

Fiches Belges on electronic evidence

Czech Republic

1. Definition of electronic evidence

There is no legal definition of electronic evidence.

2. Which measures are possible in your Member State under International Judicial Cooperation?

- a. *Expedited preservation (Art. 29 Budapest Convention)*
- b. *Expedited disclosure of traffic data (Art. 30 Budapest Convention)*
- c. *Production orders/access to data (Art. 31 Budapest Convention)*
- d. *General MLA or EIO*

3. Procedure for obtaining electronic evidence

a. National procedures

There is a possibility to preserve/obtain data pursuant to conditions laid down in the Czech Code of Criminal Procedure. Competent authorities are courts, prosecutors, in special cases also police.

b. international procedures (including Available channels/ways to obtain electronic evidence from your Member State; urgent procedures; specialised networks to obtain electronic evidence e.g. 24/7 Budapest Convention/police channels)

There is a 24/7-contact point pursuant to the Budapest Convention. Evidence can be preserved/obtained via police channels or through judicial cooperation.

4. International legal framework applicable for this measure in your Member State

- o *Budapest Convention*
- o *EU Directive 2014/41/EU - European Investigation Order (EIO)*

For countries who have not implemented this EU Directive:

- *EU Convention on Mutual Assistance in criminal matters between the member states of the European Union (29 May 2000);*
- *European Convention on Mutual Assistance in criminal matters (Strasbourg, 1959 and additional protocols)*

5. competent authority to receive and execute your request

Judicial authorities in case of judicial cooperation (evidence for the criminal proceedings), otherwise through police channels (operative information).

6. accepted languages

Czech

7. Definition of data category and examples: subscriber, traffic/transaction and content data in terms of requirements and thresholds for access to data needed in specific criminal investigations

With regard to judicial cooperation, the definitions in the Budapest Convention will be applicable.

8. Voluntary-disclosure:

- a. As issuing state: Admissibility of the electronic evidence obtained by voluntary disclosure.

Admissible (in general).

- b. As executing state: Procedures/legislation in your Member State with regards to the possibility for the OSPs in your Member State to provide data directly to other Member States

9. Data retention periods (including procedures for extensions)

For some providers there is a mandatory retention period of 6 months concerning operational and localisation data.

10. Procedure for data preservation/execution deadline

Data can be preserved based on an order of a court, prosecutor or police (with previous consent of a prosecutor). Execution deadline: the deadlines mentioned in the Budapest Convention or the EU Directive 2014/41/EU (EIO).

11. Procedure for data production/ execution deadline

Data shall be produced based on an order of a court, prosecutor or police (with previous consent of a prosecutor). Execution deadline: the deadlines mentioned in the Budapest Convention or the EU Directive 2014/41/EU (EIO).

12. Concise legal practical information