

## The Challenge of International Cooperation



**T. George-Maria TYENDEZWA, CFE**

*Head, Cybercrime Prosecution Unit,*

Federal Ministry of Justice, Abuja, Nigeria

E: [terlumun.tyendezwa@justice.gov.ng](mailto:terlumun.tyendezwa@justice.gov.ng)

## The Challenge of International Cooperation – The What & Why?

- **International Cooperation - Formal & Informal / Police to Police/ Judicial/ LEA - Private Sector /**
- 
- **Cybercrime and Electronic Evidence is transnational - underpins the needs of countries for more efficient international cooperation in cybercrime cases and cooperation with service providers to track, arrest and prosecute offenders.**

## The Challenge of International Cooperation – The Issues we face

- **Delays in MLA requests,**
- **Investigators frustration with getting subscriber & traffic data from ISPs**
- **Identifying & locating offenders,**
- **Data preservation/ data retention(or lack of)**
- **Collecting & sharing information/intel and evidence,**

## The Challenge of International Cooperation – The How - Tools

- **Formal cooperation – MLAT, Letters Rogatory, - advantages & disadvantages**
- **Informal cooperation – Solving the tracing problem – flexible & faster/existing LE contacts/INTERPOL resources/Joint investigations/Networks**
- **LEA-Private Sector direct cooperation/**
- **Developing standardised technical standards for electronic evidence/digital forensics**

## The Challenge of International Cooperation – The How - Tools

### Production order (Article 18, Budapest Convention on Cybercrime)

- Mandatory cooperation
- Consent of subject not necessary
- May be used to access computer data & subscriber information within and outside territory of Party
- Only domestic power that can be applied to entities outside the country

### Trans-border access (Article 32b, Budapest Convention on Cybercrime)

- Voluntary cooperation
- Valid and lawful Consent necessary
- May not be used to access data domestically

# Cybercrime and Criminal Justice in Cyberspace

European Union and Council of Europe Seminar with the African Region

**Production of subscriber information may be ordered in a specific criminal investigation with respect to specified subscribers:**

**IF**

**The criminal justice authority has jurisdiction over the offence in line with Article 22 Budapest Convention;**

**AND IF**

**The service provider is in possession or control of subscriber information**

**AND IF**

## **Article 18.1.a**

**The person is in the territory of the Party. For example, the service provider is registered as a provider of electronic communication services, or servers or parts of its infrastructure are located in the Party;**

**OR**

## **Article 18.1.b**

**The service provider is “offering a service in the territory of the Party”, when, for example:**

- the service provider enables persons in the territory of the Party to subscribe to its services, AND**
- orients its activities at subscribers, or makes use of subscriber information in the course of its activities, or interacts with subscribers in the Party;**

**AND IF**

**the subscriber information to be produced is relating to services of a provider offered in the territory of the Party, even if those services are provided via a technical geographic domain referring to another jurisdiction**

## The Challenge of International Cooperation - Takeaways

- Training & Capacity building - Improve Ability to Collect and Share Evidence Internationally
  - Legislators/ Policymakers – commit to improve data retention for law enforcement use
  - Law Enforcement Officers, Investigators, Analysts,
  - Judges, Prosecutors, CAUs, lawyers
  - Improve domestic coordination & synergy/ information sharing
  - Understand tools available and appropriateness for case use
  - Government sector & Private sector collaboration
  - Networking and knowledge sharing – JITs/Engagement on regional and international level to enhance enforcement capabilities ...
  - Committing adequate personnel and resources