

Commission Updates on E-Evidence Negotiations with US and at Council of Europe

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News

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At the JHA Council meeting of 2-3 December 2019, the Commission updated the Council on the state of play of the negotiations for an EU-US agreement on cross-border access to e-evidence, on the one hand, and on a second additional Protocol to the Budapest Convention, on the other hand. The Council gave green light for both negotiations when it endorsed the respective mandates in June 2019 (see euclid 2/2019, p. 113). Regarding the EU-US agreement, three meetings took place (September, November, and December 2019), where the parties mainly stated their starting negotiating positions.

Negotiations on the second protocol to the Budapest Convention on Cyber-crime advanced at the Council of Europe, but several important topics have still to be addressed.

Both the EU-US agreement and the protocol to the Budapest Convention are designed to complete the respective EU regime on e-evidence which is currently negotiated between the European Parliament and the Council (see euclid 3/2019, pp. 181 et seq.). The new legal frameworks are to facilitate access to electronically stored data that is needed for prosecuting crimes. It would establish new forms of assistance, in particular by enabling law enforcement authorities to directly request private IT service providers to hand over the data. For further information about the ongoing developments in the field of e-evidence, see also euclid 3/2019, pp. 179 et seq., euclid 2/2019, pp. 113 et seq., and euclid 1/2019, pp. 38 et. seq. with further references.

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