

CALL FOR EVIDENCE FOR AN INITIATIVE (without an impact assessment)

This document aims to inform the public and stakeholders about the Commission’s work, so they can provide feedback and participate effectively in consultation activities.

We ask these groups to provide views on the Commission’s understanding of the problem and possible solutions, and to give us any relevant information they may have.

TITLE OF THE INITIATIVE	European Investigation Order Directive
LEAD DG – RESPONSIBLE UNIT	DG JUST – A.5
LIKELY TYPE OF INITIATIVE	Legislative initiative
INDICATIVE TIMING	Planned start date Q3 2025 Planned completion Q4 2026
ADDITIONAL INFORMATION	Taking of evidence in another EU country - European Commission

This document is for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by this document, including its timing, are subject to change.

A. Political context, problem definition and subsidiarity check

Political context

Directive 2014/41/EU on the European Investigation Order in criminal matters (‘the EIO Directive’) is the main EU cross-border judicial cooperation instrument for gathering evidence from another Member State. It has applied since 22 May 2017 and works well in practice. However, several recent reports highlight the need to govern additional aspects of cross-border investigations in the instrument and recommend targeted legislative improvements. These reports include (i) [the final report on the 10th round of mutual evaluations](#) ⁽¹⁾; (ii) the concluding [report from the High-Level Group \(HLG\) on access to data for effective law enforcement](#); (iii) the Commission staff working document ‘[Assessment of the effect given by the Member States to Council Recommendation \(EU\) 2022/915 of 9 June 2022 on operational law enforcement cooperation](#)’ ⁽²⁾; (iv) the findings of Eurojust ⁽³⁾ and the [European Judicial Network in criminal matters](#) ⁽⁴⁾ (see ‘Practical need for EU action’ below).

In her mission letter, European Commission President von der Leyen has tasked European Commissioner McGrath to ‘develop a strategy on the use of digital technologies, including of AI, to make EU civil and criminal justice systems more efficient, resilient and secure’. In the [ProtectEU strategy](#) ⁽⁵⁾ and the [roadmap for lawful and effective access to data for law enforcement](#), the Commission undertakes to assess the need to strengthen the European Investigation Order (EIO). This work will contribute to tackling more efficiently serious and organised crime by strengthening judicial cooperation and providing EU criminal justice systems with effective tools to address emerging threats. The High-level Forum on the Future of EU Criminal Justice expressed support for targeted amendments.

Problem the initiative aims to tackle

The initiative addresses two main aspects:

¹ Endorsed by the Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS) on 21 November 2024.

² SWD(2025) 36 final of 31.1.2025.

³ Operational Topic on Interception of Telecommunication, Summary and compilation of replies, June 2024.

⁴ Comments and Conclusions of the 59th Plenary Meeting of the European Judicial Network (EJN) (Prague, 9 – 11 November 2022).

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on ProtectEU: a European Internal Security Strategy (COM/2025/148 final).

1. Improvements in the cross-border gathering of evidence in criminal matters, as identified during the 10th round of mutual evaluations. The report highlights several additions that would close gaps in the legal framework. It points to the absence of specific rules in the EIO legal framework, which leads to practical difficulties in cross-border evidence gathering and may result in legal uncertainty regarding the admissibility of evidence obtained through the EIO. Specifically, the additions and/or amendments concern (i) the use of technical devices intended to record the movements of a person and/or their conversations, where such devices cross the territory of another Member State; (ii) the procedure for requesting consent to use information previously shared by law enforcement authorities as evidence in criminal proceedings; (iii) the EIO form (Annex A to the EIO Directive); (iv) the rule of speciality; (v) the provisions on interception of telecommunications; (vi) cross-border surveillance and the relationship between the EIO Directive with Article 40 of the Convention Implementing the Schengen Agreement.
2. A fragmented legal landscape across Member States regarding the remote participation of suspects, accused persons and victims of crime in court hearings by videoconference from another Member State. Such remote participation is currently not regulated at the EU level, which leads to inconsistent practices, barriers to access to justice and the exercise of free movement, and legal uncertainty. For victims of crime, incorporating rules for their remote participation in criminal court hearings would extend beyond what the current Victims' Rights Directive⁽⁶⁾ and its proposed revision cover⁽⁷⁾, as these do not address the specific procedural and technical safeguards for remote participation.

