

# Organisations Reiterate their Demand for a Fundamental Rights-Based Approach to Future E-Evidence Law



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European Law Forum: Prevention • Investigation • Prosecution

## News

**Thomas Wahl**

European media and journalists, civil society groups, legal professional organisations and technology companies reiterated their demand that the forthcoming EU legislation on “e-evidence”, which will ease the cross-border gathering and transfer of data for use in criminal proceedings, must include strong fundamental rights safeguards. In a [letter dated 18 May 2021](#), they regret that the negotiators in the trilogue have not fully taken into account the concerns that were previously voiced by the organisations (→ [eucri](#)m 3/2020, 194; for the trilogue negotiations, → [eucri](#)m 4/2020, 295-296). They criticize, *inter alia*, the current provisions on direct cooperation between law enforcement authorities and private companies holding data that those authorities are seeking. This direct cooperation “poses serious risks of violating human rights law by undermining key fundamental rights principles, including media freedom”. Key demands made by the stakeholders are:

- Greater and systematic involvement of the judicial authorities in the state where the requested data is located;
- Notification to and active confirmation by the judicial authorities in the executing state, whereby this should apply to the production of all data categories;
- Including the protection of the immunities and privileges of professionals, e.g., doctors, lawyers and journalists;
- Ensuring that production and preservation orders are subject to a prior judicial authorization or validation by a court or an independent administrative authority;
- Informing the affected person as soon as possible that the interference occurred.

It is also recommended that a secure data exchange system be set up to ensure data protection and security.

### AUTHOR

**Thomas Wahl**

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

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