

THE ADMISSIBILITY OF ELECTRONIC EVIDENCE IN COURT IN EUROPE

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Electronic evidence has been used in most states in Europe for years, although the obtaining, seizure, analysis and presentation of the electronic evidence before an adjudicator is carried out in different ways in each member State. Since October 2005, a group of European multidisciplinary experts have been engaged in setting out the different methods by which electronic evidence is adduced in the courts of sixteen member states and one candidate country, Romania, under the Admissibility of the Electronic Evidence in Court in Europe (A.E.E.C.) project.

The evolution of communication systems has dramatically increased the production of digital documents in all companies throughout the world, which has led some lawyers to raise such issues as the acceptability of evidence in electronic format; the rules about admissibility and rules about obtaining evidence in electronic format.

In October 2005, the Directorate-General of the European Commission in Brussels through its 'Fight Unit against Economic & Financial Crime' organized a meeting of experts in the field of electronic evidence. The meeting in Brussels debated electronic evidence in the 25 Member States of the European Union within the framework of the European efforts to fight organized crime. The meeting gathered representatives from Europol, Interpol and from some Home Affairs Departments, including delegates from the European Commission. Various plans, projects and studies carried out by both the Member States authorities and some European organizations were considered. It became clear that the projects were not well known and were fragmentary in nature.

The A.E.E.C. Project has been designed to provide a response to this situation and to many other questions,

since the lack of knowledge in this field is delaying and hindering procedures to incriminate the offenders. The study is led by the Spanish company Cybex, specializing in obtaining, analysing and the management of electronic evidence under the Framework Program 'Fight against Terrorism and Organized Crime: prevention, preparedness and response'. The objective of the project is to suggest solutions and conclusions with respect to the admissibility of electronic evidence

The objective is to understand the existing legislation, and how the situation can be improved. The final report, which will be published in Spanish, English and French, is intended to be a useful tool for all the individuals related to electronic evidence (technicians, lawyers, magistrates) when seeking advice about the criteria of admissibility which are requested in every country that has taken part in this study. The intention is to create a European network for the cooperation in proceedings and practices related to the admissibility of electronic evidence in courts in Europe. Secondly, this regulatory attempt will be aimed at a definitive set of European standardized criteria. Once the project has attained the suitable degree of development, the definitive results will be put forward for the European Commission to consider a future decision on the subject. A final conference will be also held in November 2006 in Barcelona to disseminate the conclusions for European professionals, researchers and the media.

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