law Societies of Europe</i> <i>Dr Marco Stefan, Research Fellow, Centre for European Policy Studies</i> <i>Prof Joseph Cannataci, University of Groningen, the Netherlands</i> <i>Moderated by Dr Maria Angela Biasiotti</i>
17:30 – 17:45	Closing Remarks for the Day <i>Dr Maria Angela Biasiotti, Researcher, Institute of Legal Informatics and Judicial Systems at the National Research Council, Italy</i>
19:30	Welcome Drink & Social Dinner @ Park Side Brasserie, Avenue de la Joyeuse Entrée 24, 1000 Brussels

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Wednesday, 22 January 2020

09:00 – 09:30	Registration for the day / Morning coffee
09:30 – 09:45	Digital Cross-border Challenges: Summary of Day 1 Frank Woud , e-CODEX Community & External Relations Management, Ministry of Justice and Security, the Netherlands
Digital Evidence Exchange: Improving Criminal Justice in EU Cyberspace	
09:45 – 11:00	Evidence Exchange under EIO/MLA: CASE Standard, Large File of Evidence, Evidence Packaging Fabrizio Turchi , Senior Technologist, Institute of Legal Informatics and Judicial Systems at the National Research Council, Italy
	CASE Ontology: Status and Future Mattia Epifani , Researcher, Institute of Legal Informatics and Judicial Systems at the National Research Council, Italy
	Evidence Exchange Package Application for Facilitating the Evidence Package Exchange through the Reference Implementation and e-CODEX Nikolaos Matskanis , Senior R&D Engineer, Centre of Excellence in Information and Communication Technologies, Belgium
	Q&A Session on Technical Aspects Moderated by Fabrizio Turchi
11:00 – 11:30	Coffee Break
Criminal Justice in Cyberspace: Are the Legal Professions Ready?	
11:30 – 12:30	Introductory Comments Simone Cuomo , Senior Legal Advisor, Council of Bars and Law Societies of Europe

Panel Discussion

Iain Mitchel QC, Chair Surveillance Working Group, Council of Bars and Law Societies of Europe

Yves Vandermeer, Chair, ECTEG - European Cybercrime Training and Education Group

Ianina Lipara, Secretariat Coordinator, European Judicial Network

Alina Secrieru, Project Manager - Criminal Law, European Judicial Training Network

Moderated by Simone Cuomo

12:30 – 13:30

Lunch

The e-Evidence Project led by the European Commission, DG Justice and Consumers, 'Electronic Xchange of e-Evidences' (EXEC) and 'Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe' (EVIDENCE2e-CODEX) Projects are implemented with the financial support of the European Union.

Lessons Learnt	
13:30 – 14:45	Introductory Comments Frank Woud , e-CODEX Community & External Relations Management, Ministry of Justice and Security, the Netherlands
	Sharing the Dutch Perspective Huub Moelker , Business Consultant, Judicial Information Service, the Netherlands
	e-CODEX Initiatives and Experiences in Italy Giulio Borsari , IT Department Officer, Coordination of International e-Justice Projects, Ministry of Justice, Italy
	Experiences of the Spanish Approach José Manuel Martínez , Project Team Leader of Technological Developments, ISDEFE, Spain
	The Croatian Experience Božidar Jančić , Head of IT Unit, Ministry of Justice, Croatia
Way Forward and Action Plans	
14:45 – 15:55	Leading EIO into Maturity: EVIDENCE2e-CODEX Action Plan Prof Jeanne Mifsud Bonnici , University of Groningen, the Netherlands
	e-Evidence Digital Exchange System: National Project Plans Cristian Nicolau , Head of Unit eJustice, IT and Document Management, DG Justice and Consumers, European Commission
	EXEC Roll Out Sandra Taal , Community Management e-CODEX, Ministry of Justice and Security, the Netherlands
	Beyond EXEC – What Next? Mathias Maurer , Project Coordinator, Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Austria
	Cross-border Digital Criminal Justice Project Tomasz Debski , Project Manager, Unit General Criminal Law and Judicial Training, DG Justice and Consumers, European Commission
15:55 – 16:00	Closing Remarks Cristian Nicolau , Head of Unit eJustice, IT and Document Management, DG Justice and Consumers, European Commission
16:00 – 16:30	Networking over Coffee

1. Overview

1.1. Objective

The ‘**Digital Cross-Border Cooperation in Criminal Justice**’ Conference was organized as a joint event between the three projects - **EVIDENCE2e-CODEX**, **EXEC** and **e-Evidence**, to better illustrate the efforts of the EU stakeholders towards electronic exchange of evidence under the European Investigation Order and Mutual Legal Assistance instruments, in a trusted, secure and admissible way, and to present the projects’ tools and their potential for EU-wide implementation.

