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Strasbourg, 6 December 2012

T-CY (2012) 26E
(Provisional)

Cybercrime Convention Committee (T-CY)

8th Plenary

Strasbourg, 5-6 December 2012

Abridged meeting report

1 Introduction

The T-CY Committee, meeting in Strasbourg on 5 and 6 June 2012, was chaired by Markko Künnapu (Estonia). Some 65 representatives of State Parties and observers participated.

The meeting was opened by Jan Kleijssen (Director of Information Society and Action against Crime, DG1, Council of Europe), who briefed the Committee on recent and forthcoming developments.

2 Decisions

The T-CY decided:

Agenda item 2: Status of signatures, ratifications, accessions to the Budapest Convention and its Protocol

- To welcome the recent ratifications by Malta, Georgia, Austria, Japan and Belgium and the accession by Australia.
- To encourage signatories and States invited to accede to join the Convention as soon as possible.
- To call on States to make sure that instruments of accession or ratification are complete and indicate competent authorities for mutual legal assistance and extradition.

Agenda item 4: Workplan 2012-13: progress made and activities undertaken by the T-CY

- To take note of the progress made in the implementation of the T-CY workplan.
- To welcome the support to the Budapest Convention by other international organisations and initiatives, including the Budapest Conference on Cyberspace (October 2012).

Agenda items 5: Assessment of articles 16, 17, 29 and 30

- To adopt the draft Assessment Report in principle, but to invite Cyprus, Germany and Hungary to provide additional information by 14 December.
- To request the T-CY Secretariat to subsequently circulate a revised version of the report for final adoption by the T-CY (written procedure).

Agenda item 6: Further provisions to be assessed

- To assess in 2013 implementation of the following provisions on international cooperation:
 - Article 31 – Mutual assistance regarding accessing of stored computer data
 - Article 23 – General principles relating to international co-operation
 - Article 25 – General principles relating to mutual assistance
 - Article 26 – Spontaneous information
 - Article 27 – Procedures pertaining to mutual assistance requests in the absence of applicable international agreements

- Article 28 – Confidentiality and limitation on use
- Article 35 – 24/7 Network

- To request the T-CY Bureau and Secretariat to circulate a questionnaire by 15 February 2013 with a deadline for responses by Parties of 5 April 2013 in order to permit discussion of the first draft by the T-CY at its 9th Plenary.

- To invite signatories and States invited to accede to participate in the assessments on a voluntary basis.

Agenda item 7: Dialogue with international organisations (T-CY observers)

- To welcome the information provided by representatives of the African Union Commission, European Union, the G8 High-tech Crime Sub-group, the Organisation of American States and the United Nations Office on Drugs and Crime.

- To call on Parties to consult each other in view of common positions at United Nations and other international fora in line with objective 5 of the T-CY Workplan.

Agenda item 8: Ad-hoc Group on Transborder Access

- To adopt the report of the T-CY Sub-group on Transborder Access and to make it public.

- To extend the mandate of the T-CY Sub-group on Transborder Access and Jurisdiction to 31 December 2013 with the following tasks:
 - Preparation of a Guidance Note on Article 32 Budapest Convention, including a consultation of private sector entities. A draft should be prepared for discussion at the 9th Plenary of the T-CY in mid-2013 and a hearing of private sector entities could be held on that occasion. The Guidance Note should then be submitted for adoption to the 10th Plenary before 31 December 2013.
 - Submission by June 2013 for approval by the T-CY of a draft Mandate of the Committee of Ministers tasking the T-CY to prepare an Additional Protocol, as well as submission of elements regarding the possible contents and scope such a Protocol.
 - Pending the mandate of the Committee of Ministers, preparation of a first draft text of a possible Protocol for discussion by the 10th Plenary of the T-CY.

- To invite Japan to provide an expert to join the Transborder Group, and to open up the work of the Group to representatives of other Parties to the Convention who may wish to participate in its meetings.

- To allow for individual experts to be invited on a case-by-case basis.

Agenda item 9: T-CY Guidance Notes

- To prepare Guidance Notes in view of facilitating implementation of specific provisions of the Budapest Convention.

- To adopt Guidance Note 1 on the notion of “computer systems” (Article 1.a Budapest Convention).

- To launch the preparation of additional Guidance Notes on "Denial of Service Attacks and Botnets", "Attacks against Critical Information Infrastructure", "New forms of Malware", "Fraud, phishing and identity theft", "Spam".
- To submit drafts of such Guidance Notes to the 9th and 10th Plenary in 2013 for discussion and adoption.

Agenda item 10: Review of financial resourcing

- To take note that Ordinary Budget funding of the T-CY in 2013 will be similar to that of 2012, and that therefore co-funding through the Global Project on Cybercrime (Phase 3) is required.
- To encourage, therefore, Parties and observers to provide additional voluntary contributions to this project to ensure that T-CY activities can take place as foreseen.
- To welcome the pledge of the United Kingdom to make an additional voluntary contribution to Global Project (Phase 3).

