

Meeting of the 24/7 points of contact (CP) of the Budapest Convention on Cybercrime

The Hague, 26-27 September 2017

Summary report

The Secretariat of the Cybercrime Convention Committee (T-CY) with the support of Cybercrime@Octopus, GLACY+, iPROCEEDS and Cybercrime@EAP II projects organised a meeting of the 24/7 Network of contact points under Article 35 of the Budapest Convention on Cybercrime, on 26 and 27 September 2017 at EUROPOL, The Hague, Netherlands.

Fifty-six representatives of CP from Albania, Argentina, Armenia, Australia, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Cape Verde, Canada, Costa Rica, Chile, Czech Republic, Denmark, Dominican Republic, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Hungary, Italy, Latvia, Mauritius, Mexico, Moldova, Morocco, Montenegro, Netherlands, Norway, Panama, Philippines, Poland, Romania, Senegal, Serbia, Slovakia, Spain, Sri Lanka, Tonga, Turkey, Ukraine, United Kingdom and United States attended the meeting.

The workshop represented an opportunity for representatives of 24/7 contact points of Parties to the Convention to strengthen relations within the Network. It permitted also the representatives of countries seeking accession to the Budapest Convention to learn more about the establishment, role and functioning of the 24/7 CP Network.

During the meeting, participants engaged in constructive discussions, identified good practices and possible gaps, and discussed solutions to improve the functioning of the Network.

With regard to the role, organization and responsibilities of 24/7 contact points participants underlined the relevance of this instrument for international cooperation. The respective advantages of having contact points set up within police and prosecutorial services and with the necessary specialisation were discussed.

Under Article 35 Budapest Convention, Parties are in principle free to decide within which institution to set up a contact point as long as a contact point is able to efficiently fulfil its functions, that is, ensure internal coordination, training of staff, ensure or support executing/enforcing requests.

Additional debates stressed the responsibility of contact points for providing technical advices/support to other countries, the execution of preservation requests and the facilitation of the MLA requests. The general conclusion was that a CP should be open and proactive in assisting other countries in criminal investigations related to cybercrime and the collection of electronic evidence.

Having two 24/7 contact points – one within the Police and one within the Prosecution – was considered an option that may facilitate the processing and execution of the preservation requests.

During the following session the representatives of contact points discussed between themselves and shared knowledge about their respective role and responsibilities.

A presentation of examples of cybercrime investigations in which 24/7 contact points facilitated cooperation between countries was followed by debates on the format and content of requests, communication methods, types of information sought, and their use.

Best practices included proper communication between the Parties on procedures to be followed for sending and executing preservation requests, notification of receipt of a request and of the intention to follow up to a preservation request with an MLA request.

The representative of the US Department of Justice presented the 24/7 CP network established under the G7, the responsibilities of these CPs, procedures and types of requests processed. The similarities and the cooperation with the 24/7 CP established under Budapest Convention were underlined during this session.

Templates regarding requests for preservation of data according to Article 29 Budapest Convention were discussed by participants. The templates were appreciated as useful tools facilitating international cooperation.

Participants discussed in subgroups practical aspects regarding the setting up and organisation of a 24/7 contact point in order to identify strengths, gaps and recommendations for future improvements. Results were then discussed in the plenary.

Moreover, results of a survey on the functioning and responsibilities of the 24/7 contact points were presented with regard to staffing, training, types of requests handled, statistics, processing of MLA requests.

In addition, representatives of Europol's EC3 and the European Commission briefed the audience on EC3's experience with regard to international cooperation in criminal matters, use of contact points and the exchange of information within the cooperation Network established in accordance with Directive 2013/40 on attacks against information systems.

A non-exhaustive list of strengths of the 24/7 contact points network, as identified by participants during the meeting includes:

- It is a trustworthy Network with increasingly strong relations between members.
- Cooperation within the Network is expeditious, efficient, in real time and successful.
- The list of contact points is kept up to date and thus reliable.
- Generally, contact points are available 24/7.
- Electronic data can be expeditiously preserved.
- The contact points are formed by multidisciplinary and qualified teams.

- The electronic data retained through the use of the network and additionally collected through subsequent MLA procedures can be used as evidence in criminal cases.
- The Network can be used for obtaining information on legal frameworks of the counterpart.
- The Network can facilitate MLA procedures.

Practices to be avoided include, for example:

- 24/7 contact points are available only during working hours.
- 24/7 contact points not providing notifications including the confirmation of the receipt for the request.
- Requests are sent through one channel and the answers are received through another channel.
- Preservation request is not followed by MLA request for the preserved data.
- 24/7 contact points reject preservation requests and ask for MLA to be followed instead.