1.2. Overall Organization

The Conference was organized by LIBRe Foundation (Bulgaria), LIBRe in short, in its capacity of EVIDENCE2e-CODEX Dissemination Team, with the support of:

- the Institute of Legal Informatics and Judicial Systems at the National Research Council, Italy, as the EVIDENCE2e-CODEX project coordinating institution;
- the Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Austria, as the EXEC project coordinating institution;
- the Ministry of Justice and Security, the Netherlands, as the e-CODEX Community Management Unit and the EXEC Dissemination Team; and
- the European Commission via DG Justice and Consumers’ Unit ‘e-Justice, IT and Document Management’, being the project coordinating institution for the e-Evidence Project;

referenced below as the ‘conference team’ altogether.

The event was formally hosted by DG Justice and Consumers at the premises of the European Commission Building Charlemagne, Rue de la Loi, 170, Brussels, Belgium.

The dates of the event were coordinated between the three projects to match the closing periods for both EXEC and EVIDENCE2e-CODEX¹ while – at the same time – following the official launch of the e-Evidence Digital Exchange System².

¹ The EXEC project closed on 31 January 2020, and the EVIDENCE2e-CODEX project continues until 14 February 2020.

² The system was launched in December 2019 with a one-day event under the umbrella of the Expert Group on the e-Evidence Digital Exchange System.

The event provided for an all-round vision on the digital cross-border cooperation in criminal matters on EU level by bringing together policy makers, judicial authorities, law enforcement agencies, service providers, civil society and academia in a series of expert presentations and active discussions on:

- up-to-date legal and policy issues in the field of digital cross-border cooperation;
- most recent IT and infrastructure developments facilitating the legal instruments;
- evidence exchange and standards facilitating cross-border investigations;
- changes in the legal professions to reflect on the pressing legal and technology needs;
- active involvement of law enforcement agencies in the judicial cooperation chain;
- the role of the private sector in the judicial cooperation data flow; and
- EU best practices and lessons learnt on the adoption of the cross-border cooperation tools.

The event closed with short presentations on the action plans and steps forward undertaken by the project partners to rollout and continue their efforts in the field.

1.3. Stakeholders

The total number of participants in the conference (see Appendix 1) was 118 from 68 different organizations:

- all project partners, incl. affiliated parties, be they private or public organizations;
- judicial authorities from all Member States and EU/international bodies such as the Council of Europe, the Council of the European Union, the European Parliament, the European Commission (DG Justice and Consumers, DG Home Affairs and Migration), Interpol, Eurojust, Europol, European Anti-Fraud Office, European Data Protection Supervisor, European Data Protection Board, European Judicial Network, International Criminal Court, United Nations Office on Drugs and Crime, etc. (if not already included in the project partners' lists);

- professional organizations, such as CCBE, EuroISPA, European Network of Law Enforcement Technology Services, etc.;
- training organizations working on EU level, such as EJTN, European Network of Law Enforcement Technology Services, Academy of European Law, etc.
- civil society, academia and research organizations working in the field of e-justice, electronic evidence, digital forensics and related fields;
- SMEs - digital forensic tools providers, and individual forensic experts;
- Internet Service Providers such as Microsoft, Google, Facebook, etc.

Nº	Organisation	Type
1.	Academy of European Law	Training organization
2.	Aristotle University of Thessaloniki, Greece	Academia
3.	Atos - Belgium	Private company
4.	Office of the Attorney General, Malta	National government body
5.	Austrian Bar Association	Professional organization
6.	Bavarian Ministry of Justice, Germany	National government body
7.	BKA Wiesbaden, ZITiS München, Germany	National government body
8.	CETIC, Belgium	National research organization
9.	Chuo University, Japan	Academia
10.	Council of Bars and Law Societies of Europe	Professional organization
11.	Court Administration of Latvia	National government body
12.	Czech Bar Association	Professional organization
13.	DG Justice and Consumers, European Commission	EU body
14.	DG Migration and Home Affairs, European Commission	EU body
15.	eco – Association of the Internet Industry	Professional organization
16.	ESJ Lille, Paris1 Panthéon-Sorbonne, France	Academia

