

Table of Contents

1.	Categories of data (subscriber information, traffic data, content data).....	2
1.1.	Definitions under national legislation	2
2.	Procedures for Preservation Requests of stored computer data	3
2.1	Expedited Preservation of stored computer data (Art. 29)	3
2.2	Expedited Disclosure for Stored Traffic Data (Art. 30)	3
3.	Procedures for Mutual Legal Assistance	5
3.1	Requests for Stored Computer Data: Subscriber, Traffic, Content Data (Art. 31)	5
3.2	Requests for Real Time Collection of Traffic Data (Art. 33)	11
3.3	Requests for Interception of Content Data (Art. 34).....	11

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

Subscriber Information <reference to the law if applicable>	<p>There is no definition of subscriber data in the national legislation. However, according to the Law on Electronic Communications, subscriber is any natural or legal entity who or which is a party to a contract with an operator of publicly available electronic communications services for the supply of such services. In that sense, subscriber information is any information which can lead to identification of a subscriber.</p> <p>https://www.ratel.rs/en/page/laws</p> <p>Law on Electronic Communications, art. 4, para 1, al. 41.</p>
Traffic Data <reference to the law if applicable>	<p>Traffic data refer to any data processed for the purpose of conveyance of communication on an electronic communications network or for the billing thereof.</p> <p>https://www.ratel.rs/en/page/laws</p> <p>Law on Electronic Communications, art. 4, para 1, al.32</p>
Content Data <reference to the law if applicable>	<p>There is no explicit definition of this term in the national legislation, but in practice, it refers to the content of the communication carried out by any device.</p> <p>https://www.ratel.rs/en/page/laws</p> <p>Law on Electronic Communications, art. 122, para 1. See also art. 126, para 1.</p>

2. Procedures for preservation requests of stored computer data

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

General remarks

According to the Law on mutual legal assistance in criminal matters the authorities competent to exercise mutual assistance include national courts and public prosecutor's offices. Certain actions in the mutual assistance proceedings shall be performed by the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Internal Affairs.

Mutual legal assistance requests shall be submitted in the form of letters rogatory and together with other annexed documents of the national judicial authority shall be transmitted to foreign authorities through the Ministry of Justice. At the request of the requested state, letters rogatory and other supporting documents shall be transmitted through diplomatic channels.

Letters rogatory and supporting documents, subject to reciprocity, shall be transmitted directly to a foreign judicial authority and in case of urgency; they may be transmitted through INTERPOL.

However, in case of the emergency or other important reason there is possibility for direct contacting of 24/7 contact point in police or Public Prosecution when expedited providing of requested information is possible.

Procedures in place

A Serbian Criminal Procedural Code provisions does not provide articles on expedited preservation of stored computer data at the moment.

Republic Public Prosecution Office together with Special Prosecution Office for High-Tech Crime filed initiative to the Serbian Ministry of Justice for adopting this provision into the criminal legal framework which is pending.

However, if the Party of the Convention requests such preservation, competent authority, in this case Public Prosecution would seek and execute Court Search and Seizer Order for specific data stored on designated computer or computer system described in Party preservation request, acquire data and provide it to the requesting Party.

Urgent requests are treated immediately and directly through 24/7 contact point network, both by the police or Public Prosecution Office with possible direct prosecutor-to-prosecutor contact and/or consultation using electronic communication methods.

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

General remarks

According to the Law on mutual legal assistance in criminal matters the authorities competent to exercise mutual assistance include national courts and public prosecutor's offices. Certain actions in the mutual

assistance proceedings shall be performed by the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Internal Affairs.

Mutual legal assistance requests shall be submitted in the form of letters rogatory and together with other annexed documents of the national judicial authority shall be transmitted to foreign authorities through the Ministry of Justice. At the request of the requested state, letters rogatory and other supporting documents shall be transmitted through diplomatic channels.

Letters rogatory and supporting documents, subject to reciprocity, shall be transmitted directly to a foreign judicial authority and in case of urgency; they may be transmitted through INTERPOL.

However, in case of the emergency or other important reason there is possibility for direct contacting of 24/7 contact point in police or Public Prosecution when expedited providing of requested information is possible.

Procedures in place

Request should be submitted to 24/7 contact point in Prosecution, e.g. Special Prosecution for High-Tech Crime of Serbia. In urgent cases it can be submitted to the MoI 24/7 contact point as well, which will forward request to the Prosecution.

Urgent requests are treated immediately and directly through 24/7 contact point network, both by the police or Public Prosecution Office with possible direct prosecutor-to-prosecutor contact and/or consultation using electronic communication methods.

Request should follow same procedure as requests described in further text.

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

According to the Law on mutual legal assistance in criminal matters the authorities competent to exercise mutual assistance include national courts and public prosecutor's offices. Certain actions in the mutual assistance proceedings shall be performed by the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Internal Affairs.

