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*This information sheet has been prepared by the Cybercrime Programme Office (C-PROC) of the Council of Europe in view of facilitating international cooperation. It does not necessarily reflect official positions of the State covered or of the Council of Europe.*

## 1. Categories of Data (subscriber information, traffic data, content data)

### 1.1. Definitions under national legislation

<b>Subscriber Information</b>	N/A
<b>Traffic Data</b>  Art. 142 of the Criminal Code – Meaning of Terms Used in this Code	(20) Computer <b>traffic data</b> are understood to mean all computer data generated by computer systems, which make a chain of communication between two computer systems that communicate, including themselves.
<b>Content Data</b>	N/a

## 2. Procedures for preservation requests of stored computer data

### 2.1 Expedited preservation of stored computer data (Art. 29)

#### General remarks

#### Procedures in place

The powers to secure electronic evidence at the domestic level (search, seizure, temporary seizure) can also be applied for international preservation requests. The difference is that in this case the 24/7 contact point at the Police Directorate of Montenegro is the person who contacts the State Prosecutor with the request to send the judge the request for investigation, to issue the search warrant or a proposal for provisional (temporary) seizure of objects. The contact person will refer to Articles of the Budapest Convention when explaining the need for such a request and all the procedure remains the same.

<how urgent requests are treated>

### 2.2 Expedited disclosure for stored traffic data (Art. 30)

#### General remarks

#### Procedures in place

A foreign law enforcement authority addresses us with the request via the contact person 24/7 in Montenegro who will thereafter inform the acting prosecutor about this to obtain an order from the investigative judge. The investigative judge issues the order within 4 hours, with the provision that if a written order cannot be issued on time, these measures can be initiated on the basis of oral order of the investigative judge. However, the law enforcement authority must provide all the paperwork related to mutual legal assistance, which will be sent later, to substantiate and subsequently justify the issued order of the investigative judge.

## 3. Procedures for mutual legal assistance

### 3.1 Requests for stored computer data: subscriber, traffic, content data (Art. 31)

»» Go to [Subscriber information](#) | [Traffic Data](#) | [Content Data](#)

#### ► Requests for subscriber information

##### General remarks

Law on Mutual Legal Assistance in Criminal Matters regulates the conditions and procedure for provision of mutual legal assistance in criminal matters.

Domestic judicial authority shall forward letters rogatory for mutual legal assistance to foreign judicial authorities and receive the letters rogatory for mutual legal assistance of the foreign judicial authorities through the Ministry of Justice.

In cases where there is no international agreement or reciprocity, the Ministry shall deliver and receive letters rogatory for mutual legal assistance through diplomatic channels.

Exceptionally, in cases when provided for under an international agreement or where there is reciprocity, the national judicial authority may deliver directly or indirectly to the competent foreign judicial authority and receive letters rogatory for mutual legal assistance of the foreign state, with the obligation to deliver copy of letter rogatory to the Ministry.

In urgent cases, provided that there is reciprocity, letter rogatory for mutual legal assistance may be delivered and received through the National Central Bureau of the INTERPOL, points of contact for the cooperation with the European Judicial Network (EJN) and EUROJUST.

##### Competent Authorities

Ministry of Justice, Directorate for International Legal Cooperation and European Integration, Division for Mutual Legal Assistance is the central authority for mutual legal assistance.

##### Relevant contact points

No contact point responsible specifically for subscriber information

##### Prior consultations

Optional

## Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention;  
European Convention on Mutual Assistance in Criminal Matters;  
Law on Mutual Legal Assistance in Criminal Matters.

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## Content of the request

Name and seat of the authority sending the request; name of the requested authority, or as a minimum indication of the country and competent judicial authority; legal basis of the request; form and justification of assistance requested; legal qualification of the offence and summary of the facts.

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## Applicable legal requirements

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### Confidentiality requirements

Should the competent authority of the Requesting State require confidential treatment, letter rogatory may only be made available to the competent authorities to act on it and to the extent necessary for the procedure.