17.	EuroISPA	Professional organization
18.	Eurojust	EU body
19.	European Bailiffs' Foundation	Professional organization
20.	European Cybercrime Training and Education Group	Training organization
21.	European Data Protection Supervisor	EU body
22.	European Judicial Network	EU body
23.	European Judicial Training Network	Training organization

Nº	Organisation	Type
24.	Europol	EU body
25.	Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, Austria	National government body
26.	Federal Prosecution Service, Belgium	National government body
27.	Fraunhofer IKS, Germany	National research organization
28.	General Prosecutor´s Office of the Slovak Republic	National government body
29.	General Secretariat of the Council of the European Union	EU body
30.	Hague Conference on Private International Law	International organization
31.	Hellenic Ministry of Justice, Transparency and Human Rights	National government body
32.	Institute for Research on Population and Social Policies at the National Research Council, Italy	National research organization
33.	Institute of Legal Informatics and Judicial Systems at the National Research Council, Italy	National research organization
34.	INTERPOL	International organization
35.	Knowledge & Innovation Srls, Italy	Private company
36.	Law and Internet Foundation, Bulgaria	Civil society
37.	Law Office of the Republic of Cyprus	National government body
38.	LIBRe Foundation, Bulgaria	Civil society
39.	Ministry of Justice and Security, the Netherlands	National government body
40.	Ministry of Justice of North Rhine-Westphalia, Germany	National government body
41.	Ministry of Justice of the Republic of Croatia	National government body

42.	Ministry of Justice of the Slovak Republic	National government body
43.	Ministry of Justice, Belgium	National government body
44.	Ministry of Justice, Czech Republic	National government body
45.	Ministry of Justice, Estonia	National government body
46.	Ministry of Justice, Finland	National government body

Nº	Organisation	Type
47.	Ministry of Justice, France	National government body
48.	Ministry of Justice, Hungary	National government body
49.	Ministry of Justice, Italy	National government body
50.	Ministry of Justice, Portugal	National government body
51.	Ministry of Justice, Spain	National government body
52.	Ministry of Justice, Sweden	National government body
53.	Office of the Prosecutor General, Hungary	National government body
54.	Office of the State Prosecutor General of the Republic of Slovenia	National government body
55.	Permanent Representation of Austria to the EU	National government body
56.	Permanent Representation of Estonia to the EU	National government body
57.	Permanent Representation of France to the EU	National government body
58.	Permanent Representation of Spain to the EU	National government body
59.	Prosecutor General's Office of the Republic of Lithuania	National government body
60.	Prosecutor General's Office, Portugal	National government body
61.	Prosecutor's Office attached to the High Court of Cassation and Justice, Romania	National government body
62.	Prosecutor's Office of the Republic of Bulgaria	National government body
63.	Public Prosecutor's Office - Aachen, Germany	National government body
64.	Public Prosecutor's Office - Florence, Italy	National government body
65.	Public Prosecutor's Office, Luxembourg	National government body
66.	University of Groningen, the Netherlands	Academia
67.	University of Malta, Malta	Academia
68.	University of Vienna, Austria	Academia

Table 1 List of participating organizations

Judicial representatives from 24 Member States and all the major government stakeholders on EU/international level took place. Below are enclosed the overall participating institutions' statistics.

1.4. Agenda

As mentioned above, the agenda of the event was organized around the most important aspects of the judicial cooperation supply chain, including:

- up-to-date legal and policy issues in the field of digital cross-border cooperation;
- most recent IT and infrastructure developments facilitating the legal instruments;
- evidence exchange and standards facilitating the cross-border investigations;
- changes in the legal professions to reflect on the pressing legal and technology needs;
- active involvement of law enforcement agencies in the judicial cooperation chain;
- the role of the private sector in the judicial cooperation data flow; and
- EU best practices and lessons learnt on the adoption of the cross-border cooperation tools.

Two other sessions were dedicated to presentations of the three projects organizing the event, as well as on the action plans and steps forward undertaken by the project partners to rollout and continue their efforts in the field.

Full conference agenda is presented in Appendix 2.

Each session was facilitated by one of the project partners with expertise and/or significant importance with respect to the topics in question. The facilitating institution was responsible for the follow-up communication with the selected speakers, once the session was set up.

LIBRe coordinated the overall set up of the agenda and the separate sessions and supported the facilitating institutions in communicating with selected speakers where needed.

2. Conference Discussions

All presented materials and a complete version of this report can be found here:

<https://evidence2e-codex.eu/a/final-conference>.

