

Commission's E-Evidence Plans Under Fire



Thomas Wahl

News

In addition to the EDPB and the CCBE, other organisations and academics voiced critical opinions on the Commission proposals of April 2014 on e-evidence (see eucrim 1/2018, pp. 35-36): two studies for the EP's LIBE committee – one by *Elodie Sellier and Anne Weyembergh*, which deals with issues of European cooperation in a more general way (see also eucrim 2/2018, p. 100) and another by *Martin Böse* that especially focuses on the e-evidence proposal – looked into the Commission plans and raised numerous critical issues:

- Legal basis of the e-evidence proposal;
- Added value of the proposal;
- Role of service providers in safeguarding fundamental rights;
- Limited legal remedies for the suspect;
- Legal certainty;
- Disputable distinction between access data and transactional data in light of the CJEU's case law.

Legal expert *Vanessa Franssen* delivered an initial [analysis on <europeanlawblog>](#). She raised similar issues concerning, *inter alia*, the legal basis of the proposal; the choice of legal instrument (i.e. the challenges of the chosen option for a Regulation); the impact of the fragmented, incomplete approach; and the scope of application. *Franssen* also points out that, in the meantime, civil society organisations (such as EDRI and CDT) and industry representatives (e.g. from DigitalEurope, EuroISPA and Microsoft) have issued opinions and are attempting to steer the institutional discussion.

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