Mutual legal assistance requests shall be submitted in the form of letters rogatory and together with other annexed documents of the national judicial authority shall be transmitted to foreign authorities through the Ministry of Justice. At the request of the requested state, letters rogatory and other supporting documents shall be transmitted through diplomatic channels.

Letters rogatory and supporting documents, subject to reciprocity, shall be transmitted directly to a foreign judicial authority and in case of urgency; they may be transmitted through INTERPOL.

However, in case of the emergency or other important reason there is possibility for direct contacting of 24/7 contact point in police or Public Prosecution when expedited providing of requested information is possible.

Competent Authorities

Ministry of Justice is the designated central authority for mutual legal assistance in criminal matters.

In compliance with Article 35 of the Budapest Convention, 24/7 point of contact was established in the Department for Suppression of High-Tech Crime of the Ministry of Interior and the Special Prosecution Office for High-Tech Crime.

Relevant contact points

For Law Enforcement Agencies: Department for Suppression of High-Tech Crime of the Ministry of Interior

For Prosecution and Judiciary: Special Prosecution Office for High-Tech Crime.

Prior consultations

Optional
24/7 contact point

Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention

Additional Protocol to Cybercrime Convention

European Convention on Mutual Assistance in Criminal Matters

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Multilateral/bilateral treaty

Memoranda of Understanding

Content of the request

1. Legal grounds for execution of the request for mutual assistance;
2. Designation of the criminal case, name of the criminal offence as specified under the requesting party law and, if known, domestic law, text of relevant provision of the law and summary of facts;
3. Description of actions relating to the request and reasons for submission;
4. Personal data of the suspect, if known, name and the seat of the legal entity (ISP) being the subject of the request, including its capacity in the proceeding;
5. Other data that may be relevant to proceeding.

Applicable legal requirements

Subscriber is any natural or legal entity who or which is a party to a contract with an operator of publicly available electronic communications services for the supply of such services. In that sense, subscriber information is any information which can lead to identification of a subscriber.

Court order is necessary for obtaining subscriber information.

Confidentiality requirements

Request for obtaining data from ISPs are confidential, especially if they should be obtained during implementation of special investigation measures. Relevant state authority which conducts lawful interception shall keep records on intercepted electronic communications which in particular include certain documents stipulating legal foundation for interception, the date and time of interception, and keep these records as confidential, pursuant to the law governing the confidentiality of data.

Also, the relevant state authority which accesses and/or which the data are provided for, shall keep records on the access and/or provided data that shall include in particular: reference to the document stipulating the legal foundation for access, and/or provision of retained data, date and time of access, and/or provision of retained data, and also keep these records as confidential, pursuant to the law which governs data confidentiality.

It is the duty of state authorities to safeguard confidentiality of information obtained during the execution of requests for mutual legal assistance.

Personal data may be used solely in criminal or administrative proceedings in respect of which request have been submitted.

Urgent requests

All relevant state authorities can act urgently. Detention and acts which has been noted as higher social importance/danger are considered as emergency situations.

It is the duty of all authorities participating in criminal proceedings and authorities providing legal assistance for them to keep the duration of detention as short as possible and to act especially expeditiously if the defendant is in detention. With that regard it would be preferable for the requesting county to indicate reasons for urgency.

Translation

It would be preferable to have translation into Serbian language, especially when it comes to complex requests. English language is acceptable.

Limitations

Personal data and obtained evidence may be used solely in criminal or administrative proceedings in respect of which request have been submitted.

Requesting State should ask for consent of the Competent Authorities if the evidence should be used in the other case.

Operative or intelligence data are not considered as evidence in criminal cases, according to CPC.

► Requests for Traffic Data

General remarks

Traffic data refer to any data processed for the purpose of conveyance of communication on an electronic communications network or for the billing thereof.

Competent Authorities

Special Prosecution Office for High-Tech Crime.
Court, Pre-trial Department.

Relevant contact points

For Law Enforcement Agencies: Department for Suppression of High-Tech Crime of the Ministry of Interior

For Prosecution and Judiciary: Special Prosecution Office for High-Tech Crime.

Prior consultations

Optional
24/7 contact point

Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention

Additional Protocol to Cybercrime Convention

European Convention on Mutual Assistance in Criminal Matters

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Multilateral/bilateral treaty

Memoranda of Understanding

Content of the request

1. Legal grounds for execution of the request for mutual assistance;
2. Designation of the criminal case, name of the criminal offence as specified under the requesting party law and, if known, domestic law, text of relevant provision of the law and summary of facts;
3. Description of actions relating to the request and reasons for submission;
4. Personal data of the suspect, if known, name and the seat of the legal entity (ISP) being the subject of the request, including its capacity in the proceeding;
5. Other data that may be relevant to proceeding.