The event opened with a video message by Didier Reynders, European Commissioner for Justice. The Commissioner celebrated the efforts of the three projects in easing the access to evidence in criminal proceedings and, more generally, in assuring the EU citizens of the benefits of the European area of justice. As the technological solutions for the electronic exchange of information in criminal proceedings represents concrete deliverables of the digital-by-default principle entrenched in the Ministerial Declaration on eGovernment of October 2017, the Commissioner also acknowledged the need to ensure that all judges, prosecutors, and legal practitioners were equipped with the tools to enable secure, swift and efficient cross-border communication with full respect of the highest standard of data protection. Full transcript of the speech is provided in Appendix 3.

Key-note speech was delivered by Alain Pilette, Deputy Director Justice, DG JAI Justice and Home Affairs at the Council of the European Union. Mr Pilette presented briefly the main objectives of the event in the light of the coordinated efforts of digitalizing the judicial field across the European Union and beyond.

2.1. 'Making Cross-border Cooperation Easy: Best IT Practices' Session

The first conference session was dedicated to the e-CODEX infrastructure.

Dr Martin Schneider, representative of the Austrian Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, gave a brief overview of the e-CODEX infrastructure's design and 10-year implementation history. Dr Schneider also facilitated the session.

Separate presentations on the e-CODEX current status quo ('e-CODEX in a Nutshell') were provided by:

- Ms Isabelle Biellaß and Dr Gereon Laumann, representatives of the Ministry of Justice of North Rhine-Westphalia (Germany);
- Frank Woud, e-CODEX Community & External Relations Management, and a government official from the Dutch Ministry of Justice and Security; and
- Luc Ferrand, a Senior Legal Advisor at the European Bailiffs' Foundation.

Mr Woud gave an overview on the technical aspects and use cases from both legal and policy perspectives with references to the e-CODEX governance processes.

Mr Ferrand finished the e-CODEX presentation through the perspective of an ongoing use case, namely the "Find a bailiff" project.

Mr Guido Schreiner, public prosecutor from the Public Prosecution Office of Aachen (Germany), spoke extensively on the '**German-Dutch Pilot on Mutual Legal Assistance**' implemented over e-CODEX.

Mr Pedro Tavares, Digital Advisor at the Portuguese Ministry of Justice, presented the '**Portuguese Example on How the Judiciary Reform Affected the Use of Technology in the Criminal Justice Cooperation Field**'. Mr Tavares showed the success of the Portuguese reform³ in the 2016-2019 period and how a better cooperation in the justice field was achieved through digitalization.

Mr Gösta Petri, Deputy Head of Unit at the European Commission, DG Justice and Consumers presented the policy background of the ongoing digitalization processes with respect to the digital-by-default principle, inclusiveness and accessibility, and the urging needs on EU level.

Dr Martin Schneider closed the session with remarks over the important role of the Member States' governance of e-CODEX handover following the excellent examples and mapping of needs provided by the speakers.

2.2. 'Law Enforcement Agencies' Data Exchange Within and Outside the EU' Session

The next conference session was dedicated to the role of law enforcement agencies in the judicial cooperation supply chain.

John Barry, an Assistant Director ICT Law of the Office of Legal Affairs at the INTERPOL General Secretariat, was both the first speaker and the facilitator of the session, which featured also

- Tomas Penna, a Project Outreach Agent at the European Counter Terrorism Centre at Europol;
- Christian Förster, a Telecommunications surveillance at the Central Office for Information Technology in the Security Sphere (Germany); and
- Dr Judith Herrnfeld, a Public Prosecutor from the Austria Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice.

Mr Barry presented the INTERPOL's global communications system and the **data exchanges with the private sector.**

³ Justiça + Próxima, see <https://justicamaisproxima.mj.pt/>

Another important law enforcement project – the SIRIUS project⁴, was presented by *Mr Penna* (**'SIRIUS EU Digital Evidence Situation Report'**). The objective of SIRIUS is to improve cooperation on cross-border access to electronic evidence, by improving the swiftness of requests statistics on EU (law enforcement) data requests to major online service providers in 2018, per Member State, and the success rate of EU law enforcement (emergency) data requests to major online service providers in 2018, per country, etc.

Further on, Mr Förster presented the INTLI Project on international exchange of (lawful interception) data in criminal matters based on MLA (**'EIO Workflow between Austria and Germany'**). INTLI delivered a comparative study among 18 jurisdictions⁵ on the lawful interception (in real time) regime, and then focused on the technical implementation providing for proof-of-concepts⁶.

