



***Cooperation in practice:
obtaining subscriber information.***



T-CY(2013)17rev
(Provisional)

Strasbourg, France
3 December 2014

**T-CY assessment report:
The mutual legal assistance provisions of the
Budapest Convention on Cybercrime**

Adopted by the T-CY at its 12th Plenary (2-3 December 2014)

www.coe.int/cybercrime

5.2.4 Recommendations that may need to be addressed through an Additional Protocol to the Budapest Convention on Cybercrime²⁴

Rec 19	Parties should consider allowing – via legal domestic amendments and international agreement – for the expedited disclosure of the identity and physical address of the subscriber of a specific IP address or user account.
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allowing:

- expedited disclosure of the
- identity and physical address of
- the subscriber of a
- specific IP address or user account

Convention on Cybercrime

Budapest, 23.XI.2001



Article 18 – Production order

1 Each Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:

(...)

b a **service provider offering its services in the territory of the Party** to submit subscriber information relating to such services in that service provider's possession or control.

(...)

3 For the purpose of this article, the term “subscriber information” means any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:

(...)

b **the subscriber's identity, postal or geographic address, telephone and other access number**, billing and payment information, available on the basis of the service agreement or arrangement;

Law no. 109/2009

15 September



Article 14

Injunction for providing data or granting access to data

1 - If during the proceedings it becomes necessary for the gathering of evidence in order to ascertain the truth, obtain certain and specific data stored in a given system, **the judicial authority orders to the person who has the control or availability of those data to communicate these data or to allow the access to them**, under penalty of punishment for disobedience.

(...)

4 - **The provisions of this Article will apply to service providers, who may be ordered to report data on their customers or subscribers**, which would include any information other than the traffic data or the content data, held by the service provider, in order to determine:

(...)

b) **the identity, postal or geographic address and telephone number of the subscriber, and any other access number**, the data for billing and payment available under a contract or service agreement,

(...)

- asking information to foreign ISP's is allowed
- evidence obtained is admissible



(Açores)



Google

- Gmail
- Blogger
- Youtube

Facebook

- Instagram

Microsoft

- hotmail



yahoo!

twitter

PEDIDO DE DADOS EM PROCESSO-CRIME <i>DATA REQUEST WITHIN A CRIMINAL INVESTIGATION</i>	
Tribunal/Departamento <i>Court/Department</i>	
Secção <i>Section</i>	
Autoridade Responsável <i>Responsible Authority</i>	Magistrado do Ministério Público <i>Magistrate of the Prosecution Service – Public Prosecutor</i>
Processo n.º (NUIPC) <i>Case No. (NUIPC)</i>	
Número de ofício <i>Reference</i>	
Data <i>Date</i>	
Endereço de email para resposta <i>Email address to reply</i>	

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☐ **Pedido urgente / urgent request:**

- ☐ Processo com arguidos privados da liberdade/defendants deprived of liberty
- ☐ Processo em risco de prescrição/risk of limitation of the proceeding
- ☐ (outro motivo/other): _____

- **Cooperation not provided:**
 - crimes of defamation
 - economic loss or damage
not significant

Other reasons for refusal

- traffic data (including the IP address associated to an user or the user associated to an IP address) **after 90 days**
- lack of information regarding the facts and the crimes under investigation

	July/ /December 2013	January/ /June 2014
Facebook	148	354
Microsoft	372	511
Google	283	338

<https://govtrequests.facebook.com>

<https://www.microsoft.com/about/corporatecitizenship/en-us/reporting/transparency/>

<http://www.google.com/transparencyreport/userdatarequests/countries>

		Requests January / June 2014		
	Population	Facebook	Microsoft	Google
Country A	11.161.642	209	433	213
Country B	11.062.508	128	10	16
Country C	10.516.125	11	41	99
Portugal	10.487.289	354	511	338
Country D	9.908.798	57	58	17
Country E	9.555.893	247	274	42
Country F	8.451.860	63	30	47



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