

JUSTICE PROGRAMME (2014-2020)

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**Action Grants to Support Transnational Projects to
Promote Judicial Cooperation in Criminal Matters**

Grant Agreement No. 766468

EVIDENCE2E-CODEX

**Linking EVIDENCE into e-CODEX for EIO
and MLA procedures in Europe**

Report on implementation of EIO

Deliverable D2.1

The contents of this deliverable are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Commission.



Executive Summary

The EVIDENCE2e-CODEX project aims at pre-piloting the EVIDENCE¹ proposal and achievements together with e-CODEX for the specific purposes of allowing the secure and trusted exchange of digital evidence among EU Member States in the European Investigation Order and Mutual Legal Assistance context. One of the building blocks of the project is understanding the status of 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.

Work Package 2 of the EVIDENCE2e-CODEX project is dedicated to understanding the legal context on the implementation of EIO (in Deliverable D2.1 'Report on the implementation of the European Investigation Order'), of MLA procedures (in Deliverable D2.2 'Report on EIO and MLA') and on data protection issues (in Deliverable D2.3 'Report on data protection and other fundamental rights issues').

This Deliverable, D2.1 'Report on the implementation of the European Investigation Order' (hereinafter 'Deliverable D2.1'), describes how selected EU Member States have transposed the EIO Directive. The selection of countries includes most of the member states party to this project and ensures that different legal cultures around Europe are represented. The deliverable seeks to understand the existing and potential issues that affect the full implementation of the EIO in the EU MSs and consequently the exchange of electronic evidence in Europe. It analyses the legal and operational measures required to "establish successful execution of EIO between Member States".²

The findings in Deliverable D2.1 are based on responses to a questionnaire developed within the project asking different stakeholders in 16 implementing EU Member States to describe how the EIO Directive has been transposed, explaining procedures that have been developed on the basis of the EIO Directive and the operational (including with respect to information communication technology) structures that are in place. A specific questionnaire was also sent to practicing lawyers in some Member States: the aim of this questionnaire was to understand the working of Article 1(3) of the EIO Directive. Where possible the findings from

¹ EVIDENCE – European Informatics Data Exchange Framework for Court and Evidence Project (2014-2016), Grant Agreement No. 608185.

² EVIDENCE2e-CODEX Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe (2018-2019), Grant Agreement No. 766468, Work Package 2 'Legal Issues' Description.



both questionnaires were compared to findings from other sources found in literature.

Furthermore, this deliverable reflects feedback received by different stakeholders with whom the EVIDENCE2e-CODEX project interacted during the first year of activity and in events carried out in collaboration with the EXEC project³. Stakeholders of interest for the purposes of this deliverable were the following:

- Ministries of Justice of the EU MSs and non-EU States: this category includes different judicial authorities (judges, public prosecutors, and investigative judges), court staff including administrative and ICT staff, institutional training authorities;
- Lawyers: representatives from the criminal law area;
- European institutions dealing with cross-border cooperation: EUROPOL, EUROJUST, OLAF, EJM;
- LEAs: law enforcement agencies of a number of MSs.

Based on the information collected, the deliverable groups problems shared by the 16 implementing MSs into four main groupings:

- (i) teething problems
- (ii) operational problems
- (iii) technical realities
- (iv) training needs.

For each of these sets of problems Deliverable D2.1 recommends measures that can be taken by MSs, the EC and/or other stakeholders to address the problems and ensure cooperation between MSs working together in the EIO.

The deliverable is structured as follows:

- Section 1 gives an overview of the EVIDENCE2e-CODEX project and WP2 goals;
- Section 2 reviews the methodology used to acquire relevant information by identified stakeholders;
- Section 3 provides for a brief introduction to the formal implementation of the EIO Directive;

³ EXEC - Electronic Xchange of e-Evidences with e-CODEX (2018-2020), Grant Agreement No. 785818



- Section 4 provides an analysis of some aspects of the implementation of the EIO Directive;
- Section 5 attests for the detailed country reports provided for each of the 16 implementing MSs;
- Section 6 (Conclusion and Next Steps) concludes with a summary of recommendations and measures suggested in the deliverable.

