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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 *This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

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

1.1. Definitions under national legislation

<p>Subscriber Information</p> <p>Article 3(1.8), Law on Prevention and Fight against Cybercrime</p>	<p>“Data on users” are any information that may lead to identification of the user, including type of communication and service used, address of the post office, geographic address, IP address, telephone number or any other number of access and means of payment for pertinent services as well as any other information that may lead to identification of the user.</p>
<p>Traffic Data</p> <p>Article 3(1.7), Law on Prevention and Fight against Cybercrime</p>	<p>“Traffic data” are: computer data concerning the communication that through a computer system and its output, representing part of the communication chain, indicating the origin of the communication, destination, line, time, date, size, volume and time duration as well as type of service used for communication.</p>
<p>Content Data</p> <p><reference to the law if applicable></p>	<p><definition if applicable></p>

The Domestic law does not provide for Content Data as a separate category, but rather for Computer Data as a general category, which pursuant to Article 3(1.5) of the Law on Prevention and Fight against Cybercrime are defined as “any representation of facts, information or concepts in such a form that could be processed by means of computer systems. This category involves any computer program that may initiate computer systems to perform certain functions”. As foreseen under Article 17 of the said law, same rules of procedure apply to obtaining all types of data, that is, in the course of investigation of a crime, the data is ordered to be stored by the prosecutor through an order, upon request of an investigation authority, whereas during legal procedure upon courts order, given that it is an urgent and completely justified case, or reasonable doubt exists in relation to preparation or committing of a criminal offence through computer systems.

2. Procedures for preservation requests of stored computer data

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

Procedures in place

Law No.03/L –166 ON PREVENTION AND FIGHT OF THE CYBER CRIME

Article 23 - Requirements for accelerated data maintenance

1. Within the international cooperation, foreign competent authorities might request through the contact point to store quickly computer data or data concerning the traffic data that do exist inside a computer system in the territory of Kosovo, in relation to which a foreign authority have made a request for international legal assistance in penal issues.
2. The request for rapid storage according to paragraph 1 shall include the following information:
 - 2.1. authority who requests the storage;
 - 2.2. a brief presentation of facts that are subject to a crime investigation and the legal ground;
 - 2.3. computer data requested to be stored;
 - 2.4. any information available, required to identify the computer data owner and the location of the computer system;
 - 2.5. service of the computer system and the need to store them;
 - 2.6. the purpose of the foreign authority for formulation of a request on international legal assistance in penal matters;
3. The storage request is executed according to Article 17 for a sixty (60) days period. This storage is valid until a decision is taken by competent Kosovar authorities, in relation to the request on international legal assistance in penal matters.

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

Procedures in place

Law No.03/L –166 ON PREVENTION AND FIGHT OF THE CYBER CRIME

Article 24 - Data storage

If, in the execution of the request formulated according to Article 23, paragraph 1 of this law, a service provider in a foreign country is found out that it is in possession of the data concerning to traffic data, the service of fight against cybercrime will inform immediately the requesting foreign authority about this, by communicating also all information for identification of the pertinent service provider.

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 International Legal Cooperation in Criminal Matters - 04/L-213 (September 2013) represents the general framework for international cooperation in criminal matters <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20international%20legal%20cooperation%20in%20criminal%20matters.pdf>

International cooperation is also foreseen in the Law on Prevention and Fight of the Cybercrime, namely:

- International Cooperation (Article 20);
- Investigations (Article 21);
- Contact point (Article 22).

Article 219 of the Criminal Procedure Code refers to international requests.

Competent Authorities

Ministry of Justice (Department for International Legal Cooperation) is the designated central authority for mutual legal assistance in criminal matters.

Requests for international legal cooperation shall be transmitted through the Ministry of Justice, where necessary, diplomatic channels may also be used. In urgent cases, national judicial authorities may provide assistance even if the request is received directly, through INTERPOL, or in any other form which produces a written record, on condition that the requesting state assures that it will send the request in original within thirty (30) days in accordance.

The Minister of Justice may allow direct cooperation between national and foreign judicial authorities, as deemed appropriate.

Legal assistance may also be provided or requested for undertaking provisional measures for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests.

National judicial authorities shall give priority to the execution of requests for mutual legal assistance and take into account any procedural deadlines and any other terms indicated by the requesting state.

