



# Project Cybercrime@EAP II

Արևելյան Գործընկերության  
Східне партнерство Eastern  
Partnership აღმოსავლეთ  
პარტნიორობა Parteneriatul Estic  
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Oriental Усходняе Партнёрства

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## Workshop on development of legal instruments on cybercrime and electronic evidence

**Organised in cooperation with the Ministry of Internal Affairs**

**15-16 September 2016**

**Venue: Training Center of the Ministry of Internal Affairs, Minsk, Belarus**

### Outline

#### Background

Complete and effective legislation that meets human rights and rule of law requirements is the basis for criminal justice measures on cybercrime and the use of electronic evidence in criminal proceedings. This is particularly true for specific procedural law powers available under the Budapest Convention, as comprehensive domestic criminal law framework for such powers, also facilitates international cooperation on cybercrime and electronic evidence with other Parties to the Convention. Clear notions of electronic evidence, categories of data and precise limits and conditions for procedural powers are essential in this regard. Thus, the adoption of complete and effective legislation on cybercrime and electronic evidence that meets human rights and rule of law requirements is considered a strategic priority.<sup>1</sup>

Under the [Cybercrime@EAP project](#) in 2011-2014, the Council of Europe and the European Union supported Belarus, as one of the six states participating in the Eastern Partnership Facility, through a range of measures to investigate and prosecute cybercrime, including recommendations for legislative reform. Several project reports<sup>2</sup> assessed the effectiveness of national legislation in conformity with the Budapest Convention and presented recommendations for reform. Belarus has made progress on some of the observations of the above-mentioned reports. However, further work is required in particular with regard to criminal procedure law.

The [Cybercrime@EAP II project](#) further assisted Belarus in this task by holding a Workshop on the “Harmonisation of Belarusian Legislation with the Budapest Convention on Cybercrime” in Minsk on 11-12 November 2015. The workshop aimed to discuss compliance of the Belarusian substantive and criminal procedure legislation with the Budapest Convention on Cybercrime with a view to ensuring effective international cooperation. Participants were familiarized with Council of Europe perception of global threats and challenges of cybercrime, and scope and procedural powers of the Budapest Convention; substantive and procedural law provisions were discussed

<sup>1 2</sup> [..\..\2523 Cybercrime@EAP\2523\\_GEN\2523\\_EAP\\_Strat\\_Priorities\\_V7\\_ENG.pdf](#)

<sup>2</sup> [..\..\3271\\_GEN\3271\\_GEN\\_Situation\\_reports\3271\\_cybercrime\\_EAP\\_Report\\_Part\\_I\\_25\\_April\\_12\\_rev.pdf](#)  
[..\..\3271\\_GEN\3271\\_GEN\\_Situation\\_reports\3271\\_cybercrime\\_EAP\\_Report\\_Part\\_II\\_25\\_April\\_12\\_rev.pdf](#)  
[..\..\2523 Cybercrime@EAP\2523\\_GEN\2523\\_Article15\\_EAP\\_v3\\_public.pdf](#)  
[..\..\2523 Cybercrime@EAP\2523\\_GEN\CyberEAP\\_AssessRep\\_v15.pdf](#)

in order to improve compliance with the Convention requirements; and best practice and case studies on functioning of 24/7 units were presented.

Throughout discussions at the Regional meetings of the Cybercrime@EAP II project in Tbilisi (14-16 December 2015) and Kyiv (4-5 April 2016), the importance of proper legislative background for international cooperation was repeatedly highlighted. Belarus as one of participants has particularly emphasized the need for the proper concepts of electronic evidence.

## Objective

The objective of the workshop is to further promote the reform of criminal procedure law in line with the Budapest Convention on Cybercrime, including conditions and safeguards of Article 15.

In view of this, the objective of workshop is to continue the discussion started at the Workshop on the "Harmonisation of Belarusian Legislation with the Budapest Convention on Cybercrime" on 11-12 November 2015 by the following actions:

- Present the notions of electronic evidence and discuss relevant admissibility requirements;
- Focus on the definitions of subscriber information, traffic data and content information and discuss the best ways to integrate these notions into Belarusian Legislation;
- Provide overview of the procedural law provisions of the Convention (Articles 16 to 21) and the conditions and safeguards required (Article 15);
- Discuss the practical application of such definitions and powers and the handling of electronic evidence in some Parties to the Convention;
- Prepare recommendations as to steps to be taken to reform the relevant laws of Belarus.

