Cooperation in emergency situations: the role of 24/7 points of contact

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Existing electronic evidence challenges reflecting on MLA proceedings:

- **Identification** and location of the evidence
- **Securing** the hardware
- **Capturing** and analysis of the data
- **Maintaining** integrity and chain of custody
- **Complying** with rules of court and admissibility
- **Linking** the suspect to use of the device at the relevant time (‘Attribution’)

Common types of electronic evidence in MLA
Available solutions in different countries:

Ministry (Department) of Justice as central authority and one national unit to process all requests

Single points of contact (SPOC) in different authorities (MoJ, LEA, Prosecution, Court etc.)

One task force/unit with liaison officers from competent services like:
- Police
- Investigators (where different)
- Prosecutors/Investigating Judges
- National Security
- Forensic service
Competent Authorities Setup – Central and Executing

➢ Whichever system is in place, following should be strongly recommended as a minimum:

✓ trained and equipped personnel should be available 24/7 to facilitate the operative work and conduct or support mutual legal assistance (MLA) activities

✓ advanced experience of the personnel in criminal investigations to keep awareness of the context

✓ strong information technology/digital forensics background to execute requests where necessary

✓ strong knowledge of the MLA legal framework and procedures

✓ competence and possibility to:
  • immediately assist in investigations or trial proceedings concerning criminal offences related to computer systems and data
  • collect evidence in electronic form about criminal offence
  • exchange electronic evidence without further due with requesting country competent authority

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Article 10 – Emergency Mutual Assistance

- Each Party may seek mutual assistance on a rapidly expedited basis where it is of the view that an emergency exists.
- A request under this article shall include, in addition to the other contents required, a description of the facts that demonstrate that there is an emergency and how the assistance sought relates to it.

- Each Party shall ensure that a person from its central authority or other authorities responsible for responding to mutual assistance requests is available on a twenty-four hour, seven-day-a-week basis for the purpose of responding to a request under this article.
Take outs

- Existing electronic evidence challenges reflecting on MLA proceedings
- Available solutions in different countries and recommendations
- Budapest Convention Art. 35 (24/7)
- Second Additional Protocol instruments: Emergency MLA (24/7) and Joint Investigation Teams
Utilizing Electronic Evidence Acquisition Through International Cooperation Mechanisms

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