Participants also concluded that there is still room for improvement in the functioning of the Network, and that further measures could be taken as to make it more functional. Such measures could include:

1. The organisation of the 24/7 contact points regardless of its (institutional) location should envisaged:
 - To have technically skilled staff
 - To have English speaking staff
 - To provide training for the new staff
 - To allocate the necessary staff according to the volume of work
 - To have internal working procedure and to use templates
 - To use institutional e-mail accounts like 247cp@institution.gov.country
 - To use digital signature and encryption for sending the request.
2. The organisation, role and responsibilities of the 24/7 contact points should be included in regulatory frameworks so as to have a clearer legal basis.
3. A broader approach regarding the responsibilities of contact points should be followed with regard to support to the exchange of information and facilitation of MLA requests for the benefit of criminal investigations.
4. Preservation powers according to the Budapest Convention (articles 16, 17, 29 and 30) need to be transposed directly into national legislation in order to increase efficiency and clarity in the execution of requests.
5. 24/7 contact points to actively promote their role and functions within their national criminal justice system.
6. The creation of a web portal/page to make available information to foreign counterparts as well as service providers on the responsibilities of 24/7 contact points and internal legislation and procedures for executing preservation requests.
7. 24/7 contact points should follow up and give feedback, including by confirming receipt of requests.

8. Emergency requests should be followed by phone calls for confirmation and provision of additional information.
9. An MoU or similar agreement between 24/7 contact points and service providers should be agreed in order to facilitate the execution of preservation requests, including the establishment of the single points of contact (SPOC) to liaise with ISPs and ensure their availability to execute emergency requests.
10. Templates for requesting data developed by Council of Europe to be finalised and used for cooperation within the 24/7 contact points network.
11. The creation of a dedicated portal for 24/7 contact points to keep the information “alive” and up-to-date, including not only basic procedures but also information of each Party’s legal requirements, data retention regulations, retention and preservation periods. This should facilitate the work of on-duty agents.
12. The creation of specialised cybercrime units within the police and prosecution to facilitate the execution of the request handled by 24/7 contact points or to function as contact points.
13. Regular meetings of contact points and the organization of one dedicated workshop in the next Octopus Conference should be considered.

The overall conclusion was that the 24/7 contact points Network plays an important role in facilitating expedited international cooperation between the criminal justice authorities of Parties to the Budapest Convention.

Contact

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Appendix 1

Meeting agenda

11 September 2017

Meeting of the 24/7 Network of Contact Points of the Budapest Convention on Cybercrime

The Hague, Netherlands, 26-27 (AM) September 2017

EUROPOL Headquarters, Eisenhowerlaan 73 2517 KK The Hague, The Netherlands
organised by the Secretariat of the Cybercrime Convention Committee with the support of
Cybercrime@Octopus, GLACY+, iPROCEEDS and Cybercrime@EAP II projects

AGENDA

26 September 2017 (Day 1)	
8h30	Registration
9h00	Opening session Opening remarks by Mr Steven Wilson, Head of EC3
9h15	Introductory panel: What is the role of a 24/7 contact point? Participant will engage in a warm up discussion regarding general competences and role of the 24/7 contact points within international cooperation in criminal matters.
10h00	Getting to know your counterparts Contact points will discuss their profile (set up and powers) in breakout groups. Each CP will then present another CP in the plenary.
11h00	Coffee break
11h15	Getting to know your counterparts (continued)
12h00	Case studies <ul style="list-style-type: none">- Request for data preservation (Article 29)- Request for subscriber information (Article 31)
13h00	Lunch break
14h00	Templates for data requests Participants will be invited to review draft templates for requests for data preservation and for requests for stored data.
16h00	Coffee break
16h15	Do's, don'ts and recommendations for the future: group work Contact points will discuss in breakout groups to draw up a list of good practices and of practices to be avoided as well as recommendations to improve the

	functioning of the 24/7 network.
18h00	End of day 1
27 September 2017 (Day 2)	
9h00	Do's, don'ts and recommendations for the future: presentation Break out groups will present the results of their work of the previous afternoon.
10h30	Coffee break
10h45	Exchange of views with representatives of INTERPOL and EUROPOL Philipp Amann, Head of EC3 Strategy, will share EC3's experience with regard to international cooperation in criminal matters and use of contact points. Michele Socco, European Commission - Directorate General for Migration and Home Affairs, Unit D4, Cybercrime will speak about EC developments regarding international cooperation in criminal matters and use of contact points.
11h30	Summary and the way forward
12h00	End of the workshop