

Table of Contents

1. Categories of Data (subscriber information, traffic data, content data).....	2
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).....	4
3. Procedures for mutual legal assistance	4
3.1. Requests for stored computer data: subscriber, traffic, content data (Art. 31).....	4
3.2. Requests for real time collection of traffic data (Art. 33)	9
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. Definitions under national legislation

Subscriber Information	Subscriber information is not defined under the legislation of the Ukraine.
Traffic Data	Traffic data is not defined under the legislation of the Ukraine.
Content Data <reference to the law if applicable>	There is no definition of the content data in the Ukrainian legislation.

2. Procedures for preservation requests of stored computer data

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

General remarks

In terms of expedited preservation of stored computer data, specific preservation order is not introduced in the Ukrainian procedural legislation. Chapter 15 of the Criminal Procedure Code foresees some possibility of preserving computer data by using the concept of "provisional access to objects and documents". According to Article 159(1) of the Code of Criminal Procedure, purpose of 'provisional access to objects and documents' is for a party in proceedings to (1) get opportunity to examine objects and documents, (2) make copies thereof and, (3) seize them. In this regard, access to data with the use of provisional access to objects and documents requires several steps with the full judicial hearing and authorisation. According to Article 159(1) sub-paragraph 2: "provisional access to electronic information systems or to the parts thereof, mobile terminals of communication systems shall be made by way of making the copy of information contained in such electronic information systems or in parts thereof, mobile terminals of communication systems, without the seizure thereof".

Moreover, under Ukrainian legislation there is no separate definition of either regular and/or urgent preservation of data requests. It is assumed that national as well as local Ukrainian Internet Service providers should under the Law of Ukraine «On Telecommunications» retain data for a period of limitation of action, which is 3 years, which is not observed in practice. The computer data could be preserved on demand of the law-enforcement of special services and agencies of Ukraine such as Security Service of Ukraine or National Police, but in practice ISPs do not comply with such requests.

Procedures in place

Step 1.	Confirmation of receipt (30 minutes)
Step 2.	Legal review as to the national and international requirements (1-2 hours)
Step 3.	Sending back for additional clarifications, proceeding with the request or refusing to comply
Step 4.	In case it goes forward - verification with the prosecutor/supervisor (if necessary)
Step 5.	Sending the request for execution to provider/person and waiting for response
Step 6.	Follow up in cases of urgency or where specific time for response was requested and there is no feedback from provider

Urgent procedure: No urgent procedure.

There is no separate codified urgent procedure. Requesting party should specify the urgency though. If it requires urgency, it can be sent for execution through electronic means.

Pursuant to the Art. 548 of the Criminal Procedure Code of Ukraine an authorized (central) authority of Ukraine may accept for consideration a request submitted by the requesting Party via e-mail, fax or other means of communication.

Such request shall be executed upon the confirmation of mailing or submitting its original. The materials of the executed request may be sent to a foreign competent authority only after the Ukrainian counterpart receives the original of a request.

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

General remarks

There are no specific provisions that define traffic data, authorize its expedient preservation and disclose the path of communications by the service providers, neither in the procedural nor in telecommunications legislation of Ukraine.

Procedures in place

2.3. 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

Important Note: While several articles of the Code of Criminal Procedure of Ukraine refer to the collection of subscriber information and identification of the subscriber (Articles 162, 248, 263, 268), the notion of subscriber information is not defined in the procedural legislation. The only definition related to this notion can be found in the Law on Telecommunications, where the term 'subscriber' is explained.

Thus, given that there are no separate definitions of subscriber, traffic and content data under **Ukrainian legislation**, it is assumed that Article 31 requests refer to stored computer data.

Competent Authorities

The stage of pre-trial investigation

Prosecutor General's Office
13/15 Ryznitska Street,
Kyiv-11, Ukraine, 01011
+38044 596 73 92
+38044 280 28 51
indep@gp.gov.ua – official e-mail of the Department for International Legal Cooperation of the Prosecutor General's Office.
www.gp.gov.ua

According to the newly adopted legislation the National Anticorruption Bureau of Ukraine is also a central authority in execution of the MLA requests at the stage of pre-trial investigation.

