

JHA Ministers' Debate on e-Evidence Legislation

Thomas Wahl

News

At their Council meeting of 4-5 June 2018, the JHA Ministers held a first policy debate on the Commission's proposals for a legislative EU framework on cross-border access to e-evidence. The legislative proposals were tabled on 17 April 2018 (see [eucrim 1-2018](#), pp. 35-36). They comprise (1) a proposal for a regulation on European production and preservation orders for electronic evidence in criminal matters and (2) a proposal for a directive laying down harmonised rules on the appointment of legal representatives for the purposes of gathering evidence in criminal proceedings.

The aim is to create a legal EU framework for judicial orders that can be addressed directly to legal representatives of service providers in another member state, without the intervention of an authority there.

The Ministers concluded the following:

- The scope of the new regulation should be extended to cover issues of direct access to e-evidence and real-time interception;
- The US CLOUD Act of March 2018 should closely be followed, and negotiations should start on an executive agreement between the EU and the USA as foreseen in the United States' legislation;
- In view of the plans for a second protocol of the Budapest Convention on cybercrime, coordination with the Council of Europe is needed, so that a common European approach can be developed.

The discussion on e-evidence remains high on the agenda and is going to be followed up at the next JHA meeting in October 2018.

AUTHOR

Thomas Wahl

Senior Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

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