

The Use of Information Technology in Searching Transnational Crime

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Abstract--*The internationalization of crime as a feature of globalization has made a new form of crime by developing increasingly sophisticated and complex information technology, both about the tools used and the impact they have had. This makes it difficult for new forms of crime to be tracked and prosecuted by law enforcement officials. Tapping is a form of utilization of new technology and international cooperation in the field of police whose institution is called the International Criminal Police Organization or abbreviated as ICPO-INTERPOL. The research method used in this research is juridical normative, which is research-oriented towards literature study. So the data source is secondary data, including international conventions, statutory regulations, literature books, scientific articles, and documents related to the ICPO-INTERPOL wiretapping mechanism. The results showed that the tapping mechanism used by ICPO-Interpol to catch fugitive criminals and transnational criminals was through the development of the NCB-Interpol Indonesia communication network in the Interpol communication system. The obstacles in applying the wiretapping mechanism by ICPO-Interpol are that ICPO-Interpol member countries have different technical regulations and wiretapping procedures and the emergence of clashes in wiretapping mechanisms and procedures with the national interests of ICPO-Interpol member countries.*

Keywords- *Globalization; transnational crime; tapping; ICPO- Interpol.*

I. INTRODUCTION

In the past, rapid social change due to the modernization process has been perceived as something that can cause social anxiety and tension (social unrest and social tension). Changing the value system rapidly demands new social life norms, leading to legislative bodies, dispute resolution institutions (in and out court), and outreach efforts.[1]

With the increasing modernization process due to the discovery of modern means of communication, means of transportation, and modern information technology, the issue of modernization has become global and has led to a new phenomenon

in the form of globalization, which demands a change in the structure of legal relations (legal structure), new substances of legal regulation. (legal substance) and legal culture (legal culture), which are often completely new. Without this change in the legal system, there will be dangers to the peaceful life in various social lives, all of which will become uncertain and disorderly and will feel unprotected. The demands for these changes are by the *adagium Iedereen wordt geacht de wet te kennen, ignorantia legis excusat neminem* (everyone is considered to know the law, ignorance of the law is not an excuse) [2] and *adagium het recht hinkt achter de feiten aan* (the law often lags behind the events) and prohibition for judges refusing to try a case because the statute is silent, unclear, or incomplete. The refusal by the judge caused the judge to be prosecuted in court. (Article 22, AB).

On the other hand, it can be identified that relations between nations in developed and developing countries are increasing due to technological advances in transportation, communication, and computer networks, which affects the internationalization of crime. In this case, Barda Nawawi Arief stated that the policy of preventing and overcoming crime or a criminal act using penal means (formulated explicitly in positive law, in this case, is criminal law, both general criminal law (KUHP) and criminal law outside the Criminal Code) have limitations, especially in dealing with criminal acts that are part of the transnational crime or transnational organized crime.[3]

With the globalization of crime where there has been an increase in the number or quantity of criminal acts that have occurred and the development of increasingly sophisticated modes of crime, both in the tools used and the impact they have resulted, at the same time making this new type of crime more

difficult to trace and act on. by law enforcement officials in connection with the ways the perpetrators of criminal acts are increasingly clever at evading the law and supervision from law enforcement officials. Moreover, law enforcers will certainly find new forms of crime that are difficult to disclose and difficult to prove, so there may be a condition where it is believed that a criminal act has been committed, but due to insufficient evidence or there is evidence but it is not recognized. as valid evidence, the perpetrator of the crime is free from legal traps.[4] This is exacerbated by the fact that these new forms of crime have appeared in a large number but vary widely in types, for example, terrorism, money laundering, corruption, narcotics, environmental crimes, criminal acts of trafficking in persons, criminal acts of corporations, capital market crimes, criminal acts in banking, and so on with their various variations. In today's modern era, these types of criminal acts are classic forms of crime. Still, in reality, many have been inserted by new modes that are increasingly sophisticated and have a very high complexity level.[5]

Criminal acts that can be categorized as transnational crimes (transnational crime) and rife today are organized (organized). The transnational organized crime involves a systematic system and its very conducive elements, which is an excellent criminal organization due to ethnic ties, political interests, group beliefs, and other interests with an obvious code of ethics and groups' existence. Protector (protector group), which, among others, consists of law enforcers and professionals, and the third is the existence of community groups or groups of people who enjoy the results of crimes or criminal acts that have been committed systematically.[6] Also, transnational organized crime often contains deceit elements, misrepresentation, concealment of fact, manipulation, breach of trust, subterfuge, or management of regulations (illegal circumvention) to be very detrimental to society large.[7] This means that the forms of globalization of crime have the characteristics of crimes in the economic sector.[8]

Departing from the foregoing, in subsequent developments, there is an awareness that to keep pace with the development of new types of criminal acts which are increasingly difficult to detect, the more difficult it is to trace, the more difficult it is to find the

culprit (dagger) which ends up being increasingly difficult to arrest if it is not known or found where the perpetrator of the crime is located. For this reason, it requires the use of very sophisticated tools and technology to search, track, find perpetrators, and then arrest them by taking advantage of technological developments. In recent developments, it is increasingly realized that wiretapping can be a new method, which is a beneficial way of making it easier for law enforcers in the midst of the rise of new criminal acts today to enforce the law consistently.

In connection with the use of wiretapping as a tool to search, trace, and find the whereabouts of criminals, questions arise around the use of wiretapping, whether tapping does not violate human rights (HAM) which are constitutionally guaranteed by Article 28 D paragraph (1), Article 28 G paragraph (1), Article 28 J paragraph (1) Amendment of the 1945 Constitution.

Human rights violations related to wiretapping as evidence in proving criminal cases are related to voice-oriented wiretapping as defined in several laws such as corruption, narcotics, telecommunications, and money laundering. As referred to in this paper, tapping is oriented towards searching, tracking, finding the perpetrator of a criminal act, and then making an arrest. Thus, wiretapping is wiretapping carried out mainly by police members of the international police organization (international police) in international cooperation to catch international criminals. On that basis, this wiretapping involved Interpol members from various countries in the world as Interpol participants. Therefore, tapping related to searching, tracking, and finding the whereabouts of criminals is more widely used to make arrests by the Interpol of criminals who has fled abroad (fugitive criminals) to involve cooperation between countries.

II. PROBLEMS

First, the wiretapping mechanism used by the International Criminal Police Organization (ICPO-Interpol, hereinafter referred to as Interpol) to catch fugitive criminals or fugitive criminals? And Second, what are the obstacles faced by ICPO-Interpol in the use of information technology against wiretapping?

III. DISCUSSION

A. Definition of Wiretapping

1. Great Dictionary of Indonesian Language

Tapping is defined as the process of deliberately listening to and/or recording other people's information secretly, and tapping itself means a process, away, or an act of tapping.[9] Tapping can be defined as the activity of listening (recording) information (confidential) or other people's conversations carried out on purpose without the knowledge of the person concerned.

There are many terms to describe what is meant by the act of wiretapping; some call it *wiretapping*[10] and there are also those who call tapping with the term *lawful interception*.

2. I. P. M. Ranu Handoko

The act of wiretapping in a country that adheres to the Anglo-Saxon legal system is the analogy of the *quare clausum fregit*, which can be interpreted as entering a closed room or yard fenced off.[11]

An important matter can be drawn about the *quare clausum fregit* above, which is relating to wiretapping that is against the law or wiretapping that is not by the law and the applicable procedures or procedures (unlawful interception). In this case, the interceptor enters a space or area of data that is not public (confidential). The information obtained is, of course, not information that can be known by the public. In essence, the tappers themselves are people or parties who are not entitled to such confidential information. With this in mind, wiretapping can be categorized as an unlawful interception. For this reason, tapping against the law requires a legal rule that clearly regulates the limitation of wiretapping or even a tapping violation. Legal regulation of the act of wiretapping against the law is required to tapping, which

is essentially against the law, becomes legal tapping (lawful interception). If legal regulations do not carry out restrictions, then tapping can violate the right to communicate, potentially violate human rights, to be precise, the right to privacy, which is firmly guaranteed constitutionally in the 1945 Amendment as the state constitution.

3. Black's Law Dictionary

Wiretapping, A form of electronic eavesdropping, where, upon court order, enforcement officials surreptitiously, listen to phone calls[12] (wiretapping is a form of electronic eavesdropping, where this action is carried out based on a court order, carried out in secret and carried out officially, by listening to conversations by telephone).

Based on the meaning of tapping according to the Black's Law Dictionary above, it can be seen that wiretapping or tapping or in other terms is described as an intercept which has a similar meaning or meaning to the term eavesdropping. As for what is meant by eaves, dropping according to the Black's Law Dictionary is: "Eavesdropping is knowingly and without lawful authority" (eavesdropping on intentionally knowing something and it is done without legal rights).

1. Entering into a private place intent to listen surreptitiously to private conversations or to observe the personal conduct of any other person or person therein.

2. Installing or using outside a private place for hearing, recording, amplifying, or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible outside, without the consent of the person or person entitled to privacy therein.

3. Installing or using any device or equipment for the interception of any telephone, telegraph, or other wire communication without the consent of the person in possession or control of the facilities for such wire communications such activities are regulated by state and federal statutes, and commonly require a court order.

4. Romanidis Evripidis

Lawful interception (LI) didefinisikan sebagai the acquisition of call identifying information and interception of communications conten by law enforcement agencies (LEAs) after receifing proper authorization from competent authorities.[13]

Furthermore, Romanidis Evripidis and Gerald Q. Magure explained that the agency authorized to carry out wiretapping is the mediator organization, or called in Indonesian as a mediator organization that stands as an institution that wants to carry out the wiretapping and network operators.

This lawful interception can basically be done on all modern systems, including the Public Switched Telephone Network (PSTN), regional wireless networks (for example, cell phones), wireless television systems, and the internet, or even in the latest developments, tapping can carry out on traces using cell phones or Voice over IP (VoIP).

5. Madynes, Loria, dan Villers

Lawful Interception (LI) is a legally authorized service to monitor or record telephone calls by a court order or legal entity authorization. It is mainly used by security agencies, such as the police, law enforcement agencies, and the Law Enforcement Agency (LEA) to deal with criminal matters. Thus, service providers must comply with legal interception standards for the provision of services to the Law Enforcement Agency (LEA). This

service is also implemented in the Public Switched Telephone Network (PSTN) because the network architecture is centralized, where all signals and voice traffic will pass through the centralized location. Recent advances in technology such as Voice over Internet Protocol (VoIP) have made Lawful Interception (LI) for the LEA (Law Enforcement Agency) more challenging problems due to the use of multiple protocols.

Based on the definitions of wiretapping as described above, it can be concluded that the essence of wiretapping is: the act of listening to, recording, modifying, obstructing, and/or recording the transmission of electronic information that is not public in nature, using either a communication cable or a wireless network. The substantial nature of wiretapping is its confidential nature and is for the benefit of law enforcement, especially criminal law.

B. The validity of an act of wiretapping

Based on the aforementioned definitions of wiretapping, it can be concluded that an act of wiretapping is a legitimate action if it is carried out by parties that are expressly ordered, mandated, or assigned directly and firmly by law, limitation, and not because of authority. Which immediately appeared (implied trust). From the interest of wiretapping, wiretapping is said to be legal action if the wiretapping is carried out for investigation, investigation, prosecution, and trial of an incident/criminal act through means and/or trapping of information tapping, for example, interface interception), a monitoring center and means and infrastructure of connecting transmissions (link transmissions). This means that an act of wiretapping is legal and has legal force if the wiretapping action is by established procedures. On the other hand, if the tapping action is not by the established procedures, then the

wiretapping action is an unlawful interception. Thus, the established procedure is a requirement to be called a legal tapping action.

Some examples of legitimate wiretaps based on predetermined procedures are:

1. United State of America

Wiretapping in the United States is based on *The USA Patriot Act : Implications for Lawful Interception, Title III of the Omnibus Safe Streets and Crime Act of 1968*. Dalam bagian ketiga *Omnibus Safe Streets and Crime Act of 1968* can be seen about the procedures and procedures for carrying out bailouts for criminal investigations.

Based on this provision, wiretapping can be carried out in the circumstances or when national security is at stake. To maintain the United States' national security, law enforcement officials are permitted to carry out electronic monitoring of communications deemed dangerous.

The Omnibus Safe Streets and Crime Act of 1968 clearly stipulates that wiretapping must be carried out within areas controlled by the United States or known as the Foreign Intelligence Surveillance Act (FISA).

Furthermore, the Foreign Intelligence Surveillance Act (FISA) explicitly stipulates that wiretapping can be carried out in the following four situations:

1. Any person in the United States that communicates through wire
2. A United States person in the United States that communicates through wire or radio
3. Anyone inside U.S.A. that communicates through radio with people-all aof whom are in the United States

2. European Union

In the European Union, wiretapping is strictly regulated in Directive 95/46/EC, which clearly defines legal tapping and regulates individuals' protection. In its development, Directive 95/46/EC as amended by Directive 2002/58/EC. This change is due to political pressure and an increase in terrorist attacks around the world. Finally, in the latest development, Directive 2006/24/EC was issued. It clearly stipulates the retention of data generated or processed in connection with providing communication services to the public.

3. Japan

Settings regarding wiretapping are regulated in the Communications Interception Act.

4. Germany

Arrangements regarding wiretapping are found in the G-10 and The Counter Terrorism Act-January 2002.

5. Ireland

Settings regarding wiretapping are found in the Interception of Postal Packets and Telecommunications Messages Act.

There is a general limitation that must be met in the wiretapping laws and regulations. The standards regarding this wiretapping act must still comply with the Convention On Cybercrime. They must comply with the provisions issued by the European Telecommunications Standards Institute (ETSI) or other regulations as standards. Technical issues issued by Newport-Network and GSM-Security.[14]

6. Indonesia

In Indonesia, the regulations regarding wiretapping are scattered in

various criminal laws and regulations outside the Criminal Code, including:

- a. Law no. 5 of 1997 on psychotropics
- b. Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning Corruption Crime
- c. Law no. 39 of 1999 concerning Human Rights
- d. Law 30 of 2002 concerning the Corruption Eradication Commission
- e. Law no. 35 of 2009 concerning Narcotics
- f. Law no. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering

C. ICPO-Interpol Cooperation

1. Vision and mission of ICPO-Interpol
 - a. Vision

Interpol was formed to help create a safe world and aims to provide special services for law enforcers in an effort to create international cooperation to combat international / transnational crime.

- b. Mission

As the second largest member organization after the United Nations, in an effort to prevent and eradicate international crime, ICPO-Interpol has a mission:

- 1) Establish cooperation both globally and regionally.
- 2) Organizing the exchange of information in a timely, accurate, relevant and complete manner.
- 3) Providing facilities for international cooperation.
- 4) Coordinating the joint operational activities of member countries.

- 5) Provide practical instructions on how to prevent and handle international crimes.[15]

To carry out the above ICPO-Interpol mission, Interpol is tasked with:

- 1) Ensure and develop the widest possible cooperation between all Police on the laws of a country and in the spirit of universal Human Rights (Declaration of Human Rights)
 - 2) Build and develop institutions that contribute effectively in the prevention and eradication of crime.
2. Principles of ICPO-Interpol cooperation

In carrying out cooperation, ICPO-Interpol adheres to the following cooperation principles:

- a. National sovereignty, cooperation based on actions taken by the police of member countries, is implemented within each country's boundaries and laws.
- b. Law enforcement, the organization's field of activity is limited to crime prevention and law enforcement relating to legal crimes, which are the sole basis of the agreement among all member states.
- c. Universally, each country can cooperate with other member countries and geographic or linguistic factors should not hinder cooperation.
- d. Flexible, even though it has been governed by principles to ensure regularity and continuity of cooperation, the working method is lenient by taking into account the differences in the structure and situation of a member state.

- e. Equal rights, all member countries are provided the same services and have the same rights regardless of financial contributions to the organization.
 - f. Does not involve/exclude political, military, religious and racial activities.
3. The values upheld by ICPO-Interpol
- In carrying out cooperation among ICPO-Interpol members and in carrying out their duties, ICPO-Interpol is required to respect and uphold the following values:
- a. Respect Human Rights (HAM),
 - b. Moral Integrity,
 - c. Maintain Quality Work,
 - d. Ready to Serve,
 - e. Spirit of Cooperation,
 - f. Efficiency and,
 - g. Accountability.

D. Wiretapping mechanism

The search for fugitives for criminals begins with investigators' requests, both police investigators at the same level as Polda and prosecutors. Investigators submitted a request to the NCB (National Central Bureau) Interpol at the Police Headquarters. NCB requested the identity of the fugitive from the Interpol Headquarters in Lion France. Furthermore, Interpol France will issue Notices in the form of:

1. *Blue notices* :
 - a. Locating and tracing the perpetrators of crimes if there is no intent of extradition.
 - b. Gathering information about the identity or illegal activities of individuals involved in a crime
 - c. Localizing witnesses to crimes, people close to fugitives, prisoners who have escaped from prison.
2. *Green notices* :

- a. Provides warning and criminal intelligence about a person:
 1. Have committed a crime
 2. The possibility of repeating the crime in another country
 - b. Often used against perpetrators of pedophilia, organized crime, holigan
 - c. Issuance can be done at the initiative of the Interpol General Secretariat
3. *Yellow Notices*:
- a. Localize missing people
 - b. Identifying people who cannot recognize themselves
- Publications on the Interpol public website: for children only
- i. *Black Notices*: Identifies unknown bodies
 - ii. *Interpol-United Nation Security Council Special Notice*
 - a. Issued against a person or group subject to UN sanctions for:
 1. Freezing of assets
 2. Travel restrictions
 3. Arms embargo
 - b. *United Nation Security Council resolution 1267*
 1. Cooperation between the United Nation Secretary General and Interpol
 2. Support UN efforts to fight Al Qaeda and the Taliban
 - iii. *Orange Notices*
 - a. Provide alerts to police, the public and international organizations about potential threats
 - b. Disguised weapons, parcels of bombs and other dangerous material
 - iv. *Purple Notices*:

Provides information about the modus operandi, procedures, objects, equipment and hiding places used by the perpetrator of the crime

8. *Red Notices*
 - a. Search and arrest of international fugitives for extradition
 - b. Based on an arrest warrant or court decision
 - c. Speed up the extradition process for countries with red notices in response to requests for provisional arrest

The search for fugitives can be carried out in various ways, including through the following mechanisms:

1. Immigration
2. Extradition
3. Technology
4. ICPO-Interpol

ICGS I-24/7 Is a database of various types, including:

- a. Nominal DNA data
- b. Fingerprint
- c. Face Fingerprint

Interpol cooperation in searching for fugitives through:

- a. Border (airport entrance)
- b. Immigration
- c. Customs
- d. attorney
- e. PPATK (Financial Transaction Reports and Analysis Center)
- f. Ministry of Education and Culture, Directorate of Antiquities

Those who have border authority are:

- a. Immigration
- b. Police

Interpol uses the FINE and MINE mechanisms

1. *Check it*

It is a program involving the private sector in tackling crime through:

- a. Flight
- b. Hospitality
- c. Banking

FLIGHT

Is a mode of transportation that passes through an area of a certain country. The emphasis is on checking passports.

Hit Alarm

Is a mechanism to detect the position of a person passing through the airport using a passport.

Airlines that have applied for cooperation include:

- a. *Air Asia*
- b. *Qatar Airlines*
- c. *Malaysia Airlines*

Successfully detected two passports that have been included in the Stolen And Lose Travel Document (SLTD) list.

Check In Paspor-----Immigration-----



more complete access

Accessible to the French Lion

Expansion of ghe Interpol network

Hospitality

Using the Spider Concept regarding Passport Checks for hotel guests.

Interpol offers cooperation.

One of the hotels in MONAKO.

Banking

Use of passports for foreigners

Fine is Fix Interpol Network Database



Database has been accessed



Difficult because it follows the regulations in each country

MINE is *MOBILE INTERPOL NETWORK DATABASE* starting from 1 week; then 1 month; then 1 year.

A query is a request to investigate
MIND simpler
Immigration processes in and out of people
Custom Duty → to detect the entry and exit of stolen goods

Example:
The existence of the Borobudur Stupa can be identified at the time of the auction in New York
Deployment = countries that have used MIND

OSCE = international organization

Existing = there

Example = car theft in Croatia

Agencies that are connected to I-24/7 (Interpol 24 hours / 7 days) means that communication is never interrupted even for one second.