Basis for EU action (legal basis and subsidiarity check)

The EIO is already established at EU level as an instrument of cross-border judicial cooperation in criminal matters for the gathering of evidence. By its very nature, the EIO addresses cross-border issues and therefore cannot be effectively dealt with by individual Member States acting alone. Since the EU has already exercised its powers in this area, further action should also be taken at EU level. Regarding common rules for participation in criminal court hearings when the suspect or accused person, or victim of crime is in another Member State, the cross-border nature of this issue means that no single Member State can establish these rules on its own.

Legal basis

The initiative is based on Article 82(1) of the Treaty on the Functioning of the European Union (TFEU). It mandates the Commission to propose measures to (i) lay down rules and procedures ensuring mutual recognition across the EU of all forms of judgments and judicial decisions; and (ii) facilitate cooperation between Member States' judicial or equivalent authorities in relation to proceedings in criminal matters and the enforcement of decisions.

Practical need for EU action

Cross-border crime cannot be tackled without effective cross-border judicial cooperation. Extensive evidence shows that the current legal framework would benefit from improvements to strengthen the effective functioning of the instrument and to cover additional aspects of cross-border cooperation not yet regulated. The findings and recommendations of the 10th round of mutual evaluations confirm the added value of tackling those issues at EU level, particularly in light of the current fragmented legal framework and divergent national practices.

Establishing common rules on the remote participation of suspects, accused persons and victims in criminal court hearings by videoconference from another Member State is necessary to improve legal certainty and avoid further fragmentation of rules across the Member States that could ultimately hinder judicial cooperation and affect the enjoyment of key procedural rights and safeguards guaranteed under EU law. Legislating on these matters at EU level could enhance the right to be present at trial, avoid trials held in absence of the suspect or accused person and the application of very intrusive coercive measures, such as the issuance of European Arrest Warrants ('EAW'), as well as address the specific needs of victims of crime, minimising the risk of secondary victimisation.

6 Directive 2012/29/EU.

7 Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, COM/2023/424 final.

The need for clear rules on this matter also emerged from a number of requests for a preliminary ruling addressed to the Court of Justice of the European Union (CJEU) on the scope of the EIO Directive ⁽⁸⁾.

B. What does the initiative aim to achieve and how

The aim of the initiative is to enable Member States to effectively respond to crime by improving and supplementing cross-border judicial cooperation procedures for the gathering of evidence in criminal matters, as set out in the EIO Directive. To achieve this, the initiative aims to address areas identified as potentially benefiting from a legislative intervention at EU level, as highlighted in the reports of the 10th round of mutual evaluations and the High-Level Group on access to data for effective law enforcement. In addition, clarifications to the EIO Directive that follow from the jurisprudence of the CJEU should be considered. The initiative also aims to facilitate the remote participation of suspects, accused persons and victims in court hearings by videoconference from another Member State.

For most of the areas of improvement, the only real option is proposing amendments to the EIO Directive. While some of the issues identified could potentially be addressed by non-legislative measures, such measures would not ensure the need for legal certainty.

Likely impacts

Likely impact on security: this initiative is expected to strengthen the EU's capacity to combat cross-border crime by improving judicial cooperation in evidence gathering.

Likely economic impacts: the initiative will improve the efficiency of investigations, including economic crimes, such as fraud and money laundering, which in turn contribute to Member States', the public's and businesses' economic interests. While some transitional costs may arise (costs in updating the decentralised IT system for communication between competent authorities, costs in training staff and adapting national procedures), these are expected to be mostly one-off or transitional. Member States may need to provide for new or updated videoconferencing tools that can ensure the protection of necessary procedural safeguards, which could imply certain costs for national administrations. However, these costs are expected to be offset by the following benefits: fall in trials held in absence of the suspect or accused person, faster proceedings, fewer EAW requests, and transport costs economy, in particular for parties that can attend remotely.

Likely social impact: improved cross-border judicial cooperation will boost the fight against serious and organised crime, such as terrorism, human trafficking, cybercrime, which will in turn benefit society by strengthening public safety and public security.

Likely environmental impacts: though limited, positive effects are expected from reduced travel due to remote participation in hearings, as well as more effective prosecution of cross-border environmental crime.

Likely impacts on fundamental rights: the initiative is expected to increase legal certainty for suspects, accused persons and victims of crime, and ensure the respect for fundamental rights and the principle of proportionality. The initiative is expected to make the exercise of the right to a fair and public hearing easier. In particular, in cases where the person in question would otherwise be prevented from physically attending the trial. It would therefore reduce the number of trials held in absence of the suspect or accused person. Moreover, it would reduce the need for the authorities to rely on the EAW for the purpose of ensuring the presence of a person at their trial. It is also expected that videoconferencing will facilitate the participation of victims in a manner that minimises the risk of secondary victimisation.

