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## **EVIDENCE2E-CODEX**

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

## **Conclusion report and feedback from the first WP4 Workshop dedicated to Stakeholder Engagement with the Legal Community**

### **Deliverable D4.1**

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## List of Abbreviations

Acronym	Explanation
<b>CEPS</b>	Centre for European Policy Studies
<b>CNR-ITTIG</b>	National Research Council (Italy) - Institute of Legal Information Theory and Techniques, coordinator of the EVIDENCE2e-CODEX Project
<b>CCBE</b>	Council of Bars and Law Societies of Europe
<b>EC</b>	European Commission
<b>e-CODEX</b>	e-Justice Communication via Online Data Exchange
<b>EESP</b>	Evidence Exchange Standard Package
<b>EIO</b>	European Investigation Order
<b>EJN</b>	European Judicial Network
<b>e-MLA</b>	Electronic Mutual Legal Assistance
<b>EU</b>	European Union
<b>EUROJUST</b>	The European Union's Judicial Cooperation Unit
<b>e-evidence</b>	Electronic evidence
<b>EVIDENCE</b>	'European Informatics Data Exchange Framework for Court and Evidence' Project, GA No 608185
<b>EVIDENCE2e-CODEX</b>	'EVIDENCE2e-CODEX Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe' Project, GA No 766468
<b>GA</b>	Grant Agreement
<b>INTERPOL</b>	International Criminal Police Organization
<b>JUD-IT</b>	'Judicial Cooperation in Criminal Matters and Electronic IT Data in the EU' Project, GA No. 766467
<b>ISP</b>	Internet Service Provider
<b>K&amp;I</b>	Knowledge and Innovation Srl. (Italy), partner in the EVIDENCE2e-CODEX project
<b>LEA</b>	Law enforcement agency
<b>LIBRe</b>	LIBRe Foundation (Bulgaria), partner in the EVIDENCE2e-CODEX project



<b>MLA</b>	Mutual Legal Assistance
<b>MoJ</b>	Ministry of Justice
<b>MS</b>	Member States
<b>WG</b>	Working Group
<b>WP</b>	Work Package



## Executive Summary

Deliverable D4.1 "Conclusion report and feedback from the first WP4 Workshop dedicated to Stakeholder Engagement with the Legal Community" is prepared in accordance with the description of work of the "Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe" (EVIDENCE2e-CODEX) project. This first Work Package (WP) 4 workshop was co-organised by INTERPOL with the support of the project coordinator (CNR-ITTIG), the University of Groningen (leader of WP2 "Legal Issues"), the Council of Bars and Law Societies of Europe (CCBE, hosting party) and LIBRe Foundation (dissemination team).

The report starts by presenting the objectives and structure of the event held on 15 January 2019 in Brussels at the Press Club Brussels Europe. It explains the stakeholder identification process and presents the background of workshop participants. The report continues with a summary of the event content, covering the introductory remarks, the preliminary findings of WP2 questionnaire and the presentation of two projects on secure cross-border electronic communication in the justice area. In conformity with the Chatham House Rules under which the event was held, the report provides a generic outline of the discussions and exchanges held during the panel sessions. The deliverable refers to the dissemination efforts undertaken prior to, during and following the event. The report ends by highlighting some observations and final thoughts expressed by the participants. The practitioners were unanimous on the need to pursue efforts fostering international cooperation in criminal matters. Similar initiatives such as e-Evidence Digital Exchange System and Electronic Mutual Legal Assistance (e-MLA) highlight the need to rethink the scope of direct secure cooperation, including outside the European Union (EU). All the feedback provided by the end-users and the representatives of the wider stakeholder community was collected, processed and analysed for integration into the project future development. The consortium is preparing the second WP4 technical workshop that will provide the opportunity to showcase the Evidence Exchange Standard Package (EESP) developed within the EVIDENCE2e-CODEX project and to collect expert feedback.



# 1 Introduction

The present document constitutes deliverable D4.1 “Conclusion report and feedback from the first WP4 Workshop dedicated to Stakeholder Engagement with the Legal Community” of the ‘EVIDENCE2e-CODEX Linking EVIDENCE into e-CODEX for EIO and MLA procedures in Europe’ project (EVIDENCE2e-CODEX). EVIDENCE2e-CODEX is a European Union funded project under the Justice Programme (2014-2020) that seeks to create a legally valid instrument for the exchange of digital evidence over the e-Justice Communication via Online Data Exchange (e-CODEX) in the framework of mutual legal assistance and European Investigative Order (EIO) procedures.