1. NCB in their respective countries
2. Boarder
3. KPK (Corruption Eradication Commission)
4. Police Headquarters (Headquarters)
5. BIN (State Intelligence Agency)
6. BNN (National Narcotics Agency)
7. PPATK (Financial Transaction Reports and Analysis Center)
8. Ministry of Law and Human Rights through the Directorate of Immigration
9. Ministry of Education and Culture through the Directorate of Antiquities
10. The Attorney General's Office is the institution that has the right to request a DPO (wanted list of persons) during the process of searching and executing convicts

The level of confidentiality of the Interpol Database is by:

- a. Use of PIN for officials who have the right to access

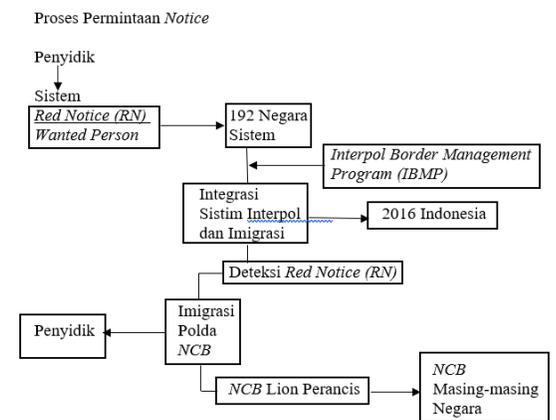
- b. NCO determination = official who will be responsible for the national territory of the country concerned.

Database Security Level at Interpol IGCS I-24/7 is claimed by Interpol as the safest network in the world because it uses anti-virus maker Karsperkey.

The Red Notice is the Notice that is most often asked to request a search for fugitive criminals by including:

- a. The threat of a minimum sentence of two years
- b. Mentioned the name of the crime
- c. Not a civil jurisdiction
- d. Not customary law
- e. Not a family dispute

Process Notice requests



E. Barriers to ICPO-Interpol cooperation

Regulations regarding the technicalities and procedures or procedures for wiretapping shall be submitted to the respective member countries. The consequence is that it opens the possibility of different technical and procedural arrangements among member countries. The result is a clash of technical and procedural arrangements among member countries. The opening of this conflict was started by The Global Lawful Interception Industry Forum and the Council of Europe, which states that each country has different definitions and needs to regulate

wiretapping. This fact is indeed acceptable even though the member countries of the Convention On Cybercrime, which was held in Budapest on 23 November 2001, gave birth to general principles regarding the act of wiretapping. However, the regulation regarding wiretapping will be submitted to each member country but must still be based on or pay attention to the convention.[16]

There are technical differences, procedures and procedures for wiretapping have influenced the smooth running of ICPO-Interpol cooperation. Sometimes it even has an impact on diplomatic relations between the two ICPO-Interpol member countries.

IV. CONCLUSIONS

A. Conclusions

11. Wiretapping is carried out by the International Criminal Police Organization (ICPO-Interpol) in order to arrest fugitives or fugitives through the following mechanisms:
 - a. Starting from a request for a Red Notice by the Police Investigator or the Attorney to the National Police Headquarters.
 - b. The National Police Headquarters through the National Central Bureau (NCB-Interpol) asked Interpol in Lyon France to issue a Red Notice.
 - c. Interpol Lyon France conveyed through the Interpol and Immigration System the Red Notice on behalf of the identity of the fugitive.
 - d. Red Notice is then distributed to all ICPO-Interpol member countries.
 - e. After the fugitive is found by NCB-Interpol the discovering country, NCB-Interpol the discovering country submits a

Red Notice to the Interpol Network System.

- f. It is the obligation of the discovering country to submit the fugitive to the requesting country.
12. The obstacles experienced by ICPO-Interpol in searching for fugitives are:
 - a. The regulations on wiretapping actions vary between ICPO-Interpol member countries, so that this often creates clashes in the application of the tapping action mechanism with the national interests of each country in the background.
 - b. Not all ICPO-Interpol member countries have regulations that allow wiretapping to take place properly.

B. Sugestions

1. Efforts are made to ensure that tapping using information technology does not violate human rights. On this basis, wiretapping must be carried out with a strict, limitation mechanism and really be used, especially for the criminal case examination process stages, which is investigation, investigation, prosecution, and trial.
2. Arrangements on wiretapping actions carried out by ICPO-Interpol member countries must refer to the Convention On Cyber Crime so that there is uniformity of arrangements so that differences arise, particularly relating to the mechanism of wiretapping action among ICPO-Interpol member countries avoided or at least minimized, so that tapping can be carried out effectively and efficiently.

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