Dr Herrnfeld followed the systems' presentations with a depiction of the challenges law enforcement authorities face today referring to the big impact of the digital revolution on criminal cases (**'Judicial Cooperation: Practical and Legislative Aspects'**). She summed up what practitioners have been doing to overcome these challenges giving examples with some recurring problems such as the lack of legal certainty for law enforcement authorities (LEAs), Internet Service Providers (ISPs) and users under the current regime, the lack of standardised forms for the exchange of requests and the variety of content requirements over the different jurisdictions, differences regarding confidentiality/user information, etc.

⁴ The SIRIUS project was created by Europol in October 2017 as a response to the increasing need of the EU law enforcement community to access electronic evidence for internet-based investigations, as more than half of all criminal investigations today include a cross-border request to access electronic evidence (such as texts, e-mails or messaging apps). The SIRIUS project, spearheaded by Europol's European Counter-Terrorism Centre and European Cybercrime Centre, in close partnership with Eurojust and the European Judicial Network, aims to help investigators cope with the complexity and the volume of information in a rapidly changing online environment, by providing guidelines on specific Online Service Providers (OSPs) and investigative tools; and sharing experiences with peers, both online and in person. Through continued collaboration with Eurojust and the European Judicial Network, the SIRIUS project is now also open to judicial authorities. The multidisciplinary SIRIUS community on the restricted platform on the [Europol Platform for Experts](#) has access to a wide range of resources, updated continually.

⁵ Austria, Belgium, the Czech Republic, France, Germany, the Netherlands, Spain, Sweden, Switzerland, United Kingdom, Italy, Poland, Hungary, Portugal, Estonia, Croatia, United States, and Australia

⁶ The first proof of concept is the CUG Testnetwork, while the second one is on TESTA NG (Eurodomain) for which INTLI partners with Germany, Austria, EC (DG-DIGIT), eu-LISA, and T-Systems.

2.3. 'Cross-Border Access to e-Evidence: Designing Rules for the EU' Session

The afternoon session on 21st January 2020 started with a panel on the legal and policy issues in the field of digital cross-border cooperation. *Prof Jeanne Mifsud Bonnici* from the University of Groningen (the Netherlands) set the scene and moderated the panel.

Tania Schröter, a Deputy Head of Procedural Criminal Law Unit at DG Justice and Consumers, spoke extensively on the proposals for a Regulation on cross-border access to e-Evidence and a Directive on appointing a Legal Representative, already briefly mentioned by Dr Herrnfeld, and the relevance and the international consequences of the Clarifying Lawful Overseas Use of Data (CLOUD) Act⁷.

Mr Jorge Espina, an Assistant to the National Member for Spain at the Spanish Desk at Eurojust, provided for the practitioner's perspective on selecting the right tool for judicial cooperation and on the judicial cross-border gathering of electronic evidence. Mr Espina focused on the case life cycle and the admissibility of evidence across the various jurisdictions.

Sónia de Sousa Pereira, a specialist at the Data Protection Function at Europol, emphasised the importance of data protection compliance of all tools used for judicial cooperation. If data protection arrangements are not properly ensured, this could jeopardize years of multilateral investigation procedures; and the operational challenges in criminal investigations (borderless nature of the internet, use of encryption, anonymity, ongoing technological development, insufficient technological equipment of law enforcement authorities, data retention, etc.) related to data protection. She later described the work of Europol in the field and their rules for cooperation with third parties as an example of an existing cooperation mechanism.

Prof Mifsud Bonnici wrapped up the session with a brief overview of the topics discussed and paved the way for presenting the achievements of the three projects – EVIDENC2e-CODEX, EXEC and e-Evidence, in the presented legal and operational contexts.

⁷ The Clarifying Lawful Overseas Use of Data Act or CLOUD Act (H.R. 4943) is a United States federal law enacted in 2018 by the passing of the Consolidated Appropriations Act, 2018, PL 115-141, section 105 executive agreements on access to data by foreign governments. Primarily the CLOUD Act amends the Stored Communications Act (SCA) of 1986 to allow federal law enforcement to compel US-based technology companies via warrant or subpoena to provide requested data stored on servers regardless of whether the data are stored in the US or on foreign soil.

2.4. 'Building up: Electronic Exchange of Evidence in European Investigation Order' Session

The 'Building up: Electronic Exchange of Evidence in European Investigation Order' session provided the audience with an overview of the three projects under which umbrella the conference is organized, and their achievements reached, and tools developed.