Deliverable D4.1 “Conclusion report and feedback from the first WP4 workshop on Stakeholder Engagement with the Legal Community” is prepared within the scope of WP 4 “Stakeholder engagement, Mutual learning and Capacity Building for Professionals, Policy makers and Technicians” efforts. To contextualise the event’s endeavours as presented in the report, below is an extract from the Grant Agreement (GA) detailing the WP4 objectives and some of its activities:

Objectives
<p>Providing stakeholders with ‘ready for use’ information on EIO, electronic evidence and e-CODEX. The European Judicial Training Network (EJTN) organizes workshops on the topic of electronic evidence and EIO, and therefore it will be a natural partner to share and distribute details about the workshops. For the future we foresee a closer working relationship with EJTN.</p>
Description of work and role of partners
<p><b>WP4 - Stakeholder engagement, Mutual learning and Capacity Building for professionals, Policy makers and technicians [Months: 1-21]</b>  <b>CNR, RUG, CETIC, ELF, LIF, INTERPOL, K&amp;I, MoJ-NL, MoJ-DE, MoJ-IT, LIBRe, BMJ-AT, MoJ-FR, MoJ-PT, UNI-THESS, UOM, UNIL-CH, UNI-WIE</b>  <b>Task 4.1 (M1-M6. Leader CNR, INTERPOL, Partners K&amp;I). Identifying and mapping stakeholders</b>  <b>Task 4.2 (M8-M11. Leader CNR, Partners ALL) – Workshop1: Meeting (duration of 1-2 days depending on the program of the meeting and on the number of stakeholders that will join) the legal community Stakeholder engagement. Inform legal community ALL (prosecutors, law enforcement, judiciary, lawyers, policy advisors) on EIO and e-Evidence, the legal issues involved and the available instruments for technical support and get feedback from them. All partners are invited to join (their travel budget is also calculated taking these costs into consideration) and EAB will be invited as well (Travel budget for them is allocated in the coordinator’s travel budget). The location chosen will be the easiest to be reached by all partners and stakeholders and this may lead to a choice of not very cheap venues (i.e Brussels, Amsterdam, The Hague, Vienna).</b></p>

Figure 1: Extract from the GA on WP4 description, page 21

This first WP4 workshop was co-organised by INTERPOL with the support of CNR-ITTIG (project Coordinator), the University of Groningen (leader of WP2 “Legal Issues”), CCBE (hosting party) and LIBRe (Dissemination Team). The report starts by presenting the objectives and structure of the event held on 15 January 2019 in Brussels at the Press Club Brussels. It presents the background of invited



stakeholders, mostly identified based on Task 4.1 “Identifying and Mapping Stakeholders” outcomes. The report continues with an outline of the event content, covering the presentation of WP2 preliminary findings, the e-MLA initiative and e-Evidence Digital Exchange System. The report also covers the essence of discussions and exchanges held during the panel sessions. The deliverable mentions the dissemination efforts undertaken prior to, during and following the event. The report ends with some conclusions and observations made by the stakeholder community regarding the EVIDENCE2e-CODEX activities and the broader objectives shared with similar initiatives in the area. For the reader’s convenience, the annexes comprise:

- the event agenda;
- the list of participants;
- the template invitation letter;
- the CCBE Survey on exchange of data with lawyers in the context of the EIO.

The appendices comprise:

- WP4 Questionnaire of stakeholder identification;
- Report on Task 4.1 “Identifying and Mapping Stakeholders” prepared by Knowledge and Innovation (K&I);
- WP2 Joint questionnaire on the implementation of Directive 2014/41/EC;
- Event PowerPoint presentations.





## 2 Overview

### 2.1 Objective

Based on past projects experiences, the consortium acknowledged the importance for practical and results-oriented projects such as EVIDENCE2e-CODEX to receive continuous feedback from end-user representatives as the project unfolds. Within the overall project structure, this is reflected in the fact that a whole work package is dedicated to stakeholder engagement, mutual learning and capacity building for professionals, policy makers and technicians.