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Article 219 of the Criminal Procedure Code regulates international requests, if the Office of International Legal Cooperation receives and approves a request for assistance from a foreign government, the Office of International Legal Cooperation shall assign the request to the appropriate state prosecutor, who shall initiate a criminal proceeding with the limited purpose of obtaining the requested information or performing the requested action. If the requested information or action is not permitted by the law or is not possible to obtain or perform, the state prosecutor shall inform the Office of International Cooperation and shall terminate the criminal proceeding.

A 24/7 contact point is not yet established. Police requests can be directed to the Directorate for International Cooperation in the Rule of Law (ILECU) of the Kosovo* Police.

Relevant contact points

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Prior consultations

Best practice as well as based on agreements (if exists). With prior consultation the issue and the next steps will be clarified.

Accepted legal basis / mechanisms for MLA requests

Law on International Legal Cooperation Criminal Matters, Bilateral MLA Agreements, Criminal Code of the Republic of Kosovo.

Content of the request

It is necessary to have summary of facts as well as legal provisions and proper documents (court order etc.) in which is based request.

Applicable legal requirements

This is regulated by Law on Electronic Communication (Article 68 paragraph 2.2.3). Information includes necessary data to identify user.

The police request is the legal requirements for obtaining subscriber information in response to a request.

Confidentiality requirements

Request itself is confidential. Procedure is: investigator of the certain case makes written request which is signed by superiors in chain of command and when necessary prosecutor and judge. ISPs have assigned a legal officer who accepts request for data from the investigator and the same one gives back the written reply.

LAW ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS

Article 5 Confidentiality

1. The Ministry shall ensure the confidentiality of requests for international legal cooperation and of the information contained in the requests if the requesting state so requires.
2. If the requirement referred to in paragraph 1. of this Article cannot be met, the Ministry shall notify the requesting state thereof.

Urgent requests

Requests for international legal cooperation shall be transmitted through the Ministry. Where necessary, diplomatic channels may also be used.

In urgent cases, national judicial authorities may provide assistance even if the request is received directly, through INTERPOL, or in any other form which produces a written record, on condition that the requesting state assures that it will send the request in original within thirty (30) days in accordance.

The Minister may allow direct cooperation between national and foreign judicial authorities, as deemed appropriate.

- Legal assistance may also be provided or requested for the taking of provisional measures for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests.
- National judicial authorities shall give priority to the execution of requests for mutual legal assistance and take into account any procedural deadlines and any other terms indicated by the requesting state.

Translation

If the request and supporting documents are in a foreign language, they should be accompanied by certified translations into Albanian or Serbian. Certified translations in English may also be accepted based on reciprocity.

Limitations

LAW ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS

Article 2

Limits of cooperation

Application of this law is subordinate to the protection of interests of sovereignty, security, public order, and other interests of the Republic of Kosovo as defined by the Constitution.

▶ Requests for Traffic Data

General remarks

Competent Authorities

In accordance with applicable law in Kosovo, the Department for International Legal Cooperation of the Ministry of Justice is the central authority for processing all requests for international legal assistance within and outside Kosovo.

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Prior consultations

Best practice as well as based on agreements (if exists). With prior consultation the issue and the next steps will be clarified.

Accepted legal basis / mechanisms for MLA requests

Law on International Legal Cooperation

Assistance may be refused if:

- the request concerns a political offence;
- the execution of the request is likely to prejudice the sovereignty, security, ordre public, or other essential interests of the Republic of Kosovo;
- the request is contrary to the legal system of the Republic of Kosovo.

If a request is fully or partially refused, the Ministry shall notify the requesting state in writing.

Law on International Legal Cooperation Criminal Matters, Law on Prevention and Fight against Cybercrime, Bilateral MLA Agreements, Criminal Code of the Republic of Kosovo.

Content of the request

It is necessary to have summary of facts as well as legal provisions and proper documents (court order etc.) in which is based request.

Applicable legal requirements

According to the Law on Prevention and Fight against Cybercrime "traffic data" are: computer data concerning the communication that through a computer system and its output, representing part of the communication chain, indicating the origin of the communication, destination, line, time, date, size, volume and time duration as well as type of service used for communication.

For obtaining traffic data is needed court order

Confidentiality requirements

LAW ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS

Article 5

Confidentiality

1. The Ministry shall ensure the confidentiality of requests for international legal cooperation and of the information contained in the requests if the requesting state so requires.
2. If the requirement referred to in paragraph 1. of this Article cannot be met, the Ministry shall notify the requesting state thereof.