Applicable legal requirements

Traffic data refers to any data processed for the purpose of conveyance of communication on an electronic communications network or for the billing thereof.

Court order is required for obtaining traffic data.

Confidentiality requirements

Request for obtaining data from ISPs are confidential, especially if they should be obtained during implementation of special investigation measures. Relevant state authority which conducts lawful interception shall keep records on intercepted electronic communications which in particular include certain documents stipulating legal foundation for interception, the date and time of interception, and keep these records as confidential, pursuant to the law governing the confidentiality of data.

Also, the relevant state authority which accesses and/or which the data are provided for, shall keep records on the access and/or provided data that shall include in particular: reference to the document stipulating the legal foundation for access, and/or provision of retained data, date and time of access, and/or provision of retained data, and also keep these records as confidential, pursuant to the law which governs data confidentiality.

It is the duty of state authorities to safeguard confidentiality of information obtained during the execution of requests for mutual legal assistance.

Personal data may be used solely in criminal or administrative proceedings in respect of which request have been submitted.

Urgent requests

All relevant state authorities can act urgently. Detention and acts which has been noted as higher social importance/danger are considered as emergency situations.

It is the duty of all authorities participating in criminal proceedings and authorities providing legal assistance for them to keep the duration of detention as short as possible and to act especially expeditiously if the defendant is in detention. With that regard it would be preferable for the requesting county to indicate reasons for urgency.

Translation

Translation into Serbian language is preferable, but requests in English are acceptable.

Limitations

Personal data and obtained evidence may be used solely in criminal or administrative proceedings in respect of which request have been submitted.

Requesting State should ask for consent of the Competent Authorities if the evidence should be used in the other case.

Operative or intelligence data are not considered as evidence in criminal cases, according to CPC.

► Requests for Content Data

General remarks

There is no explicit definition of this term in the national legislation, but in practice, it refers to the content of the communication carried out by any device.

Competent Authorities

Special Prosecution Office for High-Tech Crime.

Court, Pre-trial Department.

Relevant contact points

For Law Enforcement Agencies: Department for Suppression of High-Tech Crime of the Ministry of Interior

For Prosecution and Judiciary: Special Prosecution Office for High-Tech Crime.

Prior consultations

Optional
24/7 contact point

Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention

Additional Protocol to Cybercrime Convention

European Convention on Mutual Assistance in Criminal Matters

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Multilateral/bilateral treaty

Memoranda of Understanding

Content of the request

1. Legal grounds for execution of the request for mutual assistance;
2. Designation of the criminal case, name of the criminal offence as specified under the requesting party law and, if known, domestic law, text of relevant provision of the law and summary of facts;
3. Description of actions relating to the request and reasons for submission;
4. Personal data of the suspect, if known, name and the seat of the legal entity (ISP) being the subject of the request, including its capacity in the proceeding;
5. Other data that may be relevant to proceeding.

Applicable legal requirements

There is no explicit definition of this term in our legislation, but in practice, it refers to the content of the communication carried out by any device.

Court order is necessary for obtaining content data.

Confidentiality requirements

Request for obtaining data from ISPs are confidential, especially if they should be obtained during implementation of special investigation measures. Relevant state authority which conducts lawful interception shall keep records on intercepted electronic communications which in particular include certain documents stipulating legal foundation for interception, the date and time of interception, and keep these records as confidential, pursuant to the law governing the confidentiality of data.

Also, the relevant state authority which accesses and/or which the data are provided for, shall keep records on the access and/or provided data that shall include in particular: reference to the document stipulating the legal foundation for access, and/or provision of retained data, date and time of access, and/or provision of retained data, and also keep these records as confidential, pursuant to the law which governs data confidentiality.

It is the duty of state authorities to safeguard confidentiality of information obtained during the execution of requests for mutual legal assistance.

Personal data may be used solely in criminal or administrative proceedings in respect of which request have been submitted.

Urgent requests

All relevant state authorities can act urgently. Detention and acts which has been noted as higher social importance/danger are considered as emergency situations.

It is the duty of all authorities participating in criminal proceedings and authorities providing legal assistance for them to keep the duration of detention as short as possible and to act especially expeditiously if the defendant is in detention. With that regard it would be preferable for the requesting county to indicate reasons for urgency.

Translation

Translation into Serbian language is preferable, but requests in English are acceptable.

Limitations

The information obtained within the criminal case should be used only for that criminal case.

It would be expected that the Requesting State would ask for consent of the Competent Authorities if the evidence should be used in the case other than for which it was provided.

Operative or intelligence data cannot be used in criminal cases as evidence.

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

General remarks

Real time collection of traffic data is generally concerned as proceeding for which special evidentiary measure should be applied. These measures are additionally conditioned by Criminal Procedural Code and can be applied only for certain criminal acts, not all.

Competent Authorities

Special Prosecution Office for High-Tech Crime.

