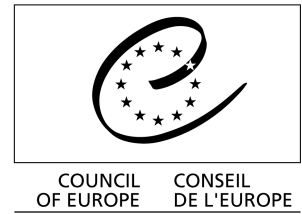


www.coe.int/TCY



Strasbourg, 24 November 2011

T-CY (2011) 4 E final

T-CY: The way forward

Plan for the period

1 January 2012 – 31 December 2013

1. Article 46 of Budapest Convention provides for "*Consultations of the Parties*". According to this provision, the Parties of the Convention "*shall consult periodically*". These "*consultations*" are envisaged to facilitate the "*effective use and implementation of the Convention*", the exchange of information and the "*consideration of possible supplementation or amendment of the Convention*". Regarding the "*use and implementation*" of the Convention the Parties can, within the framework of the consultations, identify "*any problems thereof, as well as the effects of any declaration or reservation made under this Convention*" – Article 46, 1, a, b and c.
2. The Cybercrime Convention Committee (T-CY) is the mechanism enabling the Consultations of the Parties. Article 46 is the legal framework of the activities of the T-CY.
3. According to the Explanatory Report of the Convention, the "*consultations*" shall in particular examine issues that have arisen in the use and implementation of the Convention, including the effects of declarations and reservations.
4. These consultations are to be governed by a "flexible" procedure, leaving it to the Parties to decide how and when to convene. This flexibility was believed, according to the Explanatory Report, to be necessary "*to ensure that all Parties to the Convention, including non-member states of the Council of Europe, could be involved - on an equal footing - in any follow-up mechanism*". "*Given the needs of effective prevention and prosecution of cyber-crime and the associated privacy issues, the potential impact on business activities, and other relevant factors, the views of interested parties, including law enforcement, non-governmental and private sector organisations, may be useful to these consultations*".
5. The increased number of parties, signatories and invitees, and the increased interest in the Budapest Convention worldwide require a more pro-active role of the TC-Y and effective use of resources.
6. In 2011, the United Nations created an Intergovernmental Expert Group to discuss, among other things, the role of the United Nations Office on Drugs and Crime regarding cybercrime. The possibility of drafting a new convention on this matter was not excluded.
7. The Budapest Convention is intended to be a global legal instrument, involving the largest possible number of countries from all over the world. This particular characteristic is at the same time one of its great advantages and also one of the challenges to its effective success.
8. For the time being, adherence to the Convention in terms of ratifications or accessions, in particular outside Europe, is not yet at the level required. Four non-European states have signed the text and one of them ratified it. However, there are good reasons to believe that other countries, in addition to those which have signed, will accede to the Convention in the near future. A number of states have already been invited to accede, particularly as a result of the efforts of the Global Project on Cybercrime of the Council of Europe. Moreover, many other countries have adopted legislation in line with the Budapest Convention and are implementing its principles.
9. These circumstances require from T-CY a programme of activities and timetable for future work – as indicated in the Rules of Procedures of the Bureau (article 4 d) – that help the T-CY to assume its proper role within an international context.
10. In the future, and in order to achieve its objectives, the T-CY will hold two plenary sessions per year (one open to observers and one restricted to the Parties). The plenary sessions will be followed by Bureau meetings.

11. The T-CY will give, in the period of 2012/2013, priority to the following objectives:
- 1 Support ratification of and accession to the Convention;
 - 2 Review the functioning of the accession procedure for non-member States of the Council of Europe;
 - 3 Review the effective implementation of the Convention by the Parties;
 - 4 Continue to give consideration to possible future standard-setting work, taking into account all options as regards the exact choice of instrument (amendment of the Convention, additional protocol to the Convention or a "soft law" instrument);
 - 5 Ensure closer coordination between the Parties and ensure representation of the T-CY in future discussions on cybercrime in international *fora*;
 - 6 Ensure close cooperation and coordination with other projects or programmes (including the Global Project) on cybercrime developed by the Council of Europe regarding the previous points and, in particular, 1, 2, 3 and 7;
 - 7 Exchange of information on significant legal, policy or technological developments pertaining to cybercrime and the collection of evidence in electronic form; and
 - 8 Review the financial resourcing of the Committee.
12. The workplan will include the following:

Objective 1	Support the ratification of and accession to the Convention
Action 1.1	Engage in policy dialogue with CoE member States that have not signed or ratified it yet: <ul style="list-style-type: none"> – Not yet signed: Andorra, Monaco, Russian Federation, San Marino – Signed but not yet ratified: Austria, Belgium, Czech Republic, Georgia, Greece, Ireland, Liechtenstein, Luxembourg, Malta, Poland, Sweden, Turkey <p>Policy dialogue is to include T-CY missions to these countries.</p>
Action 1.2	Engage in policy dialogue with – and encourage technical assistance if necessary to – third countries that have signed but not yet ratified it and with those countries that were invited to accede and have not yet completed the accession process: <ul style="list-style-type: none"> – Argentina, Australia, Canada, Chile, Costa Rica, Dominican Republic, Japan, Mexico, Philippines, Senegal, South Africa <p>Policy dialogue to include T-CY missions to these countries.</p>
Action 1.3	Support accession by the largest possible number of non-member states: <ul style="list-style-type: none"> – Parties to the Convention to participate actively in the assessment of requests for accession under the new procedure/criteria – In order to encourage accession, Parties to propose for assessment of states that may be interested in acceding – Parties to the Convention and the Council of Europe to provide or facilitate targeted technical assistance if necessary to help meet minimum requirements – T-CY missions to countries.
Objective 2	Review the functioning of the accession procedure for non-member States of the Council of Europe
Action 2.1	Within one year following the agreement to the new accession procedure by the Committee of Ministers review the functioning of the procedure

Objective 3	Review the effective implementation of the Budapest Convention by the Parties
Action 3.1	Review the implementation (in terms of domestic legislation and practices) of specific provisions of the Convention: <ul style="list-style-type: none"> – T-CY Plenary to agree which provisions to review in the forthcoming session – Bureau to prepare questionnaire on these provisions to be sent to all Parties – The Bureau with the support of other T-CY members to compile replies and draft a report – Plenary will engage in peer review/discussion and adopt recommendations (one day per Plenary to be foreseen) – Final report to help share and disseminate good practices and lessons learnt
Action 3.2	Ensure compliance by Parties with Article 35 (24-7 points of contact)
Objective 4	Continue to give consideration to possible future standard-setting work, taking into account all options as regards the exact choice of instrument (amendment of the Convention, additional protocol to the Convention or a "soft law" instrument)
Action 4.1	Establish an ad hoc sub-group to prepare a draft instrument to further regulate the transborder access to data and data flows, as well as the use of transborder investigative measures on the Internet and related issues for submission to the T-CY Plenary in the second half of 2012
Action 4.2	T-CY Plenary to discuss and decide on the way ahead in the second half of 2012
Objective 5	Ensure closer coordination between the Parties and ensure representation of the T-CY in future discussions on cybercrime in international <i>fora</i>
Action 5.1	Prior to international meetings, consult within the Bureau in view of facilitating common positions of the Parties <ul style="list-style-type: none"> – Email Bureau members and set up a conference call – Share proposed common position with all Parties
Action 5.2	Encourage Parties to attend the international meeting and support common position
Action 5.3	Coordinate between Parties during international meetings <ul style="list-style-type: none"> – Set up side-meetings/coordination meetings in the course of the international meetings –
Action 5.4	Ensure representation of T-CY in international fora
Objective 6	Ensure close cooperation and coordination with the technical cooperation programme on cybercrime of the Council of Europe (including the Global Project on Cybercrime) developed by the Council of Europe regarding the previous points and, in particular, 1, 2, 3 and 7
Action 6.1	T-CY representatives to participate in project activities
Action 6.2	At least one T-CY Plenary to be held in conjunction with the annual Octopus Conference

Action 6.3	The technical cooperation programme on cybercrime to support the work of the T-CY (subject to the availability of funds) – Parties are encouraged to provide voluntary special purpose contributions to allow for this
Action 6.4	Results of technical cooperation activities to be presented to the T-CY
Objective 7	Exchange of information on significant legal, policy or technological developments pertaining to cybercrime and the collection of evidence in electronic form
Action 7.1	T-CY in cooperation with the technical cooperation programme to maintain a database on cybercrime legislation in countries worldwide
Action 7.2	T-CY to contribute to the organisation of the Octopus conferences
Objective 8	Review the financial resourcing of the Committee
Action 8.1	Discussion at first T-CY plenary 2012 (7 th Plenary)

Appendix

Article 46 – Consultations of the Parties

- 1 The Parties shall, as appropriate, consult periodically with a view to facilitating:
 - a the effective use and implementation of this Convention, including the identification of any problems thereof, as well as the effects of any declaration or reservation made under this Convention;
 - b the exchange of information on significant legal, policy or technological developments pertaining to cybercrime and the collection of evidence in electronic form;
 - c consideration of possible supplementation or amendment of the Convention.
- 2 The European Committee on Crime Problems (CDPC) shall be kept periodically informed regarding the result of consultations referred to in paragraph 1.
- 3 The CDPC shall, as appropriate, facilitate the consultations referred to in paragraph 1 and take the measures necessary to assist the Parties in their efforts to supplement or amend the Convention. At the latest three years after the present Convention enters into force, the European Committee on Crime Problems (CDPC) shall, in co-operation with the Parties, conduct a review of all of the Convention's provisions and, if necessary, recommend any appropriate amendments.
- 4 Except where assumed by the Council of Europe, expenses incurred in carrying out the provisions of paragraph 1 shall be borne by the Parties in the manner to be determined by them.
- 5 The Parties shall be assisted by the Secretariat of the Council of Europe in carrying out their functions pursuant to this article.