Cristian Nicolau, Head of Unit eJustice, IT and Document Management at DG Justice and Consumers, and *Djamila Ben Miloud*, a Project Manager at DG Justice and Consumers, presented the **e-Evidence Digital Exchange System**. They provided for the system development timeline, a live demo and the rollout plan for the 2020- 2021 period.

Relying on the e-Evidence Digital Exchange System, it is possible for the users:

- to prepare the EIO/MLA forms in a digital way and send them as a message;
- to attach a document to each message;
- Send-receive and EIO/MLA request.

Important part of the presentation was on the production readiness of the Member States: Austria, Bulgaria, Portugal, Italy, Finland and Malta were expected to adopt the system by June 2020, while four more – namely, Belgium, Latvia, Germany and Luxembourg, were scheduled for the end of 2020. Estonia and Sweden planned the adoption for 2021.

Dr Maria Angela Biasiotti, a Researcher at the Institute of Legal Informatics and Judicial Systems at the Italian National Research Council and the EVIDENCE2e-CODEX Project Coordinating person, provided for an overview of the '**EVIDENCE2e- CODEX: Linking EVIDENCE into e- CODEX for EIO and MLA procedures in Europe**' project. Dr Biasiotti detailed on the legal research, technical solutions and stakeholder involvement under the project.

The project team performed an in-depth analysis of the different realities existing across EU identifying the *status quo* of implementation of the EIO Directive and defining barriers and gaps hampering the full enrolment of EIO. The research covered 16 jurisdictions and focused on the practical implementation and execution of the EIO, the EIO-MLA interactions, and the data protection implications, and identified relevant best practices.

Mathias Maurer, Project Coordinator at the Austrian Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice, and a member of the EXEC Project Coordinating Team, described the work done under the EXEC project (**EXEC: Electronic Xchange of e-Evidences with e-CODEX**).

The main objectives of the project were to set up a Gateway and a Connector and to facilitate the implementation of the Reference Implementation Portal, in order to enable the participating Member States to exchange EIOs and related electronic evidence fully electronically through the Reference Implementation Portal or existing directly connected national backend solutions.

2.5. 'Private Sector and e-Evidence' Session

The final session for the first conference day was dedicated to the role of the private sector in the judicial cooperation data flow. The panel was chaired by *Dr Biasiotti*, and featured speeches from:

- Dr Maximilian Schubert, Chairman of EuroISPA;
- Jiri Novak, Chair of the IT Law Committee at the Council of Bars and Law Societies of Europe; and
- Prof Joseph Cannataci from the University of Groningen (the Netherlands).

Dr Schubert expressed his gratitude to be able to explore the challenges of the judicial cooperation processes from the perspectives of both the judiciary and law enforcement. Then, he presented the practical challenges in direct cooperation between ISPs and LEAs with respect of cross-border data exchange from the industry's point of view.

EuroISPA is an association of ISPs representing over 2500 members across the EU and EFTA countries. Many of them are small SMEs that are often not visible in the overall Internet ecosystem, but they provide essential services. In many cases, these companies don't know what to do with data requests.

Mr Novak spoke on how often requests challenged the principles of equality of arms. Lawyers are the last to receive the evidence from LEAs but must work with them. They need to receive them in a proper format, to be provided with the relevant data, and always in a timely manner. Mr Novak explored the need to envisage continuous digitalization of the case files, which were often still in paper format; as well as the need of some procedural changes related to the format the case files were provided to lawyers. Potential access to the data exchange systems would help greatly the lawyers' work, but specific legal framework is required.

Mr Novak also explored the benefits of providing electronic evidence to lawyers not only in the right format, but also accompanied by a metadata index. Training and education of lawyers on how to handle this type of data was also commented as highly necessary. Further considerations with respect to data protection were addressed.

Prof Cannataci commented on the Council of the EU decision to initiate negotiations with the US over the CloudAct, and its relevance to the e-Evidence project. He also mentioned various problems with digital evidence that he encountered in his capacity of UN Special Rapporteur on the right to privacy, mainly: procedural issues (e.g. related to the type and format of data, chain of custody), how digitally born evidence were handled, the fact that EIO and MLA didn't work together yet, etc. He emphasized that if we were still struggling with these issues, then a streamlined system on dealing with digital evidence should be very clearly explained to politicians whose minds still functioned in 20th century realities; and joined thinking – together with all stakeholders - was much needed.

Dr Biasiotti wrapped up both the session and the first conference day. She expressed her sincere gratitude to all participants who joined the project teams for this conference. Evident from all discussions and the various stakeholders present in the room, the cohesion between the three projects – e-Evidence, EXEC and EVIDENCE2e- CODEX, has been achieved.

