

## Regional workshop on cybercrime legislation and training of judges

(Plovdiv, Bulgaria, 17-18 December 2007)

### Conclusions

The regional workshop was organized jointly by the Ministry of Justice of Bulgaria and the Council of Europe with the participation of some 50 judges, prosecutors and other cybercrime experts from Bulgaria, Romania, Serbia and “the Former Yugoslav Republic of Macedonia”, as well as speakers from Germany, Spain and the USA. The event was addressed by Ms. Ana Karaivanova, Deputy Minister of Justice of Bulgaria and chaired by Mr. Peter Rashkov, Justice and Home Affairs Counsellor at the Permanent Representation of Bulgaria to the European Union.

Participants discussed the following issues:

#### Review of cybercrime legislation

The Convention on Cybercrime has been ratified by Bulgaria, Romania and “the Former Yugoslav Republic of Macedonia”. In Serbia, specific needs for amendments to national legislation have been identified which would bring Serbian legislation in line with the Convention.

A review on the basis of the country profiles on cybercrime legislation indicates a number of points that need to be considered in Bulgaria and “the Former Yugoslav Republic of Macedonia” in order to further improve legislation.

It was agreed that participants from Bulgaria, Serbia and “the Former Yugoslav Republic of Macedonia” will review the profile of their respective country in order to make it more complete and accurate and send it to the Council of Europe in the course of January 2008.

The Council of Europe should assist the Ministry of Justice of Bulgaria in the review of legislation if requested.

In Serbia, the preparation of legislative amendments should be initiated on the basis of the recent expertise provided under the PACO Serbia project against economic crime.

In “the Former Yugoslav Republic of Macedonia” a workshop aimed at the review of cybercrime legislation and the training of judges and prosecutors (similar to the one held in Plovdiv) should be organized in the first half of 2008 with the support of the Council of Europe.

#### Investigating, prosecuting, adjudicating cybercrimes and international cooperation

Case studies presented by experts from Bulgaria, Serbia and Romania illustrated how legislation is applied in practice and the usefulness of the Convention – including the network of 24/7 contact points – for international cooperation.

With regard to international cooperation it was underlined that preliminary measures – such as the expedited preservation of data – should be followed up effectively by formal procedures (letters rogatory, requests for mutual legal assistance) within 60 days as foreseen in the Convention.

The need for skills and specialization was underlined. In Serbia, special cybercrime departments have been established at the Belgrade district court and the prosecution service.

In all countries, judges, prosecutors and law enforcement officers should receive further training.

The 24/7 contact points are encouraged to participate in the Octopus Conference that will be held in Strasbourg on 1-2 April 2008.

### Electronic evidence

Electronic evidence is crucial in proceedings related to cybercrime. In most countries, the question of electronic evidence is not clearly regulated. This was confirmed in a study carried out by CYBEX (Spain) in 2005 covering 15 EU member States and Romania, and presented during the workshop. Often, general rules on evidence are applied by analogy.

Respondents to the study pointed out that rules at the European level would be helpful to guide the development of national legislation, ensure harmonization and facilitate international cooperation. However, considering the difficulties in developing a binding European standard, only a soft-law instrument would seem to be feasible at this stage.

Judges play a crucial role as they decide on the admissibility of electronic evidence in court proceedings. They thus should be trained extensively in this matter.

### Training of judges

The training needs of judges and the types of training to be delivered should be identified and defined more precisely (initial for many or advanced training for a few, national or international, external or national or in-house expertise, external trainers or training of trainers).

The training opportunities offered by the US Department of Justice are very much welcome, in particular considering the need to close cooperation in cases involving US-based service providers.

Judges should be familiarized with the practices of law enforcement and prosecutors regarding the investigation of cybercrimes and the collection of electronic evidence.

In Bulgaria, the National Institute of Justice could include modules on cybercrime in the training curricular for new magistrates.

The Council of Europe should organize further training events for judges focusing on the application of procedural measures and electronic evidence.

A regional event could be held for a small group of trainers/judges from Bulgaria, Romania, Serbia and "the Former Yugoslav Republic of Macedonia" to be trained, to discuss training needs, to prepare the contents of a typical module for initial training for judges and discuss a medium/long-term approach to the training of judges.

Training materials should be documented and made available in soft- or hardcopy in different languages.