

Ninth Meeting of the Working Group on Cybercrime
December 12-13, 2016
Washington, D.C.

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RECOMMENDATIONS*

The Working Group on Cybercrime of the REMJA (the Working Group) held its Ninth Meeting at OAS headquarters in Washington, D.C., United States of America, from December 12-13, 2016, pursuant to the Document of Washington (document REMJA-VII/doc.6/08 rev. 2), the Conclusions and Recommendations of REMJA-X (document REMJA-X/doc.2/15 rev. 2), and resolution AG/RES. 2894 (XLVI-O/16) of the OAS General Assembly.

Based on the mandate that was assigned to it by REMJA-X, the Working Group concluded its deliberations at this meeting with agreement on the following recommendations to strengthen and consolidate hemispheric cooperation in the prevention and fight against cybercrime in accordance with principles of state sovereignty and relevant national legislation:

1. That the States that have not yet done so establish, as soon as possible, specific units or bodies charged with managing and conducting the investigation and prosecution of cybercrimes, and that these units or bodies be provided with the necessary human, financial, and technical resources to carry out their functions in an efficient, effective, and expeditious manner.

2. That the REMJA Technical Secretariat (Department of Legal Cooperation of the OAS Secretariat for Legal Affairs) continue consolidating and keeping up to date the directory of the criminal prosecution and police authorities that serve as points of contact for international cooperation in the area of cybercrime and electronic evidence and, to this end, the States that have not yet done so provide the REMJA Technical Secretariat, as soon as possible, with such updated information.

3. That the States that have not yet done so proceed, as soon as possible, to examine their legal systems and adopt or update the legislation and procedural measures that are specifically required to criminalize the different forms of cybercrime and that ensure the efficient, effective, and timely investigation and prosecution of cybercrimes and enable States to cooperate with one another in the investigation and prosecution of those crimes.

* These Recommendations were approved by the REMJA Working Group on Cybercrime in the session held on December 13, 2016, *ad referendum* by the delegations of the Bolivarian Republic of Venezuela and the Republic of Trinidad and Tobago.

4. That the States that have not yet done so attempt to adopt or update, as soon as possible, procedural measures and legislation as may be necessary to ensure the collection and safe custody of all forms of electronic evidence and their admissibility in criminal proceedings and trials and to enable States to assist one another in matters involving electronic evidence.

5. That the States that have not yet done so, seek to adopt, as soon as possible, legislation to ensure collection and safe custody of all forms of electronic evidence for service providers to guarantee the preservation and recovery of information that is stored or in transit.

6. That the States that have not yet done so, develop and implement national strategies that include efforts to deter, investigate, and prosecute cybercrime, as part of a broader and more coordinated effort to protect the information technology systems and networks of citizens, businesses, and governments.

7. To continue promoting the coordination and cooperation relationships among the REMJA Working Group on Cybercrime, the Inter-American Telecommunication Commission (CITEL) and the Inter-American Committee against Terrorism (CICTE), in order to make further progress in implementing the mandates that, within the framework of their respective competences, the Comprehensive Inter-American Strategy adopted by the OAS General Assembly pursuant Resolution AG/RES. 2004 (XXXIV-O/04) assigns to each of these entities.

8. That the States that have not yet done so consider the possibility of joining, as soon as possible, the G-7 “24/7 Network of High-Tech Crime Points of Contact”.

9. That the REMJA Technical Secretariat continue to consolidate and update the Inter-American Cooperation Portal on Cybercrime (hereinafter, “the Portal”), via the OAS Web page and, to this end:

- a. To continue completing and updating the information on the Portal with regard to its public and private components, in coordination with the Working Group.
- b. To request the OAS General Secretariat, in line with available resources, to continue advancing on the development of new virtual spaces for the exchange of information, experiences and good practices among the governmental experts with responsibilities in cybercrime and in the area of international legal cooperation for investigation and prosecution of cybercrime.
- c. To ask the States to respond to requests from the REMJA Technical Secretariat to complete or update the information disseminated on the Portal.
- d. To give due consideration to the use of other technological tools in order to facilitate the exchange of information between governmental experts on cybercrime and in the area of international legal cooperation in investigating and prosecuting it.
- e. To continue establishing reciprocal links between the Portal and the Internet pages that the units or bodies that the States have established or establish in the future for the investigation and prosecution of

cybercrimes, and that any manuals or other information that is considered useful for facilitating cooperation in the areas of their responsibility be published thereon.