[Back to the Table of Contents](#)

The stage of trial proceedings or sentence execution

Ministry of Justice of Ukraine
13, Horodetskogo Street,
Kyiv, Ukraine, 01001
+38044 2796879
+38044 2705453
itex@minjust.gov.ua
<https://www.minjust.gov.ua/en>

Relevant contact points

National Contact Point

NCP cannot implement the MLA request and has to send it to the competent authority (General's Office and Ministry of Justice of Ukraine) for action.

In the absence of treaties and on the basis of reciprocity:

Ministry of Foreign Affairs, Directorate General for consular service is the channel through which the request is forwarded and received.

In the absence of an international treaty with the state concerned, the designated (central) authority of Ukraine shall forward request for international legal assistance to the Ministry of Foreign Affairs of Ukraine, for subsequent transmitting it to the competent authority of the requested state via diplomatic channels.

If received by the above, the request should be transferred to the central authority according to the stage of proceedings.

The request has to include assurances of reciprocity.

Only the official written request needs to go through the Ministry of Foreign Affairs.

Ministry of Foreign Affairs,
Directorate General for consular service
Address and telephones:
2, Velyka Zhytomyrska str., Kyiv-025, 01025, Ukraine
tel.: +38 044) 238-15-15, 238-16-57
fax: +38 044) 238-18-24
e-mail: cons@mfa.gov.ua

Prior consultations

- If necessary, possible consultation via the contact point 24/7 or via representative of the Prosecutor General's Office
- Under Ukrainian legislation there is no separate definition of subscriber data therefore it is required to the requesting authority to consult in advance and/or send an advance draft before making such kinds of requests.
- If the requesting authority want its requests to be executed properly it should better consult (send an advanced draft) the executing authorities (Security Service of Ukraine and National Police of Ukraine) directly either via 24/7 contact point or by other (e-mail, phone, fax) possible means

Accepted legal basis / mechanisms for MLA requests

- Budapest Convention on Cybercrime and its Additional Protocol
- European Convention on Mutual Assistance in Criminal Matters and Additional Protocols thereto.
- UN Convention against Transnational Organized Crime
- UN Convention against corruption

[Back to the Table of Contents](#)

- Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters
- Bilateral agreements (check status)
- Section 9 "International cooperation in criminal proceedings", Chapter 42-43 of the Criminal Procedure Code of Ukraine (see English translation in below Annex 1 in Module 3)

Content of the request

There are no specific requirements for foreign MLA requests in the Ukrainian legislation. There are only requirements for Ukrainian requests, which are going to be sent abroad (Art. 552 of the Criminal Procedure Code of Ukraine).

However foreign MLA request must comply with the international Conventions or treaties of Ukraine.

The request must contain substantial information indicating a crime qualification (degree of severity of the crime)

Note:

According to the criminal procedural legislation of Ukraine, measures to ensure criminal proceedings under general rules apply on the basis of the decision of investigator, or court order (Article 131- 132 of CPC of Ukraine (see English translation in Annex 2 of the Module 3 below)

Applicable legal requirements

Subscriber information is not defined under the legislation of the Ukraine.

Also, in the current legislation of Ukraine there is no official definition of "subscriber of online services"; at the same time the Law of Ukraine "On Telecommunications" dated 18.11.2003 defines the following terms:

- Consumer telecommunications services (consumer) - legal or natural person that needs, orders and/or receiving telecommunication services for their own use;
- The subjects of the telecommunications market - operators, telecommunications providers, consumers of telecommunications services, manufacturers and/or suppliers of telecommunication equipment.

The legal requirements for obtaining subscriber data in response to a request would be a court order issued by a Ukrainian court authority. This order could be issued upon request of the Ukrainian authority, which carries out the pre-trial investigation and executes the MLA request.

Confidentiality requirements

Pre-trial cases:

According with the Article 556 of the Criminal Procedure Code of Ukraine:

1. Upon request of the requesting Party, the designated (central) authority of Ukraine may take additional measures to ensure confidentiality of the fact of receipt of a request for international legal assistance, of its contents and of information obtained as a result of the execution of the request.
2. If necessary, conditions and time limits for the retention of confidential information obtained as a result of the execution of the request shall be agreed.