## Participants

- Government of Belarus
  - Administration of the President
  - General Prosecutor's Office
  - Ministry of Justice
  - High-tech Crime Department of the Ministry of Interior
  - High-tech Crime and Intellectual Property Department of the Investigative Committee
  - Department for Security in the Sphere of Information Technology
  - National Centre of Legislative Developments
  - Any other relevant stakeholders suggested by Belarus
- Council of Europe
  - Representative of the Cybercrime Programme Office
  - 2 or 3 experts from Parties to the Budapest Convention

The working languages will be English and Russian.

### Programmatic Cooperation Framework for Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus

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by the Council of Europe

## Programme outline (draft)

Day 1 - 15 September 2016	
8h30	Registration
9h00	<b>Opening session</b> <ul style="list-style-type: none"> <li>- TBC, Government of Belarus</li> <li>- Giorgi Jokhadze, Cybercrime Programme Office, Council of Europe</li> </ul>
9h15	<b>Cybercrime and electronic evidence: current challenges and solutions</b> <ul style="list-style-type: none"> <li>• Electronic evidence and cybercrime investigations: current landscape of challenges: <i>Giorgi Jokhadze, Cybercrime Programme Office, Council of Europe</i></li> <li>• Experience of Lithuania in dealing with cybercrime and electronic evidence in criminal investigations – <i>Lilija Omeljancuk, Chief Investigator of the 1st Division of Cybercrime Investigation Board, Lithuanian Criminal Police Bureau</i></li> <li>• Experience of Georgia in dealing with cybercrime and electronic evidence in criminal investigations – <i>Givi Baghdavadze, Head of International Cooperation Unit, Office of the Chief Prosecutor, Ministry of Justice of Georgia</i></li> <li>• Experience of Moldova in dealing with cybercrime and electronic evidence in criminal investigations – <i>Veaceslav Soltan, Chief Prosecutor, Head of Informational Technologies and Investigation of Informational Crime, Prosecutor General's Office of Moldova</i></li> </ul>
11h00	Coffee break
11h15	<b>Concept of electronic evidence and definitions of categories of data (subscriber, traffic and content)</b> <ul style="list-style-type: none"> <li>• Concept and admissibility of electronic evidence, definitions of categories of data and practical experience: example of Lithuania - <i>Lilija Omeljancuk</i></li> <li>• Concept and admissibility of electronic evidence, definitions of categories of data and practical experience: example of Moldova - <i>Veaceslav Soltan</i></li> </ul> <p>Concept and admissibility of electronic evidence, definitions of categories of data and practical experience: example of Georgia - <i>Givi Baghdavadze</i></p>
13h00	Lunch break
14h30	<b>Procedural powers under the Budapest Convention (Articles 16-21)</b> <ul style="list-style-type: none"> <li>• Why it is necessary to implement all procedural powers under the Budapest Convention on Cybercrime – <i>Giorgi Jokhadze</i></li> <li>• Implementation of the Cybercrime Convention: definitions and procedural law – <i>presentation by the representative of Belarus</i></li> <li>• National implementation of the procedural powers: example of Lithuania - <i>Lilija Omeljancuk</i></li> </ul>

16h00	Coffee break
16h15	<b>Procedural powers under the Budapest Convention</b> <i>(continued)</i> <ul style="list-style-type: none"> <li>• National implementation of the procedural powers in Georgia, with additional focus on safeguards and guarantees - <i>Givi Baghdavadze</i></li> <li>• National implementation of the procedural powers in Moldova, with additional focus on safeguards and guarantees - <i>Veaceslav Soltan</i></li> </ul> <p>Discussion led by experts as to the necessary elements for the definitions and basic concepts for procedural law in Belarus</p>
17h30	End of day 1
<b>Day 2 - 16 September 2016</b>	
9h00	<b>Review of Belarusian legislation: solutions and way forward</b> <ul style="list-style-type: none"> <li>• Discussion led by experts focusing on: <ul style="list-style-type: none"> <li>- Preservation and limited disclosure</li> <li>- Production orders</li> <li>- Search and seizure: special powers</li> <li>- Real-time monitoring of traffic data</li> <li>- Interception of content data</li> </ul> </li> </ul>
10h30	Coffee break
10h45	<b>Review of Belarusian legislation: solutions and way forward</b> <ul style="list-style-type: none"> <li>• Discussion continued</li> </ul>
12h00	<b>Conclusions</b> <ul style="list-style-type: none"> <li>• Roundup of findings by experts and representatives of Belarusian institutions</li> </ul>
<b>12h30</b>	<b>End of the workshop</b>

## Contact

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