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Guidelines for the cooperation between law enforcement agencies and Internet service providers in the investigation of cybercrime

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Background

➢ **Developed by working group under the Council of Europe Project on Cybercrime (October 2007 – March 2008)**

➢ **Adopted by the global Octopus Conference on Cybercrime in April 2008**

➢ **Complemented by background study**

➢ **Available in multiple languages (www.coe.int/cybercrime)**

LEA-ISP cybercrime guidelines - Justification

Why law enforcement authorities (LEA) / Internet service provider (ISP) cooperation is necessary:

➢Information society depended on ICT - vulnerable to cybercrime - Need to enhance security of ICT

➢LEA and ISP play crucial role in a secure Internet

➢LEA investigations often not possible without ISP cooperation

➢Ensure efficient work of LEA

➢Protect ability of ISP to provide services

➢Ensure due process

➢Protect rights of users

➢How to enhance, how to structure cooperation?

➢Guidelines

Guidelines for the cooperation between law enforcement and internet service providers against cybercrime

Adopted at the global Conference on Cooperation against Cybercrime (Council of Europe, Strasbourg, 1-2 April 2008):

➢**Common measures (including protection of rights and freedoms)**

➢**Measures to be taken by law enforcement**

➢**Measures to be taken by service providers**

Common guidelines for LEA and ISP:

➢Develop a culture of cooperation

➢Develop written procedures for cooperation with each other

➢Cooperate for the protection of rights and freedoms of individuals

➢Respect each others roles, rights and limitations

➢Mindful of cost of cooperation

Measures to be taken by law enforcement

➢ **Broad and strategic cooperation with ISP**

➢ **Procedures for legally binding requests**

➢ **Designated and trained personnel for cooperation**

➢ **Verification of source of requests**

➢ **Standard request format**

➢ **Specificity and accuracy of requests**

➢ **Follow preservation orders with production/disclosure orders**

➢ **Criminal compliance programme**

➢ **International requests: 24/7 network and formal mutual legal assistance**

Measures to be taken by ISPs

- ➢ **Report criminal incidents**

- ➢ **Assist LEA with training and other support**

- ➢ **Procedures for responding to requests**

- ➢ **Designated and trained personnel for cooperation**

- ➢ **Emergency assistance outside business hours**

- ➢ **Criminal compliance programme**

- ➢ **Verification of source of requests**

- ➢ **Standard response format**

- ➢ **Explanation for information not provided**

- ➢ **Coordination among ISP**

Important:

➢ **Guidelines, not binding**

➢ **Not substitute for procedural law and other formal regulations**

➢ **Based on good practices already available**

➢ **Help LEA and ISP in any country to structure their cooperation**

Law enforcement – service provider cooperation

Developments:

➢ **Romanian government decision (Jan 09): judicial, law enforcement, regulatory bodies to make use of guidelines**

➢ **France: guidelines used for LEA-ISP agreement (Spring 2009)**

➢ **EU JAI Council conclusions (Nov 08): General support to CoE LEA-ISP guidelines + 8 specific ones**

➢ **Support implementation through Project on Cybercrime and other means (eg workshops in Ukraine and India in Spring 2009)**

➢ **Guidelines reflected in the judgment of the European Court of Human Rights K.U. v. Finland (application no. 2872/02)**

➢ **Expand guidelines to other sectors (financial institutions)?**

For discussion:

➢ **How are ISPs organised in Georgia?**

➢ **What cooperation between LEA and ISPs? Have agreements been concluded? Regular meetings? Role of ISP associations?**

➢ **Procedures for legally binding requests (e.g. search and seizure, interception, preservation, production orders)**

➢ **Designated and trained personnel for cooperation**

➢ **Standard request format**

➢ **Specificity and accuracy of requests**

Next steps:

➢ **Organise LEA-ISP meetings to discuss cooperation?**

➢ **establish LEA-ISP working group to develop country-specific guidelines?**

THANK YOU FOR YOUR

ATTENTION

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