2.6. 'Digital Evidence Exchange: Improving Criminal Justice in EU Cyberspace' Session

The second conference day opened with **a summary of the discussions taken place so far**, provided by *Mr Woud*. He quoted the Commissioner Didier Reynders on the importance of the three projects – e-Evidence, EXEC and EVIDENCE2e-CODEX, and briefly described the panels that have taken place on 21st January 2020 and the key takeaways from every presentation. At the end of his contribution, Mr Woud gave an overview of the four sessions on the second day.

The first session for the second day – **'Digital Evidence Exchange: Improving Criminal Justice in EU'** was dedicated to the evidence exchange and standards facilitating cross-border investigations. It was moderated by *Fabrizio Turchi*, a Senior Technologist at the Institute of Legal Informatics and Judicial Systems at the Italian National Research Council, who was also the first speaker.

Mr Turchi set the scene and presented the overall technical concept behind the evidence exchange under the EIO/MLA instruments, and the Evidence Exchange Standard Package (EESP) application developed under the EVIDENCE2e-CODEX project (**'Evidence Exchange under EIO/MLA: CASE Standard, Large File of Evidence, Evidence Packaging'**). The presentation paid attention to three important aspects: the use of an evidence representation standard, the exchange of large files of evidence, and the features of the EESP application.

In order to further explain the benefits of the evidence representation standard, *Mattia Epifani*, a Researcher at the Institute of Legal Informatics and Judicial Systems at the Italian National Research Council, presented the CASE Ontology (**'CASE Ontology: Status and Future'**). CASE is a community-developed specification language whose primary aim is the interoperability to enable the exchange of cyber- investigation information between tools and organisations and ultimately between countries: strengthening admissibility (authenticity, provenance).

Nikolaos Matskanis, a Senior R&D Engineer at the Centre of Excellence in Information and Communication Technologies (Belgium), described the EESP application architecture, main features and packaging API (**'Evidence Exchange Package Application for Facilitating the Evidence Package Exchange through the Reference Implementation and e-CODEX'**).

2.7. 'Criminal Justice in Cyberspace: Are the Legal Professions Ready?' Session

The session on **'Criminal Justice in Cyberspace: Are the Legal Professions Ready?'** explored the changes in the legal professions to reflect on the pressing legal and technology needs. It was moderated by *Simone Cuomo*, a Senior Legal Advisor at the Council of Bars and Law Societies of Europe.

Mr Cuomo pointed out that all the instruments presented during the two days of the conference could only be effective if the legal professions knew how to use them; and this could be achieved through training and paradigm change. He, then, set the scene and opened the floor to the featured speakers.

Iain Mitchell QC, Chair of the Surveillance Working Group at the Council of Bars and Law Societies of Europe, referred to two important questions: when legal professions were considered ready and how they could be equipped to get ready.

Equality of arms requires equality of knowledge – in most recent years this refers to knowledge on the cyber regulations’ eco-system, while at the same time technical knowledge of the systems like e-CODEX and SIRIUS is also required.

Yves Vandermeer, Chair of the European Cybercrime Training and Education Group (ECTEG), confirmed that knowledge was indeed the key between training and education and referred to three important aspects when it came to trainings on electronic evidence and related issues – efficiency, transparency and governance:

- improving LEAs’ reporting quality on data accuracy and understandability;
- improving judicial awareness on transparency and control on the investigation process;
- standardisation could only work if it was a supporting tool and the ~~services~~ *services* were well addressed.

The European Judicial Network (EJN)⁸ connects experts in judicial cooperation and trains practitioners. Ms *Janina Lipara*, the Secretariat Coordinator of the European Judicial Network, presented some of the findings, as well as the actions undertaken by EJN to prepare EU practitioners for these new developments.

According to the survey 29,40% of the data requested refers to traffic data, 30,41% to subscriber information, and 13,18% to content data.

Alina Secrieru, Project Manager in Criminal Law at the European Judicial Training Network (EJTN)⁹, referred to the specific need for training in e-Evidence and EIO and MLA (both basic and advanced training). She spoke from experience on the tendency prosecutors to specialize in certain criminal law areas while judges didn’t. The specialized training required more in-depth knowledge of encryption but also on admissibility, thus multidisciplinary was need for such topics.

