

CONCEPT PAPER

Training manual on international cooperation

***GLACY - Launching conference & workshops
(Dakar, Senegal, 24 - 27 March 2014)***

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Objective of the Training Manual

- Provide an overview of **different types of international cooperation**, examples of applicable instruments and challenges encountered
- Provide information about **channels and procedures to exchange information** and obtain electronic evidence
- Explain the **value of the Budapest Convention** in the international cooperation on cybercrime
- Present **good practices, efficient mechanisms and resources available.**

What is international cooperation?

- **Explain what is international cooperation**
- **List different forms for cooperation (e.g. police to police, MLA, joint investigations etc.)**
- **List the actors involved in the different stages of the process**
- **Point at efforts underway to reduce the complexity of the process**

Legal regimes

- **Binding instruments vs. non-binding instruments**
- **Examples of legal regimes: CoE treaties, The Commonwealth, UN treaties, customary international law, joint investigations teams**
- **International cooperation at multilateral, regional and bilateral level**



Police to police cooperation

- **Distinction between police-to-police cooperation and MLA**
- **Importance, objectives, procedures and conditions**
- **Types of information and data to be exchanged (criminal records, info from data bases, etc.).**
- **Under what circumstances the information received through police-to-police cooperation can be used as evidence in Court?**
- **Advantages (specialised departments or officers, direct communication, practical experience, simplified procedures, etc.) and difficulties (language barriers, different legislation, different responsibilities, etc.)**

Channels of communication: Examples

- G8 24/7 Network
- Budapest Convention 24/7 Network
- Interpol
- Europol
- Eurojust
- GPEN



Mutual Legal Assistance in practice

- ❑ **MLA requests and procedure:**
 - requirements of the request: form, content, domestic requirements, language
 - procedure
- ❑ **Letters rogatory (examples and experience)**
- ❑ **Fast means of communication accepted (emails, phone etc.)**
 - reasons and advantages for fast means of communication
 - examples of fast means of communication, procedures and forms
- ❑ **Contact details, restriction for content of communication and security system**
- ❑ **Direct communication between judicial authorities**
- ❑ **Grounds for refusal**
- ❑ **Problems encountered**

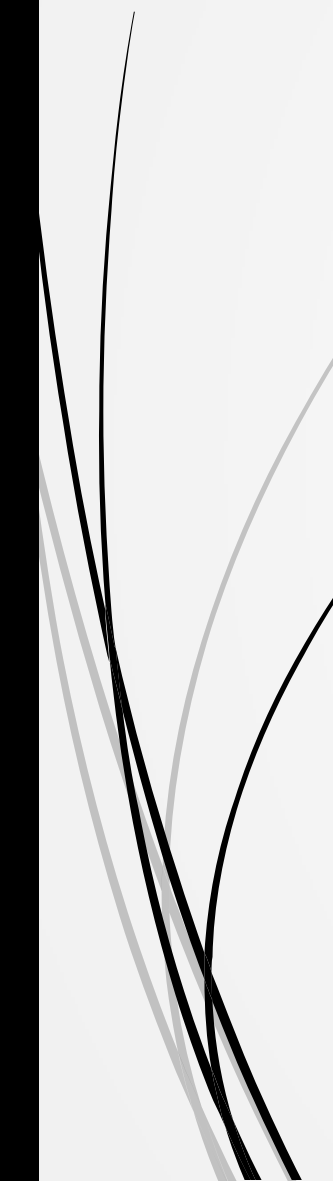
Problems encountered



- Time, workload and the complexity of procedures required
- Delays (6 – 24 months) in responses to requests
- Delays in providing subscriber data
- Refusal to cooperate for “petty” offences by some countries
- Refusal to cooperate or no reply
- Problem of cooperation with 24/7 CP
- No receipt that MLA request has been received or that data has been preserved
- Unclear criteria for “urgent” requests
- Problem of language, quality of translation, terminology used
- Requests too broad, large amount of data
- Discrepancies between legal systems
- Legal restrictions (data protection)
- Refusal of cooperation without MLA request. However, MLA request requires sufficient information and evidence which cannot be obtained without cooperation (vicious circle)
- Request may not meet legal threshold or formal requirements of the requested State
- Inadequacy of laws
- Dual criminality requirement not met
- Limited power of judicial police
- MLA request not preceded by preservation request to ensure that data is still available
- Data not preserved in foreign State in spite of preservation request
- Data not available anymore in foreign or own State
- Different policies by providers to make data available
- Contact person in emergency cases or the competent authority
- Overburdened by too many requests
- Limited technical skills
- “Probable cause” threshold.



International cooperation under the Budapest Convention

- **This chapter is to explain the relevant provisions and the value of the Budapest Convention on Cybercrime and provide concrete examples of their application in practice.**
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Cooperation with the private sector

- Importance and setting up the cooperation with the private sector
- Areas of cooperation with the private sector (prevention, training, awareness projects, etc.)
- Cooperation in the criminal investigation (victims, evidence, etc.)
- Procedures, means of communication and feedback
- Obtaining information from big companies e.g. Gmail, Facebook, Yahoo, Twitter , Western Union, Money Gram [can be used the report drafted under IPA]
- Cases: Yahoo case in Belgium [...]

Examples of good practices

- **Examples of cases where international cooperation was essential (different aspects covered in the manual)**
- **Lessons learned, solutions, difficulties**



Solutions for more efficient cooperation

- **Resources and training**
- **Standardisation of MLA requests (templates)**
- **Coordination and exchange of information between specialised cybercrime units and the departments responsible for MLA**
- **Networking e.g. the Cybercrime Convention Committee**



Solutions for more efficient cooperation: T-CY draft Assessment Report

- **Full implementation of the Convention on Cybercrime**
- **Resources** – More staff for mutual legal assistance
- **Better training**
- **Better knowledge of the requirements of other States**
- **Changes to the powers of the police**
- **Changes to legal regimes**
- **Make use of preservation powers**
- **Time periods for storage of data by ISP**
- **Role of 24/7 Network in MLA process**
- **Direct communication** between cybercrime units
- **Direct communication** between central authorities and/or judicial authorities
- **Alternative channels of communication**
- **Requesting non-content data directly** from multi-national ISPs
- **Emergency procedures**
- **Joint investigation teams**
- **A common template** for MLA requests
- **Methods for sending MLA requests**
- **Language**
- **Reducing steps and speeding up the process**
- **Deadlines** for responding to MLA requests

APPENDICES

- **Council of Europe related resources**
- **Glossary**
- **List of multilateral instruments**
- **Competent authorities for MLA of Parties, Signatories and invited countries**
- **List of websites providing guidance regarding competent authorities and instruments available**
- **Templates (e.g. request for preservation of data)**



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THANK YOU FOR YOUR

ATTENTION

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