Should the confidentiality not be possible, the Ministry or national judicial authority shall inform the competent authority of the Requesting State.

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### Urgent requests

If the request is designated as urgent central authority will forward it to the competent authority without delay. In urgent cases, provided that there is reciprocity, letter rogatory for mutual legal assistance may be delivered and received through the National Central Bureau of the Interpol.

Domestic judicial authority shall also proceed upon the letter rogatory for mutual legal assistance of the foreign judicial authority if the letter rogatory has been presented electronically or by some other means of telecommunication providing delivery receipt, if it may verify its authenticity and if the foreign judicial authority is prepared to deliver the original of the letter rogatory within 15 days at latest.

Only factual reasons.

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### Translation

Preferably Montenegrin. Official languages of the Council of Europe (English and French) are also acceptable.

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### Limitations

Personal data received in response to the letter rogatory can only be used for the purpose of the proceedings for which required, as well as other legal proceedings connected with that process.

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## ► Requests for Traffic Data

## General remarks

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### Competent Authorities

Ministry of Justice, Directorate for International Legal Cooperation and European Integration, Division for Mutual Legal Assistance is the central authority for mutual legal assistance.

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### Relevant contact points

No contact point responsible specifically for traffic data.

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### Prior consultations

Optional

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### Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention;  
European Convention on Mutual Assistance in Criminal Matters;  
Law on Mutual Legal Assistance in Criminal Matters.

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### Content of the request

Name and seat of the authority sending the request; name of the requested authority, or as a minimum indication of the country and competent judicial authority; legal basis of the request; form and justification of assistance requested; legal qualification of the offence and summary of the facts.

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### Applicable legal requirements

Computer traffic data are understood to mean all computer data generated by computer systems, which make a chain of communication between two computer systems that communicate, including themselves (Art. 142 of the Criminal Code).

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### Confidentiality requirements

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Only factual reasons.

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### **Translation**

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## **► Requests for Content Data**

### **General remarks**

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### **Competent Authorities**

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### **Relevant contact points**

No contact point specifically for content data.

### **Prior consultations**

Optional.

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### **Accepted legal basis / mechanisms for MLA requests**

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Cybercrime Convention;  
European Convention on Mutual Assistance in Criminal Matters;  
Law on Mutual Legal Assistance in Criminal Matters.

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## **Content of the request**

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## **Applicable legal requirements**

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### **Limitations**

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## 3.2 Requests for real time collection of traffic data (Art. 33)

### General remarks

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### Competent Authorities

Ministry of Justice, Directorate for International Legal Cooperation and European Integration, Division for Mutual Legal Assistance is the central authority for mutual legal assistance.

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### Relevant contact points

No contact point specifically for real time collection of traffic data.

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### Prior consultations

Optional

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### Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention;  
European Convention on Mutual Assistance in Criminal Matters;  
Law on Mutual Legal Assistance in Criminal Matters.

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### Content of the request

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### Applicable legal requirements

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## **Limitations**

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### **3.3 Requests for interception of content data (Art. 34)**

## **General remarks**

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## **Competent Authorities**

Ministry of Justice, Directorate for International Legal Cooperation and European Integration, Division for Mutual Legal Assistance is the central authority for mutual legal assistance.

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## **Relevant contact points**

No contact point specifically for interception of content data.

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## **Prior consultations**

Optional

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## **Accepted legal basis / mechanisms for MLA requests**

Cybercrime Convention;  
European Convention on Mutual Assistance in Criminal Matters;  
Law on Mutual Legal Assistance in Criminal Matters.

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## Content of the request

Name and seat of the authority sending the request; name of the requested authority, or as a minimum indication of the country and competent judicial authority; legal basis of the request; form and justification of assistance requested; legal qualification of the offence and summary of the facts.

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## Applicable legal requirements

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### Confidentiality requirements

Should the competent authority of the Requesting State require confidential treatment, letter rogatory may only be made available to the competent authorities to act on it and to the extent necessary for the procedure.

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