Given the project's subject matter, aiming to create a legally valid instrument to exchange digital evidence over the e-CODEX, two general types of stakeholders have been identified - technical and legal. The representatives of these stakeholder communities are to be informed on the project developments and findings through the organisation of three WP4 workshops. First, a workshop is foreseen with the representatives of each community separately in order to provide them with 'ready for use' information on EIO, electronic evidence (e-evidence) and e-CODEX from their specific legal/technical angle. This culminates with a final mixed workshop aimed to cross-fertilize the views of technical and legal stakeholders and inform them on the issues faced by the other community.

In this context, the aim of the first WP4 Workshop dedicated to Stakeholder Engagement with the Legal Community was to share with prosecutors, judiciary, law enforcement, lawyers, etc. the project's legal research outcomes (i.e. WP2 preliminary findings on EIO, MLA, data protection implications) and to collect their feedback on:

- The status of transposition and implementation of the EIO Directive in selected EU Member States;
- The practical co-existence between EIO and MLA procedures and related legal issues;
- Data protection implications in EIO and MLA procedures and legal, operational measures for proper handling;
- Other instruments available for technical support (i.e. EC's e-EVIDENCE Digital Exchange System, INTERPOL's e-MLA Initiative).

## 2.2 Structure

The morning session of the workshop was dedicated to various presentations, including:

- Project overview by the coordinator;
- Preliminary results of WP2 Joint questionnaire on the implementation of Directive 2014/41/EC by WP2 leader;
- Status of INTERPOL's e-MLA Initiative;
- Demonstration of EC's e-Evidence Digital Exchange System.

Unfortunately due to health reasons, the University of Vienna representative could not attend the event to present the WP2 findings on data protection and other fundamental rights implications in the context of EIO and MLA exchanges. As a result, it was decided to incorporate this presentation in the second WP4 workshop dedicated to Stakeholder Engagement with the Technical Community foreseen for end of March 2019, of particular interest for Privacy by Design and Privacy by Default considerations.

As mentioned in the event opening remarks by INTERPOL, the workshop setting invited for an active dialogue with the audience. The participants were encouraged to intervene and share their comments or insights. This translated in animated discussions throughout the day which however impacted upon the agenda's timing. To abide by the afternoon schedule, the presentation on the Electronic Evidence Exchange Tool had to be cancelled. Given the legal focus of the first WP4 workshop, it was agreed that the subsequent WP4 technical workshop provided sufficient opportunity for collecting expert feedback on the developed tool.

The afternoon session was reserved for three panel discussions on "EIO and MLA co-existence" presenting complementary perspectives:

- I. The prosecutor and judiciary panel focused on presentations of personal experiences. Each panel member was invited to highlight strong and weak aspects of current legal instruments and to suggest concrete measures for improvement.
- II. The defense lawyers' session focused on lesser known provision of the EIO Directive, precisely Article 1(3) which states that an EIO can be issued by a suspected or accused person or by a lawyer on his/her behalf.
- III. The final panel discussed the investigatory access to data held by private entities by sharing experiences of Internet Service Providers (ISPs) and Law Enforcement Authority (LEA) representatives.



Each panel intervention was followed by exchanges with the audience, to hear participants' reactions and comments on issues deliberated. For more information on the content of discussions, please refer to Section 4 of the present report.



## 3 Stakeholders

A key element in the attainment of WP4 objectives, as presented in Section 2 above, and for the successful organisation of WP4 workshops is the identification of appropriate stakeholders. The first task in WP4 dealt with identifying and mapping stakeholders. Task 4.1, led by K&I, concentrated first on identifying the different types of stakeholders (i.e. with direct interest, indirect role in the exchange/handling of electronic evidence) that should be involved in the different project activities, not limited to WP4 events. Subsequently, a questionnaire<sup>1</sup> validated by the WP4 partners was circulated among the project consortium to capitalise on the interdisciplinary and international background of the partners<sup>2</sup>. The aggregated results were communicated to the team and K&I produced a map of 111 potential stakeholders for project involvement. For detailed information on Task 4.1 activities, methodology and results (i.e. typological categories covered, geographical reach) please consult the Task 4.1 Report prepared by K&I<sup>3</sup>.