Trial stage:

Same as pre-trial stage.

Urgent requests

Pre-trial and trial stages

Pursuant to the Art. 548 of the Criminal Procedure Code of Ukraine an authorized (central) authority of Ukraine may accept for consideration a request submitted by the requesting Party via e-mail, fax or other means of communication.

Such request shall be executed upon the confirmation of mailing or submitting its original. The materials of the executed request may be sent to a foreign competent authority only after the Ukrainian counterpart receives the original of a request.

The requesting country is not required to give a basis (factual or legal reasons) for urgency.

Translation

Ukraine has made reservations to the European Convention on Mutual Assistance in Criminal Matters and UN convention against Transnational Organized Crime as well some other multilateral treaties regarding the translation requirements. The accepted languages are Ukrainian, Russian, English and French.

In urgent cases it is advised to provide translation into Ukrainian (Russian) language.

Reservations referred to above:

- to Article 16 of the European Convention on Mutual Assistance in Criminal Matters: "requests and annexed documents shall be sent to Ukraine together with a translation into Ukrainian or into one of the official languages of the Council of Europe unless they are drawn up in those languages"
- to the paragraph 14 of Article 18 of the UN Convention against Transnational Organized Crime: „Requests for legal assistance and documents attached therein will be sent to Ukraine together with their authenticated translation in Ukrainian, Russian, English or French, if they have not been drawn up in one of these languages“.

Limitations

According to declaration of Ukraine to Article 26 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters personal data transferred to another Party cannot be used without previous consent of Ukraine for the purposes specified in Article 26, paragraph 1, of the Second Additional Protocol, within the framework of proceeding, for which Ukraine may refuse or limit the transmission or use of personal data under the Convention or Protocols to it.

Article 553 "Effects of the request performance in a foreign state" of the CCP of Ukraine:

1. Evidence and information obtained from the requested party as a result of a request for international legal assistance may only be used in criminal proceedings concerned in the request, unless otherwise agreed with the requested party.
2. The information contained in the materials obtained as a result of the request for international legal assistance may not be recognized as acceptable by the court, if request of the competent authority of Ukraine was transferred to the requested party in violation of the prescribed procedure established hereby or by the international treaty of Ukraine.

According to Art. 558 par. 6 of the CCP of Ukraine when sending materials to the competent authority of a foreign state the central authority of Ukraine on international legal assistance or authority authorized to carry out relations with foreign competent authorities in accordance with the Article 545 hereof may set the restrictions on the use of such materials in accordance with the law and international treaty ratified by the Verkhovna Rada of Ukraine (Parliament of Ukraine).

- Requests for Traffic Data

General remarks

Same steps and requirements would apply as above, with differences provided below:

Competent Authorities

Relevant contact points

Prior consultations

Accepted legal basis / mechanisms for MLA requests

Content of the request

Applicable legal requirements

A definition of traffic data is not found in the legislation of Ukraine

The legal requirements for obtaining traffic data (as all types of data) in response to a request would be a court order issued by a Ukrainian court authority. This order could be issued upon request of the Ukrainian pre-trial investigation authority, which executes the MLA request.

Confidentiality requirements

Urgent requests

Translation

Limitations

- Requests for Content Data

General remarks

Same steps and requirements would apply as above, with differences provided below:

Competent Authorities

Relevant contact points

Prior consultations

Accepted legal basis / mechanisms for MLA requests

Content of the request

Applicable legal requirements

Content of communication for the purposes of interception is defined under Article 258 of the Ukrainian CPC; no general definition is available.

Confidentiality requirements

Urgent requests

Translation

Limitations

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

General remarks

Competent Authorities

The stage of pre-trial investigation

Prosecutor General's Office
13/15 Ryznitska Street,
Kyiv-11, Ukraine, 01011
+38044 596 73 92
+38044 280 28 51
indep@gp.gov.ua – official e-mail of the Department for International Legal Cooperation of the
Prosecutor General's Office.
www.gp.gov.ua

According to the newly adopted legislation the National Anticorruption Bureau of Ukraine is also a central authority in execution of the MLA requests at the stage of pre-trial investigation.

