

SLOVAKIA

Slovakia welcomes the opportunity to provide written comments before the 5th meeting of the Open-Ended Intergovernmental Expert Group to Conduct a Comprehensive Study on Cybercrime (IEG) to the substantive issues included into Chapters 5 (law enforcement and investigation) and Chapter 6 (electronic evidence and criminal justice) of the Draft Comprehensive Study on Cybercrime.

Slovakia pays great attention to fight against cybercrime. In this context, it considers specialisation as a key aspect for successful investigation and prosecution of criminal offences. At the national level in the Presidium of Police Force a Computer Crime Department was established in 2013. Officers of this unit fulfil various tasks, including cybercrime seeking and monitoring (Internet undercover operations included).

The National Network of Prosecutors against Cybercrime was established in 2017. Its main tasks are to provide practical information and to share experience among members of the Network and with other prosecutors concerning cybercrime both regarding national cases and cases of international cooperation, including cooperation with Computer Crime Department of Presidium of Police Force and cooperation with international organizations and networks. The aim of the Network is also to share the information obtained through the EJCN and for the EJCN (e.g. experience from cases, modus operandi). Among other things, the Network, through its coordinator, also provides information on practical issues related to the service providers that are discussed in the National expert group against cybercrime. A meeting in this respect was initiated which was focused on application problems related to cooperation with providers. Slovakia believes that dialogue with providers is necessary.

Member of the General Prosecutor's Office also actively participates in the activities of the European Judicial Cybercrime Network (although it is not a primary aim of the EJCN, the contact point already provided support in a particular case) which provides a great forum to share best practices between practitioners specialised in countering the challenges posed by cybercrime, including increased efficiency of investigations.

At the national level, Multidisciplinary group of experts on cybercrime was established. It gathers experts from all important state authorities including private sector. It is discussing inter alia how to modify the laws related to disclosure of data for criminal proceedings so that no court order is needed (Slovakia is one of the countries where a court order is required to determine the user of a telephone number or IP address),

Slovakia has ratified Budapest Convention in 2008 and considers it to be the best international standard allowing international cooperation and containing procedural measures for securing electronic evidence. In light of the above, successful implementation of the procedural powers contained in Budapest Convention are a key factor for successful investigation and prosecution of criminal offences. Furthermore, the importance of Article 18 (1) letter a) which provides for production orders is that really stands the test of time. It obliges contracting parties to empower their authorities to order a person in its territory to submit specified computer data in that person's possession or controlled stored in a computer system or a computer data storage medium. Not a location of data, but a presence of a controller or holder of data in a particular territory, is the key element. That provides solutions in most cases even in the cloud age.

Slovakia has experience that provisions of Budapest Convention work very well in practice and uses is frequently, both as a requested and requesting state, especially for the purpose of data preservation. Consequently, the evidence is obtained through MLA sometimes even within several days.

Nowadays, almost every criminal offence may produce e-evidence. Therefore, it must be highlighted that Budapest Convention allows for gathering of electronic evidence for all types of crime which makes it even more important instrument. It follows from this that every judge or prosecutor should be made aware how to use available means of securing electronic evidence. Educational activities and capacity building programmes in this respect are instrumental in this context and considered as essential in Slovakia. From recent activities, it may be highlighted that Slovak authorities have organized a lecture at the working meeting at the General Prosecutor's Office for specialists in juvenile or minor delinquency crimes, crimes committed against children and violence in families on the topic "Proof of crimes committed against children and relatives by means of the Internet and electronic means." The lecture focused on providing evidence through MLA.

Furthermore, it is important to frequently analyse how implemented legislative measures work in practice. More specifically, a significant point that can be mentioned, is the - assessment of the speed and accuracy of prosecutors' progress in the expedited preservation of computer data and the execution of MLA in the field of computer-related crime (application of international and European legal instruments and national provisions for the period 2016-2017) which was carried out by the General Prosecutor's Office.

At the EU level, Slovak experts actively participate in the negotiations on new legislative proposals in the EU – Proposal for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters and Proposal for a Directive laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings.

Slovakia also participates in the working group whose task is to draft second additional protocol to the Budapest Convention. Slovakia supports the idea of greater effectiveness in international cooperation. It is of course crucial to ensure that necessary safeguards are put in place in all processes related to procedures under the Convention to make sure that fundamental rights are properly respected at all stages.