

Securing evidence across EU borders

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✘ The European Investigation Order (EIO) is proving its value as a practical tool for speeding up cross border criminal investigations in Europe. Judicial practitioners, however, stress the need for guidance and support, since the EIO requires a sound knowledge of national criminal law systems, quick access to the right contacts and a pragmatic and flexible approach. These are key conclusions in a new [report on the EIO](#) in practice, presented by Eurojust, the EU's Judicial Cooperation Unit. The report is based on input from judicial experts from EU Member States, EU institutions and academia.

On 19-20 September 2018, prosecutors, investigators and judicial experts from across the European Union gathered at Eurojust premises in The Hague to analyse and discuss the experiences on the ground of the first period of application of this new instrument. Eurojust presented those findings in an outcome report published in December 2018. A vast majority of the participants very much welcomed the EIO regime as they see it as a step forward in the area of cross-border evidence-gathering. Practitioners also agreed on the importance of an overall pragmatic and flexible approach. They acknowledged the need to interpret national law in light of EU law and particularly in line with the principles of mutual recognition and mutual trust, but also underlined the challenge of constantly searching for legally sound and practically feasible solutions between different national legal systems. Experts, therefore, welcomed the important bridge-making role of Eurojust, which has been actively assisting, advising and coordinating the national authorities in drafting, transmitting, recognising, and executing EIOs. The participants also underlined Eurojust's unique coordinating role in complex multilateral cases.

Background

The Directive on the European Investigation Order is a stand-alone legal instrument for evidence gathering that applies to all EU Member States, with the exception of Denmark and Ireland. It established a clear process for cooperation between judicial authorities in different Member States for gathering and preserving evidence, carrying out searches, hearings and financial checks, intercepting communications and transferring detainees. It replaced for the Member States bound by it the use of Letters of Request by introducing a standard request form and setting strict deadlines, limiting the reasons for refusing requests and protecting fundamental rights of the defendant. Whilst Member States were required to have their national implementation law in place by 22 May 2017, it is only since 15 September 2018 that the instrument has been fully operational in the Member States bound by it.

More information: