

Electronic Evidence Fiche: TIMOR-LESTE

1) DEFINITIONS

Timor-Leste
What are the definitions in your laws/regulations, if any, of:
Electronic evidence
No information provided
Computer system
No information provided
Computer data
No information provided
Categories of computer data (e.g. basic subscriber information, traffic data and content data)
No information provided
Electronic surveillance or real-time collection of computer/communication data
<p>Article 33 of Law No. 17/2011 (providing the legal framework for preventing and combating money laundering) establishes in paragraph a) that access to information systems (computers, computer networks, servers and emails) is admissible when necessary for the investigation of crimes indicated in other articles, namely: drug trafficking; terrorism and the financing of terrorism; corruption, embezzlement and economic participation in business; money laundering; criminal association; smuggling; pornography involving minors and currency counterfeiting (in the case of smuggling, pornography involving minors and currency counterfeiting, only if the crime is carried out in an organized manner). Paragraph b) of the same legal provision allows the interception and recording of electronic communications.</p> <p>Moreover, article 180 of the Criminal Procedure Code allows the recording of communications transmitted by email as the regime established therein on wiretapping “is correspondingly applicable to conversations or communications transmitted by any other technical means other than the telephone”. A wiretapping request can only be granted by a court order of the court that receives the request based on the Code of Criminal Procedure of Timor-Leste.</p>
Service provider (e.g. ISP, hosting)
No information provided

2) DATA RETENTION REGIME

Timor-Leste

Do you have any domestic laws that stipulate a mandatory retention period of electronic data? If so, for what types of data and for how long?

Article 6 of Government Decree No. 9/2008 regulates the provision of telecommunication services and indicates that "the operator, in the exercise of his activity, must keep on file, by electronic or physical process, for a minimum period of five years, counted from the date of conclusion of the contract, the user identification elements, as stipulated in articles 2 and 4" (data relating to the user's name and residence, card number, time and duration of calls, etc.).

3) ADMISSIBILITY OF ELECTRONIC EVIDENCE IN THE CRIMINAL TRIAL

Timor-Leste

What is the requirement under your domestic law for electronic evidence to be admissible in a criminal trial?

Article 179 of the Criminal Procedure Code of Timor-Leste provides that a recording is valid as evidence if previous judicial authorization (e.g. judicial order through a request from the Public Prosecutor's Office) has been given for its realization and provided that the assumptions and requirements referred to in previous articles are satisfied. Such a recording has no value as a means of evidence if the conversation or communication has been provoked by whoever recorded it or asked for its recording for that purpose.

4) RECEIVING REQUESTS FOR ELECTRONIC EVIDENCE FROM OTHER STATES

4.1. Direct requests from foreign authorities to service providers

4.1.1. Requests for preservation

Timor-Leste

What legal framework(s) is/are applicable, if any?

No information provided
Are the service providers in your country prohibited from or have limited capacity for executing such requests from foreign authorities?
No information provided
If they are prohibited or if there are limitations, are there any alternative options to preserve the data from your country, e.g. through police-to-police cooperation, specialized networks (e.g. G7/8 24/7 Network) or mutual legal assistance (MLA)?
No information provided
Is a judicial order required from the requesting state?
No information provided
Are there any time limits for data preservation? Any possibility of extension?
No information provided
Would service providers in your country notify the data subjects of the request?
No information provided

4.1.2. Requests for voluntary disclosure

Timor-Leste
What legal framework(s) is/are applicable, if any?
No information provided
Are the service providers in your country prohibited from or have limited capacity for executing such requests from foreign authorities?
No information provided
If they are prohibited or if there are limitations, are there any alternative options to obtain the data from your country, e.g. through police-to-police cooperation, specialized networks (e.g. G7/8 24/7 Network) or mutual legal assistance (MLA)?
No information provided
Is a judicial order required from the requesting state? Are there any time limits?

No information provided
Would service providers in your country notify the data subjects of the request?
No information provided
How can the process be simplified or quickened in emergency situations?
No information provided

4.2. Requests received by your central authority for **Mutual Legal Assistance (MLA)**

Timor-Leste
How do you execute MLA requests for electronic evidence stored by domestic service providers (e.g. through a domestic court order or a search warrant)?
No information provided
Can you provide assistance in real-time collection of non-content and/or content data (e.g. through electronic surveillance) upon the receipt of a MLA request? If yes, are there any limitations or conditions (e.g. limited to certain crime types or penalties thresholds)?
No information provided
What are the central and competent authorities in your country to: a) Receive a request for MLA in criminal matters? b) Execute/recognize the measure (if other than the receiving authority)?
<p>a) For international cooperation in criminal matters, the central authority is the Prosecutor General's Office (Article 19, No. 1 of Law No. 15/2011). It is responsible for centralizing the reception and transmission of all requests for judicial cooperation, without prejudice to the fact that, in cases of requests for mutual legal assistance, there may be direct contacts between the authorities involved (Article 19, No. 4 of Law No. 15/2011)</p> <p>b) The police will execute the measure. After receiving an MLA request, the Central Authority will send a request to a prosecutor or the police (Article 23 of Law No. 15/2011 and the Procedural Law of Timor-Leste).</p>
What are the accepted languages for MLA requests?
Portuguese or Tetum (according to the Constitution of Timor-Leste, Article 13, Nr. 1 and the Procedural Law of Timor-Leste, Article 82).
Can the request be submitted electronically to the central authority?
Yes; hard copies are not required if electronic copies were received.

Regarding the transmission of requests, in addition to the traditional form of diplomatic channels, the appropriate telematics means can be used, namely fax, electronic mail, provided that the authenticity, confidentiality and reliability of the data transmitted are guaranteed (Article 20 of Law No. 15/2011). However, in urgent situations, it is also possible to use in the transmission of requests for judicial cooperation in criminal matters the international criminal police organization (Interpol) according to Article 27 of Law No. 15/2011, which in Timor-Leste works with the Scientific Police for Criminal Investigations.

Can the request be submitted directly to the central authority?

No information provided

What are the specific requirements (e.g. dual criminality, minimum penalty thresholds, etc.) that the requesting states have to meet under your domestic laws for MLA requests seeking for the provision of electronic evidence?

If the requirement for dual criminality is not satisfied, Timor-Leste will not be able to answer the request. According to Article 5, Article 74 n. 1 c), Article 84 no. 1 a), Article 90 no. 1 e) and Article 123 of Law no. 15/2011, the fact that motivates the request should be also considered a crime by the legal system of Timor-Leste.

5) REQUESTING ELECTRONIC EVIDENCE ACROSS BORDERS

5.1. Direct requests to foreign service providers

5.1.1. Requests for preservation

Timor-Leste

What legal framework(s) is/are applicable, if any?

No information provided

Which authority(ies) in your country is/are allowed to request data preservation to foreign service providers?

No information provided

If the requested foreign service providers are prohibited or limited to preserve the data, are there any alternative options to preserve the data, e.g. through police-to-police cooperation, specialized networks (e.g. G7/8 24/7 Network) or MLA?

No information provided

Can a court order or a search warrant be issued for data preservation by foreign service providers? If not, what are the reasons?

No information provided

5.1.2. Requests for voluntary disclosure

Timor-Leste

What legal framework(s) is/are applicable, if any?

No information provided

Which authority(ies) in your country is/are allowed to request data disclosure to foreign service providers?

No information provided

If the requested foreign service providers are prohibited or limited to voluntarily disclose the data, are there any alternative options to obtain the data, e.g. through police-to-police cooperation, specialized networks (e.g. G7/8 24/7 Network) or MLA?

No information provided

Can a court order or a search warrant be issued for data disclosure by foreign service providers? If not, what are the reasons?

No information provided

5.2. Requests sent by your central authority for **Mutual Legal Assistance (MLA)**

Timor-Leste

What is your central authority to send requests for MLA in criminal matters?

For international cooperation in criminal matters, the central authority is the Prosecutor General's Office (Article 19, No. 1 of Law No. 15/2011). It is responsible for centralizing the reception and transmission of all requests for judicial cooperation, without prejudice to the fact that, in cases of requests for mutual legal assistance, there may be direct contact between the authorities involved (Article 19, No. 4 of Law No. 15/2011)

Are informal contacts with the central authority of the requested states allowed and used?

Yes, for example through the South East Asia Justice Network (SEAJust).