Building upon the Task 4.1 findings, the stakeholders identified for involvement in the first WP4 Workshop dedicated to Stakeholder Engagement with the Legal Community the following groups:

- public prosecutors;
- judges;
- lawyers;
- LEAs;
- private entities i.e. ISPs;
- EU institutions.

To forge synergies with related projects funded under the Justice Programme besides the e-MLA initiative, the Centre for European Policy Studies (CEPS) team involved in the “Judicial Cooperation in Criminal Matters and Electronic IT Data in the EU” (JUD-IT) project was invited to participate in the first WP4 workshop.

INTERPOL reached out to 75 experts inviting them to participate in the first WP4 workshop. CCBE’s support in this aspect should be noted, as it circulated the event invitation through its extensive network of members to further raise awareness

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<sup>1</sup> Questionnaire available in Appendix A

<sup>2</sup> EVIDENCE2e-CODEX consortium is made of 21 partners, representing 10 Member States.

<sup>3</sup> Report available in Appendix B



among potential interested parties. As can be seen from the List of Participants<sup>4</sup>, 61 participants attended the workshop including some 15 project partners.

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<sup>4</sup> List available in Annex 2



## 4 Discussions

### 4.1 Introduction

The project coordinator opened the workshop with an outline of the EVIDENCE2e-CODEX project, detailing its origins and context. The introduction included the project's main actions and the expected results, including the launch of the EVIDENCE2e-CODEX instrument together with the e-Evidence Digital Exchange System before the end of the year.

### 4.2 WP2 Survey Findings

The discussions opened with a presentation by the University of Groningen on the preliminary findings of WP2 Joint questionnaire<sup>5</sup> on the implementation of Directive 2014/41/EC.<sup>6</sup> The Ministries of Justice (MoJ) involved in the project completed the survey. A total of 31 replies were collected from 16 countries..

The results indicated several conclusions.

- The EIO only partially substituted MLA instruments. Either because some Member States (MS) chose to exclude its implementation in certain situations or because certain measures do not fall within the scope of the EIO. In the case of partial substitution, EIO and MLA instruments may be combined in the same investigation.
- The main problems associated with the Directive's implementation relate to the language regime and to the identification of the competent executing authority. The number of official EU languages pose challenges to the smooth execution of the EIO, especially in urgent cases when the gravity of a request cannot be assessed. Given the variety of models of executing authorities, there have been some difficulties in identifying the EIO addressee in the receiving country.
- National authorities should regularly update the contact details of designated contact points. Information stored in specialised tools/databases is not always accessible to all parties involved the EIO process.

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<sup>5</sup> Questionnaire available in Appendix A

<sup>6</sup> Questionnaire results reported in Deliverable D2.1 "Report on Implementation of EIO"



- Not all MS have provided a procedure for cooperation with the ISPs. Some of those who did provide a cooperation procedure use the EIO. MS request the cooperation of the ISPs to get subscriber data, metadata, content data or a mix of these.
- Regarding the possibility to issue an EIO on behalf of a suspected or accused person, it varies from one MS to another. There is no common practice. Sometimes it depends on the status of the person who makes the request, whether the person is a suspect or accused. Other times it depends on the national system in place.

## 4.3 e-MLA Initiative

The INTERPOL representative gave an overview of the e-MLA initiative aimed to modernize and speed up the transmission of MLA requests and responses. INTERPOL's long-established practice with the secure exchange of criminal data among its 194 member countries, makes it well-placed to lead a project developing a dedicated transmission channel.

INTERPOL coordinated the e-MLA project from January 2017 to December 2018, with the support of two partners - the French MoJ and the Austrian Federal Ministry for Europe Integration and Foreign Affairs. The working group (WG) set up within e-MLA included practitioners from 16 countries and representatives of international organizations such as the Council of Europe, United Nations Office on Drugs and Crime, the EU, the European Union's Judicial Cooperation Unit (Eurojust), and the European Judicial Network (EJN). The needs expressed by the WG members were incorporated into the e-MLA initiative. As a result, the project produced a Legal Feasibility Report, a document on Functional Specifications and a revised draft of e-MLA Rules. In November 2018, INTERPOL's General Assembly adopted a resolution tasking the General Secretariat to continue with the initiative, specifically with its technical development. Subject to funding, a pilot project will be launched assisted by another WG comprising of legal and technical experts from different countries.