The stage of trial proceedings or sentence execution

Ministry of Justice of Ukraine
13, Horodetskogo Street,
Kyiv, Ukraine, 01001
+38044 2796879
+38044 2705453
itex@minjust.gov.ua
<https://www.minjust.gov.ua/en>

Relevant contact points

National Contact Point
NCP cannot implement the MLA request and has to send it to the competent authority (General's Office and Ministry of Justice of Ukraine) for action.

The Security Service of Ukraine is general authority for protecting the cybersecurity of Ukraine from cyberthreats such as illegal activity and actions of international groups of hackers, financial crimes with the usage of Internet resources etc.

Contact details: Department of protection of the interests of the state in the sphere of information security of the Security Service of Ukraine.

Address: 33 Volodimirska str., Kyiv, Ukraine 01034
Tel./Fax: +380444584779, +380442350358
e-mail: dkib@dis.gov.ua icc@ssu.gov.ua
web-site: www.ssu.gov.ua

In the absence of treaties and on the basis of reciprocity:

Ministry of Foreign Affairs, Directorate General for consular service is the channel through which the request is forwarded and received.

In the absence of an international treaty with the state concerned, the designated (central) authority of Ukraine shall forward request for international legal assistance to the Ministry of Foreign Affairs of Ukraine, for subsequent transmitting it to the competent authority of the requested state via diplomatic channels.

If received by the above, the request should be transferred to the central authority according to the stage of proceedings.

The request has to include assurances of reciprocity.

Only the official written request needs to go through the Ministry of Foreign Affairs.

Ministry of Foreign Affairs,
Directorate General for Consular Service
Address and telephones:
2, Velyka Zhytomyrska str.,
01025, Kyiv, Ukraine
tel.: +380-44-238-18-88, +380-238-16-57
e-mail: 71@mfa.gov.ua

Prior consultations

- If necessary, possible consultation via the contact point 24/7 or via representative of the General Prosecutor of Ukraine
- Representatives of Ukraine do not object to receive draft requests
- Under Ukrainian legislation there is no separate definition of traffic data therefore it is required to the requesting authority to consult in advance and/or send an advance draft before making such kinds of requests.
- If the requesting authority want its requests to be executed properly it should better consult the executing authorities (Security Service of Ukraine and National Police of Ukraine) directly either via 24/7 contact point or by other (e-mail, phone, fax) possible means.

Accepted legal basis / mechanisms for MLA requests

- Budapest Convention on Cybercrime and its Additional Protocol
- European Convention on Mutual Assistance in Criminal Matters and Additional Protocols thereto.
- UN Convention against Transnational Organized Crime
- UN Convention against corruption
- Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters
- Bilateral agreements (check status)
- Section 9 "International cooperation in criminal proceedings", Chapter 42-43 of the Criminal Procedure Code of Ukraine (see English translation in below Annex 1 in Module 3)

Content of the request

In case of the treaty basis:

There are no specific requirements for foreign MLA requests in the Ukrainian legislation. There are only requirements for Ukrainian requests, which are going to be sent abroad (Art. 552 of the Criminal Procedure Code of Ukraine). However foreign MLA request must comply with the international Conventions or treaties of Ukraine .

In cases of reciprocity:

There are no specific requirements for foreign MLA requests in the Ukrainian legislation. There are only requirements for Ukrainian requests, which are going to be sent abroad (Art. 552 of the Criminal Procedure Code of Ukraine).

Applicable legal requirements

Traffic data is not defined under the legislation of the Ukraine.

Articles 258 – 266 of the Code of Criminal Procedure provide legal basis for several covert investigative (detective) actions which interfere with the private communications of the individual. In the context of Article 20 Budapest Convention, primarily relevant action is 'collecting information from transport telecommunication networks' (CPC Article 263).

At the same time, the lack of the key definition of traffic data in specialized or procedural legislation makes application of these combined powers less likely to achieve implementation of real-time collection of traffic data.

Confidentiality requirements

Pre-trial cases:

According with the Article 556 of the Criminal Procedure Code of Ukraine

1. Upon request of the requesting Party, the designated (central) authority of Ukraine may take additional measures to ensure confidentiality of the fact of receipt of a request for international legal assistance, of its contents and of information obtained as a result of the execution of the request.
2. If necessary, conditions and time limits for the retention of confidential information obtained as a result of the execution of the request shall be agreed.