The procedure is: the investigator of the certain case makes written request which is signed by superiors in chain of command and when necessary prosecutor and judge. ISPs have assigned a legal officer who accepts request for data from the investigator and the same one gives back the written reply.

Urgent requests

Law No.03/L –166 ON PREVENTION AND FIGHT OF THE CYBER CRIME

Article 22 - Contact point

1. In order to ensure a permanent international cooperation in the field of cyber crime, the Government shall make available a permanent contact point.
2. This permanent contact point possesses the following competencies:
 - 2.1. provides specialized assistance and information on the legislation in the scope of cyber crime as well as informs contact points of other states;
 - 2.2.orders rapid data storage as well as confiscation of equipment containing computer data or data concerning traffic data demanded by a foreign competent authority;

2.3. executes or assists in execution, according to legal provisions, in cases of cybercrime fight, by cooperating with the entire Kosovar competent authorities.

Law on International Legal Cooperation

In urgent cases, national judicial authorities may provide assistance even if the request is received directly, through INTERPOL, or in any other form which produces a written record, on condition that the requesting state assures that it will send the request in original within thirty (30) days in accordance.

Translation

If the request and supporting documents are in a foreign language, they should be accompanied by certified translations into Albanian or Serbian. Certified translations in English may also be accepted based on reciprocity.

Limitations

LAW ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS

Article 2

Limits of cooperation

Application of this law is subordinate to the protection of interests of sovereignty, security, public order, and other interests of the Republic of Kosovo as defined by the Constitution.

► Requests for Content Data

General remarks

Competent Authorities

In accordance with applicable law in Kosovo, the Department for International Legal Cooperation of the Ministry of Justice is the central authority for processing all requests for international legal assistance within and outside Kosovo.

Relevant contact points

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Accepted legal basis / mechanisms for MLA requests

Law on International Legal Cooperation Criminal Matters, Law on Prevention and Fight against Cybercrime, Bilateral MLA Agreements, Criminal Code of the Republic of Kosovo.

Limits of cooperation

Application of this law is subordinate to the protection of interests of sovereignty, security, public order, and other interests of the Republic of Kosovo as defined by the Constitution. Criminal Code.

Content of the request

It is necessary to have summary of facts as well as legal provisions and proper documents (court order etc.) in which is based request.

Applicable legal requirements

Law No.03/L –166 ON PREVENTION AND FIGHT OF THE CYBER CRIME Article 19 - Access, obtaining or record of communications

1. Access to a computer system as well as interception or record of communication carried out by the equipment of the computer systems shall be performed when useful to find the truth as well as facts or identification of perpetrators and could not be achieved based on other evidence.
2. The measures that refer to paragraph 1 of this Article shall be carried out upon a proposal of the prosecutor by crime investigation bodies with the assistance of specialized persons which are obliged to maintain confidentiality of the operation carried out.
3. The authorization referring to paragraph 2 of this Article shall be given for thirty (30) days, on grounded reasons might be extended for another thirty (30) days, whereas the maximum duration should not exceed a period of four (4) months.
4. The prosecutor is obliged that by the end of investigation to inform or write the persons against whom have been undertaken measures as referred to in paragraph 1 of this Article.

Confidentiality requirements

LAW ON INTERNATIONAL LEGAL COOPERATION IN CRIMINAL MATTERS Article 5

Confidentiality

1. The Ministry shall ensure the confidentiality of requests for international legal cooperation and of the information contained in the requests if the requesting state so requires.
2. If the requirement referred to in paragraph 1. of this Article cannot be met, the Ministry shall notify the requesting state thereof.

The procedure is: the investigator of the certain case makes written request which is signed by superiors in chain of command and when necessary prosecutor and judge. ISPs have assigned a legal officer who accepts request for data from the investigator and the same one gives back the written reply.

Urgent requests

In urgent cases, national judicial authorities may provide assistance even if the request is received directly, through INTERPOL, or in any other form which produces a written record, on condition that the requesting state assures that it will send the request in original within thirty (30)days in accordance.

Translation

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Limitations

Law on International Legal Cooperation

Assistance may be refused if:

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

General remarks

Competent Authorities

Department for International Legal Cooperation
Ministry of Justice

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Content of the request

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Limitations

Limits of cooperation

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

General remarks

Competent Authorities

Department for International Legal Cooperation
Ministry of Justice

Relevant contact points

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Applicable legal requirements

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