The workshop participants showed interest in the e-MLA objectives. Among the issues raised for discussion was the admissibility of evidence sent through this channel, the legal basis enabling INTERPOL to host such a platform and the possibility of connecting e-MLA with the e-EVIDENCE Digital Exchange System.



## 4.4 E-Evidence Digital Exchange System

Representatives of the European Commission (EC) presented a demo of the e-Evidence Digital Exchange System. The presentation detailed the technical features of the system and their practical implications for users. The EC representatives showed a mock-up of how the interface works and the different options available to practitioners. The platform is still under development. The interface will be further modified based on the feedback received following the release of the first version of the system. The goal is to have a functioning product in October 2019.

## 4.5 Panel Sessions on EIO & MLA

### Panel on EIO & MLA co-existence from the perspective of judges & prosecutors

The first panel consisted of judges and prosecutors from several European countries. The discussion revealed there are a number of issues to be taken into consideration for future improvements. Concerning digital evidence and its admissibility, measures should ensure its traceability, reliability and the application of privacy regulations during its entire lifecycle. The panellists underlined the need for training, including for administrative staff, to properly handle evidence and digital evidence in particular. Other issues related to the implementation of the EIO included costs sharing between judicial authorities of different MS, the need for improved cooperation between authorities and the uneven implementation of the Directive throughout the EU.

With the EIO as the prevalent instrument to gather evidence in the EU, one of the panellists summarized the Directive's interaction with other legal frameworks governing judicial cooperation in three rules:

- Basic rule which requires the concordance of 5 conditions defined in Article 1.1 and Article 3 of the EIO Directive for a judicial authority to be able to issue an EIO ;
- Replacement rule when the EIO Directive can be applied and it replaces the application of provisions from previous agreements (i.e. European Arrest Warrant, evidence-gathering provisions from the Schengen Agreement);
- Compatibility rule even if the EIO Directive is applicable, it is still possible to apply another instrument on judicial cooperation instead of it.

In the framework of this panel, the participants recognized that the EIO brought a significant upgrade in EU criminal proceedings. International cooperation evolved from being the exception to being the norm, hence there is an increased need for tools that facilitate transborder requests. Regarding the MLA procedure, the main



remark was that it tends to be time consuming, often unreliable in urgent cases and when the information is needed for trial preparation.

### Panel on EIO & MLA from defence lawyers' perspective

The second panel composed of CCBE members highlighted the importance of involving defence lawyers in the conception of new instruments for prosecutors and judicial authorities to ensure that defence rights are not compromised.

The panel presented the results of the CCBE survey<sup>7</sup> on exchange of data with lawyers in the context of the EIO. The survey revealed that data can be transmitted in various ways, including hard format, however data sent electronically still represents a recent phenomenon. The review of printed data can be tedious and protracted given the amount of data. Therefore, the importance of drafting specific EIO requests targeted on relevant evidence and avoiding 'fishing expeditions'. On the other hand, evidence provided in electronic form may be inaccessible if the lawyers do not own the right software to extract the digital evidence.

The interventions showed that EVIDENCE2e-CODEX could support and facilitate the transmission of e-evidence between prosecutors and lawyers by:

- offering a practical framework for the structuring of digital evidence before it is transmitted to the requesting party. Without the help of such metadata or accessible formats, it might be very difficult or even impossible for lawyers (as well as prosecutors) to navigate through the data and effectively assert their clients' rights.
- identifying good practices and recommending some generic model or protocols on how national contact points can 'forward' e-evidence emanating from a cross-border authority to the relevant parties. From the survey it appears that some countries have established a good model for this, many countries do not have a structured approach in this area.

The discussion extended to the proposal for a European Production or Preservation Order for electronic evidence in criminal matters. CCBE representatives expressed concern over different provisions of the proposal. This included the non-respect of the principle of equality of arms between prosecution and defence, and the fact that individuals have limited access to the information and no effective remedies. The panellists also questioned the ISPs' ability to protect fundamental rights of individuals when responding to requests for information which may contain data

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<sup>7</sup> Survey available in Annex 4, for more information on survey results, please refer to Deliverable D2.1 "Report on Implementation of EIO"

subject to professional privilege. In light of the EVIDENCE2e-CODEX efforts which seeks to improve and speed-up MLA and EIO procedures, CCBE questioned the added value of the proposal for a European Production or Preservation Order.