The pre-trial investigation authority is able to maintain confidentiality during the execution of the request. There are no notification requirements in Ukrainian legislation. However the issue of the necessity of the confidentiality should be mentioned by the requesting party in the request.

Trial stage:

See pre-trial stage.

Urgent requests

Pre-trial and trial stages

According to art. 558 of the Criminal Procedure Code of Ukraine

2. A request from a foreign competent authority for international legal assistance shall be executed within one month of the date of its receipt by the actual executor. If taking complex and large-scale procedural actions is required, particularly those subject to approval by the prosecutor or those that may be conducted only on the grounds of the ruling by an investigating judge, the time period for its execution may be extended by a central authority of Ukraine or an authority authorized to conduct relations with competent foreign authorities in accordance with article 545, paragraph 3 of this Code.

Translation

Ukraine has made reservations to the European Convention on Mutual Assistance in Criminal Matters and UN convention against Transnational Organized Crime as well some other multilateral treaties

regarding the translation requirements. The accepted languages are Ukrainian, Russian, English and French.

In urgent cases it is advised to provide translation into Ukrainian (Russian) language.

Reservations referred to above:

- to Article 16 of the European Convention on Mutual Assistance in Criminal Matters: "requests and annexed documents shall be sent to Ukraine together with a translation into Ukrainian or into one of the official languages of the Council of Europe unless they are drawn up in those languages"
- to the paragraph 14 of Article 18 of the UN Convention against Transnational Organized Crime: „Requests for legal assistance and documents attached therein will be sent to Ukraine together with their authenticated translation in Ukrainian, Russian, English or French, if they have not been drawn up in one of these languages“.

Limitations

According to declaration of Ukraine to Article 26 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters personal data transferred to another Party cannot be used without previous consent of Ukraine for the purposes specified in Article 26, paragraph 1, of the Second Additional Protocol, within the framework of proceeding, for which Ukraine may refuse or limit the transmission or use of personal data under the Convention or Protocols to it.

Article 553 "Effects of the request performance in a foreign state" of the CCP of Ukraine:

1. Evidence and information obtained from the requested party as a result of a request for international legal assistance may only be used in criminal proceedings concerned in the request, unless otherwise agreed with the requested party.
2. The information contained in the materials obtained as a result of the request for international legal assistance may not be recognized as acceptable by the court, if request of the competent authority of Ukraine was transferred to the requested party in violation of the prescribed procedure established hereby or by the international treaty of Ukraine.

According to Art. 558 par. 6 of the CCP of Ukraine when sending materials to the competent authority of a foreign state the central authority of Ukraine on international legal assistance or authority authorized to carry out relations with foreign competent authorities in accordance with the Article 545 hereof may set the restrictions on the use of such materials in accordance with the law and international treaty ratified by the Verkhovna Rada of Ukraine (Parliament of Ukraine).

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

General remarks

Same steps and requirements would apply as above, with differences provided below:

Competent Authorities

Relevant contact points

Prior consultations

Accepted legal basis / mechanisms for MLA requests

Content of the request

Applicable legal requirements

There is no definition of the content data in the Ukrainian legislation.

Articles 258 – 266 of the Code of Criminal Procedure provide legal basis for several covert investigative (detective) actions which interfere with the private communications of the individual. In the context of Article 21 Budapest Convention, primarily relevant action is 'collecting information from transport telecommunication networks' (CPC Article 263).

According to Article 258(4) of the Code, "interference in private communication implies access to the contents of communication under conditions when participants to the communication can reasonably expect that their communication is private". Although the measures referred to above were intended to use for the interception of the telecommunications networks and for the phones and mobile phones, they are applicable also to the computer systems. These measures can only be applied to the investigations of serious criminal offences;

Under the Ukrainian legislation the interception of all kinds of data is possible only on the basis of the court order which in its turn could be issued only if the criminal case is opened by the relevant investigation authority.

Confidentiality requirements

Urgent requests

Translation

Limitations
