

b2.1. Electronic data

Information for specific measures provided by the Convention on Cybercrime

The Convention on Cybercrime (Budapest Convention) offers the possibility of requesting mutual legal assistance regarding provisional measures such as the expedited preservation of stored computer data which Parties are compelled to apply at national level.

There are no major differences between the content for both requests for provisional measures (stage 1) and for measures regarding investigative powers (stage 2) and a traditional request for search and seizure, or for obtaining a forensic image, except concerning the following information:

- For stage 1 and 2 requests: a clear description which is sufficient to identify the targeted data (nature of data), the location of the computer system (a computer may be in one branch of a company while data is on servers in the headquarters), and its custodian. The simplest scenario is when data can be found on a hard disk or any other portable storage of data, such as a mobile phone using computer programmes, blackberry, etc.
- For stage 1 requests: indication of the reasons to preserve such data and the grounds to believe that there are risks of loss or modification, as well as an indication that a request for search and seizure will follow.

It is important to underline that it is possible during the execution of the request to preserve data to discover the existence and involvement of a service-provider in a third State. In this case, the requesting State may initiate other requests addressed to other States.

Whether or not a requesting State has requested provisional measures for the preservation of data (stage 1), the requested State is compelled to execute a stage 2 request to search or similarly access, seize or similarly secure, and disclose such data stored by means of computer system located within its territory.

Finally mutual legal assistance may be provided on the basis of the applicable treaties and/or national legislation concerning real-time collection of traffic data or interception of content data. Similarities may be found with measures for the interception of telecommunication data. In general such co-operation requires important co-ordination as well as arrangements concerning technical support and costs.