portuguese practice

obtaining subscriber information

"here" is "no where"

- Internet is global

- Evidence is not "here"
  - Eventually can be: stored in devices
  - But probably will also be somewhere in the world
  - No alternative – crime is no longer "*national*"

"here" is "no where"

<u>Classical option – international cooperation – MLA</u>
1. Issue the request
2. Translate
3. Send to Ministry of Justice
4. Eventually, to the Central Authority
5. Eventually, to Ministry of Foreign Affairs
6. Send to the requested country
7. Internal procedures of the requested country

(…)
15. Way back

"here" is "no where"

<u>Classical option – international cooperation – MLA</u>

1. Issue the request – 2/3 days
2. Translate – 3/4 weeks
3. Send to Ministry of Justice – 1 week
4. Eventually, to the Central Authority – 1 week
5. Eventually, to Ministry of Foreign Affairs – 1 week
6. Send to the requested country – 3/4 weeks
7. Internal procedures of the requested country – 3/4 weeks
(around 3 months…)
(…)
15. Way back

"no way!"

"here" is "no where"

- USA: preservation of data: **90 days**

- Europe: chaos: ECJ ruling of 08.04.2014 (on the data retention directive)

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**

Google
– Gmail
– Blogger
– Youtube

Facebook
– Instagram

Microsoft
– hotmail

yahoo!

twitter

República Portuguesa
Ministério Público

PEDIDO DE DADOS EM PROCESSO-CRIME	
DATA REQUEST WITHIN A CRIMINAL INVESTIGATION	
Tribunal/Departamento *Court/Department*	Procuradoria-Geral da República
Secção *Section*	
Autoridade Responsável *Responsible Authority*	Pedro Verdelho, Magistrado do Ministério Público *Pedro Verdelho, Magistrate of the Prosecution Service – Public Prosecutor*
Processo nº (NUIPC) *Case No. (NUIPC)*	
Número de ofício *Reference*	
Data *Date*	
Endereço de email para resposta *Email adress to reply*	

DESTINATÁRIO
RECIPIENT
Facebook, Hanover Reach, 5-7 Hanover Quay, Dublin 2, Ireland Via Fax: +353.1.653.5373; Via Email: records@fb.com Via Upload: https://www.facebook.com/records

☐ **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*): _____

☑ **Pedido confidencial /** *confidential request*:

    Solicita-se que se mantenha a confidencialidade deste pedido, não sendo o mesmo divulgado, designadamente ao titular dos dados solicitados

    It is kindly requested to maintain the confidentiality of this request, without disclosure of it, including to the owner of the requested data.

BASE FACTUAL DO PEDIDO/
Factual basis of the request

Breve descrição dos factos e crimes (referir a lei aplicável) em investigação
Brief description of the facts and crimes (mention the applicable law) under investigation
During last April, May and June, several DDoS attacks were developed, combined with SQLinjection from several Portuguese civil servants, which was illicitly obtained and posted. They used Facebook to

www.pgr.pt

Service Facebook
Target 255382574595160 (Generated 2014-08-18 14:45:47 UTC)
Date Range 2014-06-13 07:00:00 UTC to 2014-06-14 06:59:00 UTC
Vanity Name O███████al

Creator S████████ (100000732731477)
Registration Date 2010-01-27 17:36:45 UTC
Account Closure Date
Account Still Active true

Vanity Name a█████m
Registered Email Addresses s███████s@hotmail.com
Phone Numbers
Recent Session Activities **IP Address** 37████████84
Time 2014-06-13 18:39:50 UTC

IP Address 3████████84
Time 2████████8:38:49 UTC

IP Address 37████████84
Time 20████████8:38:48 UTC

Credit Cards

"here" is "no where"