2.8. ‘Lessons Learnt’ Session

The ‘Lessons Learnt’ session was facilitated by *Mr Frank Woud* and included presentations from:

- *Huub Moelker*, a Business Consultant from the Dutch Judicial Information Service, shared the Dutch Perspective;
- *Giulio Borsari*, an IT Department Officer from the Coordination of International e-Justice Projects Unit at the Italian Ministry of Justice, who spoke on the e-CODEX initiatives and experiences in Italy;

- *José Manuel Martínez*, a Project Team Leader of Technological Developments at ISDEFE (Spain), provided information on the Spanish approach towards judicial cooperation in criminal matters, and
- *Božidar Jančić*, Head of IT Unit at the Ministry of Justice (Croatia), shared the Croatian experience with e-CODEX.

Mr Moelker presented the different approach undertaken by the Netherlands – they didn't implement the Reference implementation Portal and were using existing instruments for EIO/MLA procedures, but provided for integration with the systems developed by EC. He explicitly referred to the fact that an international process could only be effective with an effective national process in place.

Mr Borsari shared the Italian experience on piloting the European Payment Order, as well as with regards to the technical and legal work done under the PRO-CODEX project in connecting legal practitioners' applications to e-CODEX.

Mr Martínez presented the Spanish efforts with respect to e-CODEX since 2011 in preparing the Spanish infrastructure to be ready for e-CODEX exchanges (implementing e-CODEX use cases and connecting the Case Management Systems), and allowing the exchange of EIOs/MLAs with European judges and prosecutors, through the e-CODEX infrastructure (Gateway and Connector) and LexNET (the Spanish judicial exchange infrastructure).

Mr Jančić provided some brief overview of the Croatian judicial system and core information system deployed. Croatia joined e-CODEX only with the implementation of the EXEC project, thus all their experience was relatively new but very positive.

⁸ https://www.ejn-crimjust.europa.eu/ejn/EJN_Home.aspx

⁹ <http://www.ejtn.eu>

2.9. 'Way Forward and Action Plans' Session

The final conference session was dedicated to the **roll out and action plans** undertaken by the three projects and some of the main e-Justice players in EU. *Prof Mifsud Bonnici* presented the EVIDENCE2e-CODEX Action Plan. Three main lines of action were recommended:

- better alignment of the legal frameworks in order to have smoother processes across EU (reflections on key legal findings);
- continuing the work with the community towards setting standards for the exchange of e-evidence (reflections on operational realities); and
- involving all actors concerned, including competent authorities, defence lawyers, ISPs and other private actors.

Mr Nicolau provided for the National Project Plans towards deploying the e-Evidence Digital Exchange System. He mapped the deployment steps based on the readiness levels of the Member States as presented in the 'Building up: Electronic Exchange of Evidence in European Investigation Order' session. Actions to be considered for each national project included regulatory alignment and review of specific legal aspects, procurement readiness, choice of rollout method, training of end-users, etc.

Mr Nicolau also mentioned the fact that new requirements emerged continuously, thus the system would need a continuous development, which will be a major task for the EC in the years to come.

Ms Sandra Taal, part of the Community Management Team of e-CODEX at the Dutch Ministry of Justice and Security, spoke on the EXEC roll out as the final stage of the project. The main objective was to secure connectivity of the back-end solutions of the competent authorities, and currently most EXEC Member States were still in the testing phase; however, main advancement are expected to come in the next few months.

Mr Maurer mentioned the steps undertaken for advancing the EXEC efforts. He referred to the project proposals submitted/planned to continue the work done so far, including (a) integrating a national user identification management system following the single sign-on administration approach; (b) integrating the national case management systems, and reusing this information in the Reference Implementation Portal; (c) providing up-to-date court information to the European Criminal Court Database; and (d) continuing the efforts in the field of cross-border cooperation with respect to electronic evidence and working closely with the e- Evidence community.

Mr Tomasz Debski, Project Manager from the General Criminal Law and Judicial Training Unit at DG Justice and Consumers, presented the Cross-border Digital Criminal Justice Project implemented by the EC. The presentation was based on the interim findings of a study undertaken within the context of the Digital Criminal Justice note presented by Eurojust in December 2018. The study aimed at providing a list of possible technological solutions allowing to tackle serious cross-border crime more efficiently and to enhance further the cooperation among the judicial community; and covered all Member States, JHA agencies and bodies, and services of the Commission. It kicked-off in July 2019 and was planned to finish in March 2020. The study outcomes and recommendations are planned to be submitted to the Council in May-June 2020.

Mr. Nicolau closed both the session and the conference praising the efforts of both organizers and speakers for providing an all-round topical event briefly mentioning each of the conference sessions and their contribution towards the overall discussions on EU level.