Court, Pre-trial Department.

Relevant contact points

For Law Enforcement Agencies: Department for Suppression of High-Tech Crime of the Ministry of Interior

For Prosecution and Judiciary: Special Prosecution Office for High-Tech Crime.

Prior consultations

Optional
24/7 contact point

Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention

Additional Protocol to Cybercrime Convention

European Convention on Mutual Assistance in Criminal Matters

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Multilateral/bilateral treaty

Content of the request

1. Legal grounds for execution of the request for mutual assistance;
2. Designation of the criminal case, name of the criminal offence as specified under the requesting party law and, if known, domestic law, text of relevant provision of the law and summary of facts;
3. Description of actions relating to the request and reasons for submission;
4. Personal data of the suspect, if known, name and the seat of the legal entity (ISP) being the subject of the request, including its capacity in the proceeding;
5. Other data that may be relevant to proceeding

Applicable legal requirements

Traffic data refer to any data processed for the purpose of conveyance of communication on an electronic communications network or for the billing thereof.

Court order for implementation of special evidentiary actions.

Confidentiality requirements

The motion for ordering special evidentiary actions and the decision on the motion are recorded in a special register and kept together with materials on the conduct of special evidentiary actions in a special cover of the file bearing the mark "special evidentiary actions" and a mark determining the level of secrecy, in accordance with the regulations on secret data.

Data on requesting, deciding on and implementing special evidentiary actions represent confidential data. Other persons who in whatever capacity, learn about these data are required to keep them confidential.

All relevant state authorities can maintain confidentiality during execution of the request.

Urgent requests

All relevant state authorities can act urgently. Detention and acts which has been noted as higher social importance/danger are considered as emergency situations.

It is the duty of all authorities participating in criminal proceedings and authorities providing legal assistance for them to keep the duration of detention as short as possible and to act especially expeditiously if the defendant is in detention. With that regard it would be preferable for the requesting county to indicate reasons for urgency.

Translation

Translation into Serbian language is preferable, but requests in English are acceptable.

Limitations

The information obtained within the criminal case should be used only for that criminal case.

It would be expected that the Requesting State would ask for consent of the Competent Authorities if the evidence should be used in the case other than for which it was provided.

Operative or intelligence data cannot be used in criminal cases as evidence.

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

General remarks

Interception of content data is proceeding for which special evidentiary measure should be applied. These measures are additionally conditioned by Criminal Procedural Code and can be applied only for certain criminal acts, not all.

Competent Authorities

Special Prosecution Office for High-Tech Crime.
Court, Pre-trial Department.

Relevant contact points

For Law Enforcement Agencies: Department for Suppression of High-Tech Crime of the Ministry of Interior

For Prosecution and Judiciary: Special Prosecution Office for High-Tech Crime.

Prior consultations

Optional
24/7 contact point

Accepted legal basis / mechanisms for MLA requests

Cybercrime Convention

Additional Protocol to Cybercrime Convention

European Convention on Mutual Assistance in Criminal Matters

Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Multilateral/bilateral treaty

Content of the request

1. Legal grounds for execution of the request for mutual assistance;

2. Designation of the criminal case, name of the criminal offence as specified under the requesting party law and, if known, domestic law, text of relevant provision of the law and summary of facts;
3. Description of actions relating to the request and reasons for submission;
4. Personal data of the suspect, if known, name and the seat of the legal entity (ISP) being the subject of the request, including its capacity in the proceeding;
5. Other data that may be relevant to proceeding.

Applicable legal requirements

There is no explicit definition of this term in our legislation, but in practice, it refers to the content of the communication carried out by any device.

Court order is necessary for obtaining content data.

Confidentiality requirements

The motion for ordering special evidentiary actions and the decision on the motion are recorded in a special register and kept together with materials on the conduct of special evidentiary actions in a special cover of the file bearing the mark "special evidentiary actions" and a mark determining the level of secrecy, in accordance with the regulations on secret data.

Data on requesting, deciding on and implementing special evidentiary actions represent secret data. Other persons who in whatever capacity, learn about these data are required to keep them secret.

All relevant state authorities can maintain confidentiality during execution of the request.

Urgent requests

All relevant state authorities can act urgently. Detention and acts which has been noted as higher social importance/danger are considered as emergency situations.

It is the duty of all authorities participating in criminal proceedings and authorities providing legal assistance for them to keep the duration of detention as short as possible and to act especially expeditiously if the defendant is in detention. With that regard it would be preferable for the requesting county to indicate reasons for urgency.

Translation

Translation into Serbian language is preferable, but requests in English are acceptable.

Limitations

The information obtained within the criminal case should be used only for that criminal case.

It would be expected that the Requesting State would ask for consent of the Competent Authorities if the evidence should be used in the case other than for which it was provided.

Operative or intelligence data cannot be used in criminal cases as evidence.