

# Project Cybercrime@EAP III

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## Online Resource for Public-Private Cooperation - update

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Partnership for Good Governance



[www.coe.int/cybercrime](http://www.coe.int/cybercrime)



# OCTOPUS COMMUNITY

## An Introduction

- How was **Octopus community** first set up?
- Following Recommendation 18 of the [T-CY assessment report on the mutual legal assistance provisions of the Budapest Convention](#):

“The Council of Europe should explore the possibility of establishing an online resource providing information on laws of Parties on electronic evidence and cybercrime as well as on legal thresholds, and evidentiary and other requirements to be met to obtain the disclosure of stored computer data for use in court proceedings”

- Focus on cybercrime and electronic evidence realised through **Information sharing** and **Cooperation**:

1. **Information sharing** : prevention/control of cybercrime + securing of electronic evidence

- **Countries/organisations Wiki** : presenting cybercrime policies and strategies;
- **Legal profiles**: presenting state of implementation of the Budapest Convention on Cybercrime under national legislation
- **Training materials**: Electronic Evidence Guide, First responder training pack, Introductory judicial training, Advanced judicial training, Training strategies guidelines
- **Blog**
- **Calendar of events / news**



# OCTOPUS COMMUNITY

## An Introduction

2. **Cooperation:** through multi-stakeholder approach including public sector + private sector entities + civil society + academia+ other international organisations for reducing digital divide (sharing good practices + making resources available)

- **Tool on International cooperation** contains information on
  - **Central authorities** for extradition, MLA, 24/7 network
  - **A step by step guide for each country** for preservation, for obtaining subscriber information, traffic data, content data and for interception of content data
  
- **Tool on public/private cooperation** contains information on
  - **Providers:** their requirements to disclose information
  - **Parties:** domestic legal baseis to issue production order, to request for preservation, emergency situations, data protection safeguards, remedies etc.

-> different levels of access to platform (Public, Basic, Advanced)

- **Cybercrime@EAP III project objective:**
  - ✓ To improve public/private cooperation regarding cybercrime and electronic evidence in the Eastern Partnership region
- **Implementation indicator:**
  - ✓ An online resource on public/private cooperation data is available and contributes to transparency on criminal justice access to data.
- **Result 2: A structured process of public/private cooperation on cybercrime underway and agreements concluded:**
  - ✓ An online resource is maintained by the Cybercrime Programme Office of the Council of Europe (C-PROC) in Romania to service [structured process of public/private cooperation], to improve transparency and thus public confidence, and to link up existing initiatives. The feasibility of transforming this process into a more permanent platform in order to sustain the process will have been established.

# Logic: Information is KEY

## **Servicing the process of cooperation:**

- Status of relevant treaties that have relevance to the topic, reservations
- Legislative acts (criminal justice /communications /data protection) and any explanations, practices or case law applicable to these regulations
- Instructions, manuals, guidelines or operational procedures for accessing data
- Any standard forms or templates used in the process of accessing data
- Information on main stakeholders in the process (government and industry)

## **Improving transparency and public confidence:**

- Information structured along the system of safeguards and guarantees (Data protection)
- Concise and clear explanation of applicable requirements and expectations (e.g. portals)

## **Linking up existing initiatives:**

- Information on national/regional/global projects that have relevance to the topic
- Memoranda of cooperation and other arrangements to facilitate cooperation
- Any possibilities for training, membership of associations, etc.

# Development process so far

- In 2017 we updated Octopus community w Information received from multiples sources:
  - Responses to forms sent directly to EAP country teams
  - Information discussed during in-country events
  - Country reports from the CEAP III: Initial Mapping Study (2016); ISP liabilities study and report; Study and cooperation with MSPs; State of play report (2017)
- Information that is there:
  - ✓ Institutional setup/who does what:
  - ✓ Basic legal framework
- More specifically:
  - Existence of cooperation agreements- MoU
  - Competent authority (department, contact)/ legal basis (specific sections of legal acts) to request information (**BCC Art. 18**)
  - Necessary definitions/ competent authority (department, contact) / legal basis (specific sections of legal acts) to preserve data (**BCC Art. 16/17**)
  - Emergency situations: definitions, legal obligation to cooperate
  - Confidentiality: legal basis and liability for non-compliance
  - Data protection treaties/ agreements (basic info only)
  - Sources and links to legal acts in English

# Development process so far

- **State of Play report** was submitted to countries for review in May 2017. BY, GE, MD, UA provided feedback. Final report was produced and published June 2017
  - Feedback was either technical or indicating update in legislation, cybercrime strategy
- **Public/Private cooperation Forms** EAP public/ private cooperation profiles have been re-drafted by CPROC based on sources previously mentioned. Some countries confirmed PPC form, some State of play report only.
  - **Armenia** confirmed Form June 2017;
    - DPA made an addition related to the Right of protection of personal data in Armenia
  - **Azerbaijan** PPC form was not confirmed separately by AZ side
  - **Belarus** confirmed Form June 2017
  - **Georgia** PPC form was not confirmed separately by GE side
  - **Moldova** PPC form was not confirmed separately by MD side
  - **Ukraine** PPC form was not confirmed separately by UA side

- Focus on 2018 - Still needs to be done:
  - Continuous review of data quality and complete missing/inadequate/updated information - follow-up on legislative developments
  - Information on the rest of procedural powers under the Convention
  - Information on applicable safeguards and guarantees to be reviewed and further completed**
  - Information on remedies to be reviewed and further completed**
  - Practice or case law explaining the application of law
  - Manual, guidelines, agreements, and other similar documents
  - Policies of national Internet service providers**
  - Policies from multinational service providers**
  - Contact points on both sides to refer to in case of inquiries
  - Testing the process



## ■ Action by EAP countries

- Designate contact points responsible for collection and maintenance of data – preferably from 24/7 or similar unit
- Gather/update information from government and national ISPs
- Verify and confirm information from both government and private sector - TCY representative
- Provide information sought initially to the C-PROC team and gradually to the contact points who will administrate the platform

## ■ Follow-up action by the Council of Europe

- Produce study on Article 15 (November 2017 through country visits) , submit relevant information for country review (December 2017), update the resource
- Asses feasibility to further develop the platform for multiple purposes (courses; portals etc.)
- Request other Parties to the Budapest Convention to provide the same information (in progress)
- Develop the ISP industry profile for multinational service providers
- Further develop IO profiles

## Long-term

- EAP and other contributing countries responsible for keeping the online resource up to date and support development through in-country events
- Linking to similar resources or initiatives, information on projects
- Developing the platform further for multiple purposes