Future monitoring

Monitoring arrangements will be analysed in the analytical supporting document accompanying the initiative. The initiative will include legal provisions on data collection, as well as requirements for the Commission to adopt a report on the progress made by Member States in implementing the new legislation. The Commission will also engage with Member States' competent authorities on the implementation of the initiative through expert group meetings. Furthermore, Eurojust, the European Judicial Network in criminal matters (EJN) and the European Public Prosecutor's Office (EPPO) play an important role in the application of cross-border judicial cooperation instruments. These bodies and forums, along with other professional networks, can be used to gather feedback from practitioners on the application of specific instruments and to identify practical challenges.

C. Better regulation

8 Judgment of the Court of Justice of 4 July 2024, FP and Others (Procès par visioconférence), C-760/22, EU:C:2024:574; Judgment of the Court of Justice of 6 June 2024, AVVA and Others (Trial by videoconference in the absence of a European Investigation Order), joined Cases C-255/23 and C-285/23, EU:C:2024:462. Pending preliminary reference by Tribunale di Firenze in case C-325/24.

<p>Impact assessment</p>
<p>European Commissioner Dombrovskis has granted the initiative a derogation from the requirement to carry out an impact assessment. There were two main grounds for this derogation.</p> <ol style="list-style-type: none"> 1. No options: the amendments are technical and legal in nature and are targeted to specific issues only. The recommendations from the 10th round of mutual evaluations received broad support from Member State experts. 2. No relevant negative economic, social, environmental impacts. Such an initiative is expected to yield positive outcomes – particularly in terms of social and fundamental rights, with no significant adverse effects. The associated costs for public authorities, in particular those related to the establishment of rules on remote participation to criminal court hearings, are expected to be offset by a number of benefits. Other costs are expected to be minimal. <p>Moreover, the initiative does not raise subsidiarity concerns. It is based on Article 82(1) TFEU and addresses only cross-border aspects of evidence gathering. It does not harmonise or change national legal frameworks governing the gathering of evidence in domestic cases in the Member States. As the initiative is limited to cross-border matters and concerns a targeted amendment of the existing EIO Directive, it cannot be effectively addressed by individual Member States acting alone.</p> <p>The EIO Directive has already undergone comprehensive backward-looking assessment as part of the 10th round of mutual evaluations, which led to specific recommendations to address legislative action elements not yet covered by the Directive and amendments of existing provisions. The current revision is based on this evaluative work, coordinated by the Council. Although the evaluations did not provide detailed figures on the use or cost of EIO, they confirmed its frequent use by Member States – backed by Eurojust data.</p> <p>The mutual evaluations lead us to conclude that the range of viable policy alternatives is limited.</p> <p>However, an analytical staff working document will accompany the initiative to present the policy context, the problem definition, the policy choice(s) made and the expected impacts, including the results of stakeholders' consultations activities and future monitoring arrangements.</p>
<p>Consultation strategy</p>
<p>To prepare the initiative, the Commission will carry out targeted consultations to gather the views of a broad range of relevant public and private stakeholders, experts, and practitioners. These consultations will involve both qualitative and quantitative data collection and will take place through written contributions as well as meetings, including meetings of the 2025 High-Level Forum on the Future of EU Criminal Justice.</p> <p>The consultation strategy will include:</p> <ul style="list-style-type: none"> • desk research; • expert meetings; • targeted questionnaires addressed to Member States, Eurojust, EJM, the EU Agency for Fundamental Rights (FRA), the EPPO, and Europol. <p>Several consultations have already taken place, including meetings with Member State experts on 31 March 2025 and 2 July 2025, and a session of the Commission Expert Group on EU Criminal Policy on 14 May 2025.</p>
<p>Why we are consulting?</p>
<p>The consultation aims to gather the views of stakeholders on the initiative and will inform the evidence-based analysis underpinning this initiative. This will also help the Commission to determine which elements should be included in the proposal and to ensure that the proposal will help practitioners, as well as preserve and strengthen the rights of victims and of suspects and accused persons.</p>
<p>Target audience</p>
<p>The main stakeholders identified include:</p> <ul style="list-style-type: none"> - Member States' national authorities; - EU agencies, bodies and practitioners' networks, notably the EPPO, Europol, Eurojust, FRA, the EJM; - legal practitioners and their associations, including bar associations; - civil society, in particular NGOs promoting fair trial rights and victims' rights, as well as defence lawyers' associations (such as CCBE and ECBA); - research and academia.