

Criminal Justice Mutual Legal Assistance/EURegio

Although the competence for cross border policing or prosecuting is not part of the establishment of the internal market, there have been instruments in place for Judicial authorities to find help in other countries.

First, there was the Council of Europe's Convention on Mutual Assistance in Criminal Matters from 1959. Then, several other procedures came into existence to legitimise the cross border cooperation between Public Prosecutor's Offices. In May 2000 the European Council adopted an Act establishing Mutual Assistance in Criminal Matters between the Member States. Later the Framework Decisions 2003/577/JHA and 2008/978/JHA were adopted. The next step in cross border cooperation between judicial authorities will be the European Investigation Order (EIO), established through Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014.

The e-CODEX use case Mutual Legal Assistance

(MLA) focuses on the cooperation between public judicial authorities. EURegio, a pilot proposed by the Ministries of Justice of BE, NL and North Rhine-Westphalia (DE), is working on the digitalisation of data exchange for criminal matters. The pilot is a cooperation between e-CODEX and the 'Tri-national working group on digitalisation of EURegios' cross-border communication in criminal matters'. An essential element of effective cross-border cooperation is the possibility of quick and secure data exchange between national prosecuting authorities.

On March 17 2014 a proof of concept was presented to ministers. After completion of the piloting activities, the process will be a regular instrument for prosecutors and their administrative assistants. The inclusion of courts and other judicial authorities outside of the fore-mentioned Euro-regions is also being considered.



Mutual Legal Assistance is useful in situations such as:

"During an ongoing investigation into a network of drug-sellers, the prosecution service of Cologne discovers that a huge Cannabis plantation is being maintained in a storehouse close to the Belgian-Dutch border. The Public Prosecutors Office in Cologne sends a request for search and freeze to the competent judicial authorities in Belgium and the Netherlands using the e-CODEX infrastructure."

Requests for legal assistance (currently up to 5000 per year), follow-up correspondence and enquiries for information are still sent by traditional means, i.e. by post or fax. This can result in mail delivery times of several days. The process will move from a purely paper based system to a high-speed digital exchange.

CODEX provides added value by connecting the end user solutions for international legal assistance in Belgium, Germany and the Netherlands, concretely visible in three different aspects:

- Direct communication between end user solutions creates an unbreakable information circle which assures secure, reliable and traceable

communication between judicial authorities in different Member States

- The digital communication speeds up the legal assistance procedure as within minutes a sending prosecutor will be notified of successful or unsuccessful delivery. Within 3 days the prosecutor will be informed about the eligibility of the request for legal assistance in the executing country
- The transition from using free format text for requests for legal assistance to the structured form of EIO will be enhanced by the partly structured forms used in the MLA use case

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