10. To continue promoting the exchange of information, coordination and cooperation between the REMJA working groups on Cybercrime and Legal Cooperation Criminal Matters (mutual assistance and extradition), as well as between the national authorities with responsibilities in this area, in order to strengthen the cooperation in this field and avoid duplication of efforts.

11. That any unit or body the States have established or will establish to handle and conduct the investigation and prosecution of cybercrimes, set up and maintain Internet pages to provide citizens with information on how to avoid falling prey to cybercrimes and on how to detect and report such crimes to the competent authorities when they do occur. Similarly, that the REMJA Technical Secretariat make the necessary arrangements in order to establish reciprocal Internet links between those pages and the Portal.

12. That the REMJA Technical Secretariat, in line with available resources, continue supporting the legislative developments in the area of cybercrime, among others, through the systematization of the legislation of the OAS Member States in this field and their dissemination via the Portal, as well as proposals for legal cooperation for the drafting and consideration of model legislation in this area.

13. To recognize the consideration that certain OAS Member States have given to the principles of the Council of Europe's Convention on Cybercrime, and to recommend to those who have not done so evaluate, acceding thereto, and adopt the legal and other measures required for its implementation, as well as recommend to those States that have not yet done so, to give due consideration thereto, bearing in mind the recommendations adopted by this Working Group and by the REMJA at previous meetings. Similarly, to this end, that technical cooperation activities be continued under the auspices of the REMJA Technical Secretariat and the Council of Europe.

14. That mechanisms for information exchange and cooperation continue to be strengthened with other international organizations and agencies in the area of cybercrime, such as the United Nations, the Council of Europe, the European Union, Asia-Pacific Economic Cooperation (APEC), the Organization for Economic Co-operation and Development (OECD), the G-7, the Commonwealth, and INTERPOL, to enable OAS Member States to benefit from developments in those areas.

15. That, as part of the efforts designed to facilitate and consolidate cooperation to prevent, investigate, and punish cybercrimes, States jointly continue developing partnerships among the officials responsible for preventing, investigating and prosecuting such crimes and the private sector, especially with those companies that provide information and communications technology, in particular Internet service, in order to streamline and improve the obtainment of information in the context of mutual assistance proceedings.

16. That it expresses its satisfaction with the results of the cybercrime training workshops for judges, magistrates, public prosecutors, and investigators, held in Asunción, Paraguay; Guatemala City, Guatemala; Panama City, Panama; Miami and Fort Lauderdale, United

States: Brasilia, Brazil; Buenos Aires, Argentina; San José, Costa Rica; and Lima, Peru, since the Eighth Meeting, as well as the current meeting of the group, under the leadership of the United States as Chair of the Working Group and with the financial support of the United States, the support of the states in which they took place, and the cooperation of the REMJA Technical Secretariat.

17. That the cybercrime and digital evidence training program financed with external contributions, continue to be executed within the framework of the REMJA. As part of this program, accept the offer of the United States Government to continue conducting training workshops in this field, in coordination with the Technical Secretariat of the REMJA, oriented to the pertaining officials in the justice system and its auxiliary bodies of the OAS Member States, considering the suggestions and specific interests expressed by those States.

18. To ask the REMJA Technical Secretariat to continue disseminating the progress achieved in the framework of the OAS and by the States in the area of cooperation in the fight against cybercrime through the "Legal Cooperation Bulletin" prepared and distributed electronically by the REMJA Technical Secretariat. Similarly, to request the States to contribute information on their developments in this field to be disseminated in the bulletin.

19. That those states that have not yet done so take the necessary steps to have statistics organized annually on the investigation, prosecution, and disposition of cybercrime cases, as well as on requests for mutual assistance sent and received in connection with these and their outcomes. Furthermore, that those states that have not yet done so assign an entity the responsibility for compiling the aforementioned statistics and notify the REMJA Technical Secretariat of the contact details of that entity.

20. That the REMJA Working Group on Cybercrime continue consolidating itself as a hemispheric forum for the exchange of information and best practices and cooperation among OAS member states in the investigation, prosecution, and punishment of cybercrime and handling of digital evidence.

21. To recommend that the REMJA consider amending the "Document of Washington" so that this group can, at each meeting, decide on when it considers it appropriate to elect the Chair and whether a Vice Chair is to be elected as well.

22. That the Working Group meets prior to REMJA-XII to consider, among other topics, the progress made in the implementation of these recommendations.