



Project on International Cooperation in Criminal Matters in Ukraine (UPIC)

Conference on International Cooperation against Cybercrime (Kyiv, 6-7 February 2007)

CONCLUSIONS

Representatives from Estonia, France, Italy, Latvia, Lithuania, the Russian Federation, the Netherlands, Romania and Ukraine, international organisations and private sector bodies participated in a Conference on International Cooperation against Cybercrime (Kyiv, 6-7 February 2007) organised within the framework of the Project on International Cooperation in Criminal Matters in Ukraine (UPIC) of the Council of Europe and the European Commission.

Participants discussed the current state of cybercrime legislation and relevant institutions in Ukraine and other countries, the functioning of international cooperation against cybercrime, including the creation of 24/7 points of contact, questions related to the investigation and prosecution of cybercrime as well as the need for public-private partnerships.

These issues were discussed against the background of the Council of Europe's Convention on Cybercrime (ETS 185 – entry into force in 2004) and the Additional Protocol on the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems (ETS 189 – entry into force in 2006). From among the participating countries the Convention has so far been ratified by Estonia, France, Latvia (pending the depositing of the instrument of ratification), Lithuania, the Netherlands, Romania and Ukraine. The Protocol has been ratified by France, Latvia (pending the depositing of the instrument of ratification), Lithuania and Ukraine.

Discussions on the state of cybercrime legislation showed that a range of substantive and procedural measures have been introduced in participating countries in recent years in order to meet the requirements of the Convention, and steps have been taken to allow for effective international cooperation. The harmonisation of national legislation with the Convention still needs to be completed in some of the countries. This is also true for Ukraine with regard to some substantive and procedural provisions. The rights, authorities and obligations of both law enforcement authorities and service providers, including the liability of legal persons and provisions for the expedited preservation of data, would need to be further clarified in order to facilitate public-private cooperation. The issues in question have been identified and should be addressed by the Ukrainian authorities responsible.

With regard to the investigation and prosecution of cybercrime, there is an obvious need for specialisation and the establishment of specialised units as reflected in the examples of France, Italy and Romania presented during the conference. In Ukraine, a wide range of cybercrime have been investigated and referred to court. However, the capacities of existing units would need to be further strengthened.

The establishment of 24/7 points of contact is considered a very useful way of facilitating international cooperation as shown by the experience of the G8 24/7 Network and as required under Article 35 of the Convention on Cybercrime. Such contact points have been created in most of countries participating in the Conference, including Estonia, France, Italy, Latvia, Lithuania, the Netherlands, Romania and the Russian Federation. In Ukraine such a contact point does not yet exist but should be established as soon as possible in order to meet the requirements of the Convention. Coherence between the contact points participating in the G 8 Network and those established under the Convention should be ensured.

The main role of these networks – that do not replace traditional channels - is to enhance international cooperation through the expedited preservation of information. However, this needs to be backed up by efficient legal cooperation through the competent authorities for mutual legal assistance and extradition.

In sum, participants underlined the need for a clear legal basis and of effective cooperation against cybercrime at all levels – national, inter-agency, public-private and international – and the importance of the Convention on Cybercrime and its Protocol in this respect. The exchange of experience and the contacts established during the Conference helped enhance such cooperation.

Kyiv, 7 February 2007