<u>Classical option – international cooperation – MLA</u>

1. Issue the request – 2/3 days

2. T

3. S   **15/20 days!**

4. E

5. E

6. Send to the requested country – 3/4 weeks

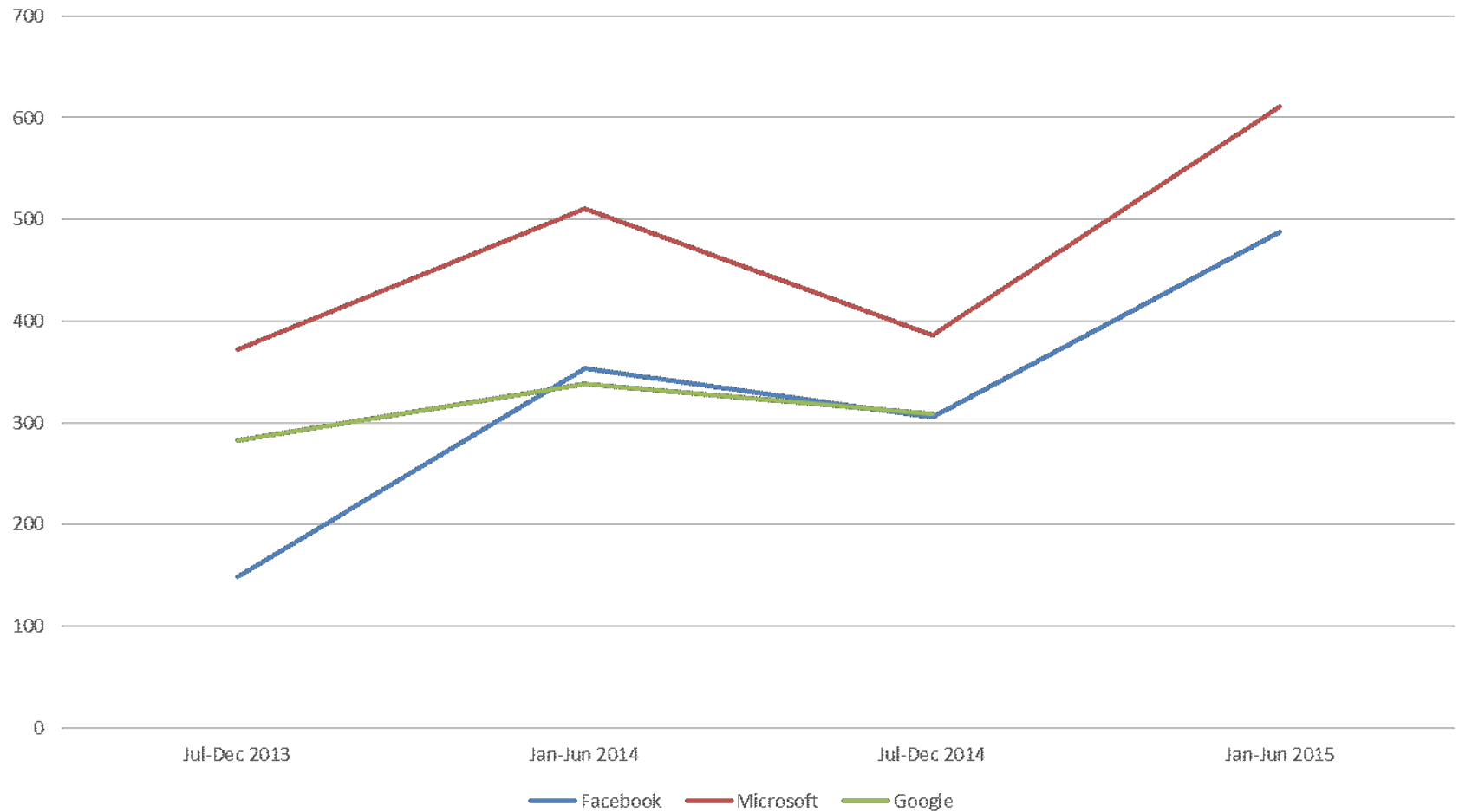7. Internal procedures of the requested country – 3/4 weeks (around 3 months…)

(…)

15. Way back

	July/ /December 2013	January/ /June 2014	July/ /December 2014	January/ /June 2015
Facebook	148	354	305	488
Microsoft	372	511	386	611
Google	283	338	309	

https://govtrequests.facebook.com

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

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

Requests

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

Questions?

Rua do Vale de Pereiro nr 2 1269-113 LISBOA

cibercrime@pgr.pt

gabinete **CIBERCRIME**

CYBERCRIME office