### Panel on EIO & MLA investigatory access to data held by private entities e.g. ISPs

The third panel assembled representatives of ISPs and LEAs. The ISPs shared their experience in collaborating with public authorities and expressed their support for clearly defined procedural rules to facilitate this collaboration. Cooperation with LEAs on disclosure of data is specific to each country according to the national licensing provisions. Referring to the previously discussed proposal for European Production or Preservation Order, an ISP representative warned that the Proposal may give a false impression of reducing the response time since private entities may be approached directly however many existing issues persist. The other ISP representative encouraged the inclusion of safeguards enabling ISPs to challenge abusive and disproportionate requests. Furthermore, the fine provision for non-compliance, which can represent up to 2% of the private entity's turnover, risks setting the wrong incentive for ISPs. The panellists stressed the requirement for the developed platforms to be trustworthy and secure to maintain their clients' trust. Based on his own experience in handling EIOs requests, the LEA representative highlighted the importance of clear and precise orders in order to receive the required information from private entities. In this respect, the panellists reiterated the need for commonly agreed definitions among MS and ISPs on the different terms employed, such as types of data i.e. metadata, traffic data.

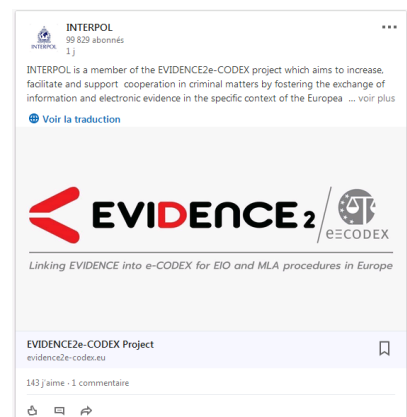
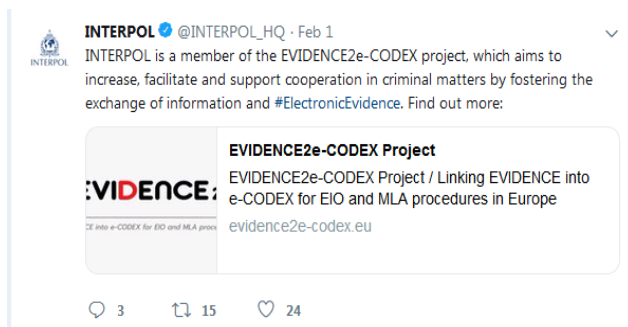


## 5 Dissemination

The workshop was covered on various media platforms. Before the event, the workshop was listed among the upcoming events on the project’s [official website event page](#). It was also announced in a [statement in the news section](#). The announcement included the time and place of the event, the purpose of the workshop and the proposed agenda. The news was shared by the partners through different social media platforms, such as Twitter and LinkedIn.



Figure 2-5: Print screen of the news on the event being shared by partners on LinkedIn (figure 2 and 5) and Twitter (figure 3 and 4).



During the event, the partners provided updates about the event through social media. Following the workshop, a [news article](#) "Another Successful Event for the EVIDENCE2e-CODEX Project in Brussels: Meeting the Legal Community, 15 Jan 2019" was published on the EVIDENCE2e-CODEX official website providing a summary of the event, including the workshop participants and some highlights from the presentations and discussions.

## 6 Conclusion

The first WP4 Workshop dedicated to Stakeholder Engagement with the Legal Community provided the opportunity for a comprehensive and extensive dialogue with experts in the area on the status of transposition of the EIO, its co-existence with the MLA procedure and suggestions for possible improvements to the current legal framework. The workshop subject matter aroused the interest of a varied group of stakeholders representing complementary interests and points of view. This was achieved by relying upon the findings of the stakeholder mapping exercise prepared in task T4.1. As a result, the discussions generated a comprehensive picture of the current situation by presenting different perspectives and sharing insights into the realities of:

- judges and prosecutors working daily with EIO requests and the practical issues tackled;
- authorities confined to rely upon the MLA procedure instead;
- the practice of private sector companies requested to provide particular types of data;
- the situation confronted by defence lawyers and/on behalf of accused/suspected persons for issuing EIOs.