Agenda item 11: Review of the rules of procedure for the Bureau

- To adopt the revised Rules of Procedure for the Bureau.

Agenda item 12: Any other business

- To take note of the activities carried out under the Technical Cooperation Programme of the Council of Europe, and their complementarity to the work of the T-CY.
- To take note of the Discussion Paper on "Protecting children against sexual violence: the criminal law benchmarks of the Budapest and Lanzarote Conventions".

Agenda item 15: Next meeting of the T-CY

- To propose to hold the 9th Plenary of the T-CY on 5 and 6 June 2013.
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3 Appendix

3.1 Annotated agenda

Annotated agenda

Wednesday, 5 December (10h00/18h00) – Thursday, 6 December (10h00/18h00)

(Please note that agenda items marked with * are for decision by the members representing contracting Parties to the Budapest Convention)

1. Opening of the meeting and adoption of the agenda	
2. Status of signatures, ratifications, accessions to the Budapest Convention and its Protocol Participants are invited to discuss the status of signature, ratification or accession by specific countries.	Budapest Convention Protocol
3. Information provided by parties and observers – Tour de table Participants are invited to present information on legislative developments, major cases, important events, training provided to other countries etc.	
4. Workplan 2012-13: progress made and activities undertaken by the T-CY The chair will inform members of progress made in the implementation of the T-CY workplan. Participants are invited to discuss next steps.	- T-CY(2011)04E (Workplan) - Internet Governance Strategy
5. Assessment of Articles 16, 17, 29 and 30: 2 nd reading and adoption of the report* Further to the 1 st reading of the draft assessment report at the 7 th Plenary, T-CY members are invited to continue discussions based on the updated version and in view of adopting the report.	T-CY(2012)10rev Draft revised assessment report (restricted)
6. Assessments: Further provisions to be assessed* T-CY members are invited to decide which provisions of the Budapest Convention are to be assessed in the next round of assessments.	
7. Dialogue with international organisations (T-CY observers) Representatives of international organisations with observer status in the T-CY are invited to present relevant activities and engage in a dialogue with T-CY members. Observers include the African Union Commission, ENISA, European Union, Interpol, ITU, OAS, OECD, OSCE, UNODC, G8 High-tech Crime Subgroup.	
8. Transborder access to data: report of the T-CY Ad-hoc Group*	T-CY(2012)3 Report of the Ad-hoc

<p>The T-CY is invited to discuss the draft report of the Ad-hoc Group on Transborder Access to Data and Data Flows.</p> <p>The T-CY is invited to decide on:</p> <ul style="list-style-type: none"> - The preparation of a Guidance Note on Article 32 Budapest Convention - The preparation of a draft Mandate for the preparation of an Additional Protocol - Extending the mandate of the Transborder Group to 31 December 2013. 	Group (restricted)
<p>9. T-CY Guidance Notes*</p> <p>The T-CY is invited to consider the preparation and adoption of "Guidance Notes" in view of facilitating the implementation of specific provisions of the Budapest Convention.</p> <p>Draft Guidance Note 1 relates to an earlier decision of the T-CY (1st Plenary in 2006) concerning Article 1.a, that is, the meaning of "computer system".</p> <p>The T-CY is invited to reconfirm and adopt this Note. Parties are invited to propose topics for Guidance Notes to be prepared in 2013.</p>	T-CY(2012)21 Guidance Note 1 (Article 1.a)
<p>10. Review of financial resourcing of the T-CY for 2013</p> <p>The Secretariat will inform participants on the state of financial resources available for the T-CY in 2013.</p> <p>T-CY members are invited to make suggestions regarding the financial resourcing of the T-CY for 2013.</p>	
<p>11. Review of Rules of Procedure for the Bureau*</p> <p>T-CY members are invited to consider an amendment of the Rules of Procedures of the Bureau so as to allow for an enlargement of the Bureau in view of the number of Parties and geographical representation. No elections are foreseen in this Plenary Meeting.</p>	T-CY(2012)24 Draft revised Rules
<p>12. Any other business</p> <ul style="list-style-type: none"> - Protecting children against sexual violence: the benchmarks of the Lanzarote and Budapest Convention (draft study) - Activities of technical cooperation projects - Other matters 	Draft benchmark study Global Project (outline) CyberCrime@IPA (outline) CyberCrime@EAP (outline)
<p>13. Next meeting of the T-CY</p>	

3.2 List of participants

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USA	Ms Betty SHAVE	Assistant Deputy Chief for International Computer Crime Computer Crime and Intellectual Property Section US Department of Justice Washington, DC

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