



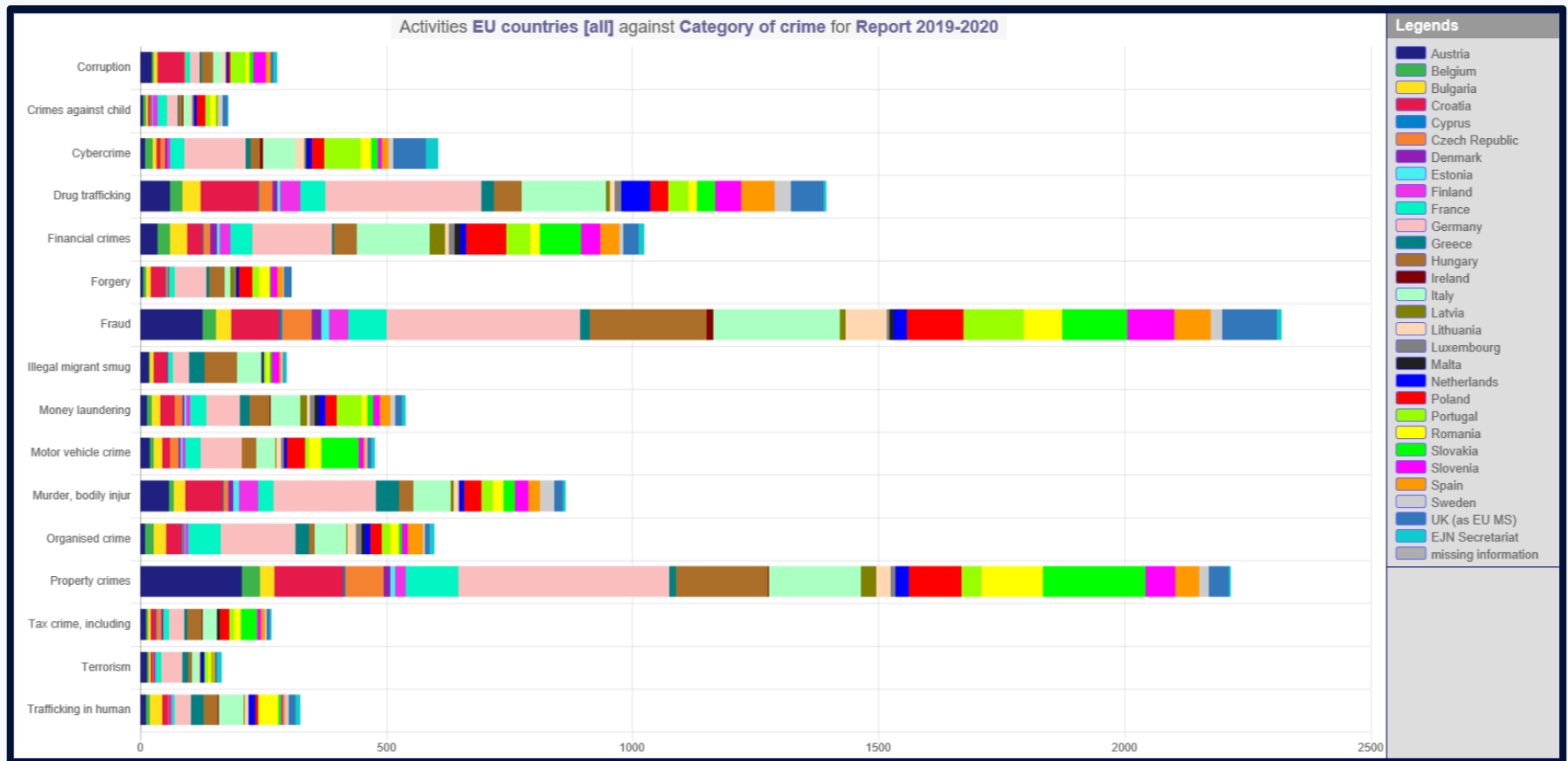
EUROPEAN JUDICIAL NETWORK

LAUNCHING CONFERENCE EUROMED JUSTICE PROGRAMME

The Hague, 2 and 3 February 2021

Cross-border transfer of electronic evidence and protection of personal data in judicial international cooperation in criminal matters in the Euro- Mediterranean Area

EJN solid experience in judicial cooperation *(partial reporting)*



EJN work on e-Evidence

Due to the increase of cases involving e-Evidence the EJN has taken the following steps:

