THE STATE AND EFFECTIVENESS OF CYBERCRIME LEGISLATION - EXPERIENCE AND GOOD PRACTICE TO BE SHARED

The United States became a Party to the Convention on Cybercrime in January 2007. It was not necessary to alter US law to comply with the convention.

The US is a strong supporter of broad accession to the convention.

Preservation

Many countries have laws requiring Internet service providers to retain data routinely. However, there is no such law in the US. ISPs retain or destroy data according to their private business decisions. For this reason, the law establishing Apreservation,@ the temporary freezing of the data so that it is not destroyed, has been crucial both for US domestic investigations and for assisting other countries.

Procedural tools

Adequate legal authority to seize and search computers, to trace electronic traffic, and to obtain subscriber information is extremely important. This is true both in US domestic cases and in assisting other countries, and it is true both for classic computer crime cases and for physical-world cases that depend on electronic evidence - for example, emailed threats of violence.

Immediate disclosure to prevent death or serious injury

Generally, in the US, there are strict rules that prevent ISPs from disclosing information to the government, including law enforcement, without formal processes or court orders. However, there is a law that permits ISPs to make disclosures without such authorizations Aif the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.@ This provision has been very useful again for the US domestically and for assisting other countries.

Amendment of the chief US computer crime statute

The primary US computer crime statute is now relatively old, but it has been amended numerous times as threats and technology have advanced. These amendments have included increases in penalties where computer networks are used to injure people or to damage critical infrastructures.