

Meeting the challenge of cybercrime in Latin America

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International cooperation on cybercrime: Challenges

- Transnational character of computer crimes
- Lack of appropriate legislation on cybercrime and lack of harmonization between the different national laws
- Insufficient legal powers for investigation, including inapplicability of seizure powers to intangibles such as computer data
- Lack of specialised personnel and equipment



“I'd like to change the design of the Internet by introducing regulation - Internet passports, Internet police, and international agreement - about following Internet standards.

And if some countries don't agree with or don't pay attention to the agreement, just cut them off.”

“Governments understand that the problem is a very important one to tackle but they behave in a national way.”

Eugene Kaspersky



Fighting cybercrime

Needs to be addressed:

- Policies and awareness of decision-makers
- Harmonised and effective legislation
- Regional and international cooperation
- Law enforcement capacities and training
- Judicial training
- Law enforcement – Internet service provider cooperation

e.g. standardised systems for operational and strategic information exchange, permanent contact points, standard request forms etc. (based on the guidelines for law enforcement/ISP cooperation developed by the Council of Europe in April 2008)



Regional and international cooperation: Difficulties

- Limitations regarding the skills, knowledge and training of judges and to some extent prosecutors with a direct impact also on the mutual legal assistance process (e.g. difficulties in understanding cybercrime matters; reluctance to open a case or issue search warrants etc)
- Insufficient use of the possibility provided by international agreements for direct contacts between judicial authorities in urgent cases and efficient channels of communication
- The involvement of Contact Points (CP) network established under the Convention in the MLA process is too limited
- Not all CP are sufficiently trained, resourced or available to assist competent authorities and facilitate the process.
- The authorities for MLA of many countries receive a large volume of requests



Regional and international cooperation:

- **Create functioning 24/7 points of contact for urgent cooperation**
- **Engage in direct police to police or prosecutor to prosecutor cooperation**
- **Engage in expedited mutual legal assistance**
- **Training on cybercrime for police, judges and prosecutors**
- **Fully apply other measures for international cooperation foreseen in Chapter III of the Budapest Convention**



Scope of the Budapest Convention

Criminalising conduct

- Illegal accesss
- Illegal interception
- Data interference
- System interference
- Misuse of devices
- Fraud and forgery
- Child pornography
- IPR-offences



Procedural tools

- Expedited preservation
- Search and seizure
- Interception of computer data



International cooperation

- Extradition
- MLA
- Spontaneous information
- Expedited preservation
- MLA for accessing computer data
- MLA for interception
- 24/7 points of contact

Harmonisation



Budapest Convention on Cybercrime

- International treaty dealing on cybercrime
- Proven value as a guideline for drafting legislation on cybercrime
- Provides important tools for law enforcement to investigate cybercrime
- Ensure adequate protection of human rights and liberties according to the relevant international documents
- Flexible mechanisms to adapt its provisions to different legal systems

CC provides for countries:

- Harmonisation of criminal law provisions on cybercrime with those of other countries
- Legal and institutional basis for international LE and judicial cooperation
- Participation in the Consultations of the Parties (T-CY)
- The treaty as a platform facilitating public-private cooperation



Convention provides global standards and a framework for an effective fast international cooperation

*THANK YOU FOR YOUR
ATTENTION*

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