- 2014 – Appointment of an EJN Contact Point for the United States/At USA request presentation under the Italian Presidency to raise awareness
- 2016 – Presentation made by Ken Harris – DoJ- during the SK Presidency
- 2017 – Training for the EJN Contact Points covering cooperation issues (probable cause!), including electronic evidence/ nomination of CPs at the DoJ Cyber Team
- 2018 – EJN Working Group on Electronic Evidence
- 2018 – At the invitation of the EU Commission started contributing to the SIRIUS Project
- 2019 – Started providing feedback to the EU Institutions on the legislative proposals;
- 2019 – Established a dedicated area of the EJN website on e-Evidence and started preparing the website to support the e-Evidence Digital Exchange System (e-DES platform);
- 2019 - the Finnish Presidency dedicated to discuss best practices on gathering e-Evidence;
- 2020 – Started its active contribution to the UN Practical Guide;
- 2020 – Published the e-Evidence Fiches Belges on the EJN website; and
- 2021 – Presented in COPEN its position and a comparison between the EIO and the legislative proposal



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European Judicial Network (EJN)

Réseau Judiciaire Européen (RJE)

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Member states

AT	BE	BG
HR	CY	CZ
DK	EE	FI
FR	DE	GR
HU	IE	IT
LV	LT	LU
MT	NL	PL
PT	RO	SK
SI	ES	SE

Candidate countries

AL	MK	ME
RS	TR	

Associated Countries

IS	LI	NO	CH
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Third Countries

UK

The designations employed and the presentation of material on the map do not imply the expression of any opinion whatsoever on the part of the European Union concerning the legal status of any country, territory or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.



Atlas



Compendium



Fiches Belges



Judicial Library



Contact Points



EUROPEAN JUDICIAL NETWORK

Connecting Justice

EJN e-Evidence Fiches Belges:

How to obtain e-Evidence from the EU Member States?

1. Definition of electronic evidence;
2. Which measures are possible in your Member State under International Judicial Cooperation?;
3. Procedure for obtaining electronic evidence: National and International procedures;
4. International legal framework applicable for this measure in the Member State;
5. Competent authority to receive and execute your request;
6. Accepted languages;
7. Definition of data category and examples: subscriber, traffic/transaction and content data in terms of requirements and thresholds for access to data needed in specific criminal investigations;
8. Voluntary – disclosure: admissibility in the procedures and possibilities for the companies in the MS;
9. Data retention periods;
10. Procedure for preservation of data;
11. Procedure for data production; and
12. Practical information: additional details and tips.

EJN e-Evidence Fiches Belges: definition *(example)*

Fiche Belge on electronic evidence



Choose country: Netherlands Slovenia

Electronic evidence: Netherlands & Slovenia

1. DEFINITION

Netherlands	Slovenia
<p>Definition of electronic evidence</p> <p>Electronic evidence is any probative information which is generated, stored or transmitted in digital form by electronic devices that are relevant in investigating and prosecuting criminal offences (to identify or localize a suspect and obtain information about their activities or determine the extent of the damage/victims, to use the information as evidence in a case etc.). Electronic evidence refers to various types of data in electronic form (historical or streaming) —including 'content data' such as e-mails, text messages, photographs and videos —often stored on the servers of online service providers, as well as other categories of data, such as subscriber data or traffic information regarding an online account.</p>	<p>Slovenian criminal procedure code (ZKP) contains several provisions which indirectly define electronic evidence as "information/data in an electronic format" (see for example Art. 219.a of ZKP)¹.</p> <p>Moreover the following provisions of the Slovene Electronic Business and Electronic Signature Act (ZEPEP) are also relevant in terms of defining the scope and content of the term electronic evidence:</p> <ul style="list-style-type: none">• "information/data in an electronic format is data/information which is formatted, saved, sent, received or exchanged electronically" (see Art. 2 of ZEPEP)• data/information in electronic format may not be denied validity or evidentiary value based on the fact that it is in an electronic format" (see Art. 4 of ZEPEP)

Definition

Possible measures

National procedures

International procedures

International legal framework

Competent authorities

Accepted languages

Definition of data category

Voluntary-disclosure: issuing state

Voluntary-disclosure: executing state

Data retention periods

Procedure data preservation

Procedure data production

Practical information

Identified needs for practitioners in the EU Member States

- Support the dialogue with other regional networks to facilitate the understanding and improve the access to e-Evidence (e.g. developing of the Fiches Belges for other regions)
- **Support** the dissemination of the information on electronic evidence by **continuing the population of the EJN website** and increasing awareness about the SIRIUS platform, EuroMed Guides, UN Practical Guide and other resources;
- Continue the **training of EJN Contact Points** (as consulted by their colleagues) and practitioners
- Provide **feedback to the EU Institutions/national authorities** to improve the current procedures for gathering electronic evidence
- **Complete the role of the EJN to support practitioners** on the EU legislative proposals – *jointly with Eurojust and EJC*



Thank you!

European Judicial Network

Ianina Lipara
EJN Secretariat Coordinator

www.ejn-crimjust.europa.eu