The invited stakeholders commented on the preliminary findings of WP2 survey on the diverse technical, administrative and operational obstacles that hinder the successful execution of EIO requests. The most recurring issues mentioned were:

- the language barriers,
- the need for staff training,
- incurred expense sharing, as well as
- the difficulty in identifying competent authorities on the receiving end and maintaining up-to-date records of contacts, i.e. EJM Atlas or Court Database.

The workshop participants agreed that the instrument is still novel and time is needed for practitioners to get accustomed to properly handle it. Often the EIO requests are poorly drafted or overly broad, sometimes even including aspects not foreseen in the EIO Directive, e.g. asset freezing. Although the EIO brought a significant upgrade in criminal investigations across the EU, the MLA procedure still plays an important role in international cooperation requests coming from authorities outside the EU (and from EU countries not bound by the Directive) as well as for direct cooperation requests to most ISPs. However the biggest challenge associated

with the MLA procedure is its delayed execution in an Information Age when data crosses the globe in a split second.

The participants agreed that requests for transnational cooperation in criminal matters are ubiquitous nowadays with the exponential and widespread use of the Internet. Therefore the efforts undertaken by the EVIDENCE2e-CODEX project and similar initiatives such as e-Evidence Digital Exchange System and e-MLA represent a significant step in the right direction. There is a need to rethink the scope of direct cooperation, since the EIO model cannot be extended outside the EU whilst there are pressing needs for direct, secure international cooperation with almost every country in the world, including with private entities. The debate was further enlarged to consider provisions of the EC proposal for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters.

All the feedback provided by the end-users and the broader stakeholder community was collected in detailed minutes of the meeting. It is processed and analysed by the consortium for integration into the project's future development. The consortium is currently preparing for the second WP4 technical workshop that will be combined with the final WP3 meeting. This upcoming event will present the opportunity to demo the EESP application and discuss its content in detail, as well as the exchange of large files of e-evidence, the legal issues involved and consider other existing platforms for official cooperation.



# 7 Annexes

## Annex 1: Agenda

www.evidence2e-codex.eu



### Evidence2e-CODEX Stakeholder Engagement with the Legal Community

15 January 2019

Press Club, Froissart straat 95, 1000 Brussels, Belgium

9.30 – 9.45	<p>Welcome and introduction</p> <p>Dr. Maria Angela Biasiotti, Project coordinator, ITTIG-CNR John Barry, INTERPOL</p>
9.45 – 10.45	<p>Findings from the Evidence2e-Codex Legal Issues Survey</p> <p>Report on implementation of EIO, Prof. Dr. Jeanne Mifsud Bonnici, University of Groningen</p>
10.45 – 11.15	<p>e-MLA Initiative</p> <p>Charlotte Anne, Legal Officer, INTERPOL</p>
11.15 – 11.30	<b>Coffee break</b>
11.30 – 12.00	<p>e-Evidence Digital Exchange System</p> <p>Djamila Ben-Miloud, European Commission</p>
12.00 – 12.45	<p>Electronic Evidence Exchange Technical Tools</p> <p>Fabrizio Turchi, ITTIG-CNR &amp; Nikolaos Matskanis, CETIC</p>
12.45 – 13.45	<b>Lunch</b>
13.45 – 15.00	<p>Panel discussion – EIO &amp; MLA co-existence from the perspective of judges &amp; prosecutors</p> <p><b>Chairwoman:</b> Dr. Maria Angela Biasiotti</p> <p>Fabrizia Bemer, Ministry of Justice - Italy</p> <p>Jorge Espina, EUROJUST</p> <p>Ianina Lipara, European Judicial Network</p> <p>Teresa Magno, EUROJUST</p> <p>Eirik Tronnes Hansen, Prosecution - Norway</p> <p>Pedro Verdelho, General Prosecution Office - Portugal</p>
15.00 – 15.15	<b>Coffee Break</b>



This project was funded by the European Union's Justice Programme (2014-2020) under Grant Agreement No. 766468

LA/71135-2/5.4/JB/XB/tsa



# Annex 2: List of Participants



**JUSTICE PROGRAMME (2014-2020)**

**JUST-JCOO-CRIM-AG-2016**

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

**Grant Agreement No. 766468**

**EVIDENCE2E-CODEX**

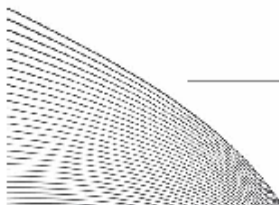
**Linking EVIDENCE into e-CODEX for EIO  
and MLA procedures in Europe**

**WP4 'STAKEHOLDER ENGAGEMENT, MUTUAL  
LEARNING AND CAPACITY BUILDING FOR  
PROFESSIONALS, POLICY MAKERS AND TECHNICIANS'**

**MEETING THE LEGAL COMMUNITY**

**15 January 2019**

**Press Club, Froissart straat 95, 1000 Brussels, Belgium**



This project was funded by the European Union's Justice  
Programme (2014-2020) under Grant Agreement No. 766468

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## Annex 3: Invitation Letter



### Invitation

Date 27 November 2018

Our Ref. LA/71135-1/5.4/IB/XB/tsa



Contact name  
Contact title  
Address

Contact

Subject Evidence2e-CODEX Stakeholder engagement with the Legal Community – 15 January 2019, Brussels, Belgium

Dear Mr./Ms.,

INTERPOL is participating in the [EVIDENCE2e-CODEX](#) research project aiming to facilitate the exchange of electronic evidence within the European Union and to enable international cooperation in the criminal sector. The project seeks to create a legally valid instrument to exchange digital evidence over the e-CODEX in the framework of mutual legal assistance (MLA) and European Investigative Order (EIO) procedures.

Funded by the European Union and conducted by a multidisciplinary international consortium, EVIDENCE2e-CODEX is based upon the results of two completed EU-funded projects - [EVIDENCE](#) and [e-CODEX](#). EVIDENCE2e-CODEX will pilot these projects' findings in real-life criminal justice use cases with the support of participating Ministries of Justice.

One of the project objectives is to ensure stakeholder engagement, mutual learning and capacity building for professionals, policy makers and technicians. To this end, the EVIDENCE2e-CODEX consortium will be organising a series of workshops that seek to provide stakeholders from the legal and technical communities with 'ready for use' information on EIO, electronic evidence and e-CODEX.

In this context, it is our pleasure to invite you on behalf of the project consortium to participate to the first workshop dedicated to "Stakeholder Engagement with the Legal Community". The event will be held on **15 January 2019 at the Council of Bars and Law Societies of Europe (CCBE) premises in Brussels, Belgium.**

The aim of the meeting is to share with the representatives of the legal community (i.e. prosecutors, judiciary, law enforcement, lawyers) the project's legal research outcomes and to collect their feedback on:

- The status of transposition and implementation of the EIO Directive in selected EU member states;
- The practical co-existence between EIO and MLA procedures and related legal issues;

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# Annex 4: CCBE Survey on exchange of data with lawyers in the context of the EIO

SURVEY ON EXCHANGE OF DATA WITH LAWYERS IN THE CONTEXT OF THE EIO
Q1. In your country, how can the issuing of an EIO be requested on behalf of a suspected or accused person?
Q2. Is there any specific procedure for this in place? Are there any preconditions to be met for requesting the issuance of an EIO?
Q3. If yes, a) is there a standard form or template for such request? b) what are the main steps of the procedure?
Q4. Are there any deadlines concerning the processing of requests for the issuing of an EIO (e.g. are judicial authorities obliged to respond to a request within a certain period of time)?
Q5. Which kind of data can the request for the issuing of an EIO cover? <i>(multiple answers possible)</i> .
Q6. Do you have any national definition of subscriber data, metadata and content data? If yes, please specify.
Q7. How do the relevant judicial authorities in your country transfer the data obtained through an EIO to lawyers?
Q8. In which format(s)? <i>(multiple answers possible)</i>
Q9. Are there any size limits? If yes, please specify



## **Appendices**

- A. WP4 Questionnaire on stakeholder identification**
- B. Report on Task 4.1 “Identifying and mapping stakeholders”**
- C. WP2 Joint questionnaire on the implementation of Directive 2014/41/EC**
- D. Event PowerPoint presentations**

