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Strasbourg, 16 May 2013

T-CY(2013)18

Cybercrime Convention Committee (T-CY)

Draft Decision

**Preparation by the T-CY of a
draft Additional Protocol
to the Convention on Cybercrime (ETS 185)
regarding transborder access to data**

for consideration by the 9th Plenary of the T-CY (4-5 June 2013)

Proposal prepared by the T-CY Bureau and T-CY Ad-hoc Sub-group on Transborder Access to Data

[Draft] Decision

[adopted by the Cybercrime Convention Committee at its 9th Plenary (4-5 June 2013)]

The T-CY,

1. Considering the report on "Transborder access and jurisdiction" (T-CY(2012)3 adopted by the T-CY at its 8th Plenary on 6 December 2012¹;
2. Taking note of the "draft elements of an Additional Protocol to the Budapest Convention on Cybercrime regarding transborder access to data" prepared by the T-CY Ad-hoc Subgroup on Transborder Access and discussed by the T-CY at its 9th Plenary²;
3. Agrees to commence the preparation of a draft 2nd Additional Protocol the Convention on Cybercrime regarding transborder access to data.

Appendix: [Draft] Terms of Reference

Preparation by the Cybercrime Convention Committee of a draft 2nd Additional Protocol to the Convention on Cybercrime (ETS 185) regarding transborder access to data

Terms of reference valid from: **1 January 2014 until 31 December 2015**

Main tasks
Having regard to Article 44 of the Convention on Cybercrime and the decision adopted by the T-CY at its 9 th Plenary (4-5 June 2013) in line with Article 46 of the Convention on Cybercrime, the T-CY will finalise and submit to the Committee of Ministers – via the European Committee on Crime Problems (CDPC) – a proposal for a 2 nd Additional Protocol on Transborder Access to Data to the Convention on Cybercrime (ETS No. 185).
Pillar/Sector/Programme
Pillar: Rule of Law Sector: Development of Common Standards and Policies Programme: Information Society and Internet Governance

¹ http://www.coe.int/t/DGHL/cooperation/economiccrime/cybercrime/Documents/Reports-Presentations/TCY_2012_3_transborder_rep_V31public_7Dec12.pdf

² [http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY\(2013\)14transb_elements_protocol_V2.pdf](http://www.coe.int/t/dghl/cooperation/economiccrime/Source/Cybercrime/TCY/TCY%202013/T-CY(2013)14transb_elements_protocol_V2.pdf)

Expected results

A draft 2nd Additional Protocol to the Convention on Cybercrime (ETS No. 185) regarding Transborder Access to Data – including an Explanatory Report – is prepared and adopted by the T-CY.

Composition

Members:

State Parties to the Convention on Cybercrime as represented in the T-CY.

Observers:

The following Council of Europe bodies may send one or more representatives, without the right to vote but with defrayal of expenses at the charge of their respective administrative Budgets:

- the Consultative Committee of Convention 108 (T-PD)
- the European Committee on Legal Co-operation (CDCJ)
- the European Committee on Crime Problems (CDPC)
- the Steering Committee on the Media and Information Society (CDMSI)
- the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC).

States with observer status in the T-CY may send representatives, without the right to vote and without defrayal of expenses.

Organisations with observer status in the T-CY may send representatives without the right to vote and without defrayal of expenses, including:

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- the African Union Commission
- the European Union
- European Network and Information Security Agency (ENISA)
- Europol
- Interpol
- International Telecommunication Union (ITU)
- Organization of American States (OAS)
- Organisation for Economic Co-operation and Development (OECD)
- Organisation for Security and Co-operation in Europe (OSCE)
- United Nations Office on Drugs and Crimes (UNODC)
- G8 High-tech Crime Subgroup.

The T-CY may invite individual subject-matter experts on an ad-hoc basis.

The T-CY may hold public hearings.

Observers from States and organisations other than those referred to above can be admitted upon request to the Secretary General, on the basis of a unanimous decision by the T-CY.

Working methods

The regular T-CY Plenary meetings (4 Plenaries scheduled for 2013/14) will be extended by one day each for work on the Additional Protocol.

The T-CY Bureau will assist in the preparation of the Additional Protocol. T-CY members and individual experts may be invited to participate in the respective T-CY Bureau meetings without defrayal of expenses.

Meetings:

- 4 T-CY Plenary meetings in 2013-2014
- 6 T-CY Bureau meetings in 2013-2014

Budgetary information

Meetings per year	Number of days per meeting	Members	Plenary	Bureau	Subordinate structures/ Working groups	Secretariat (A, B)
2 Plenaries	1	39	EUR 25,000*		-	0.2 A* ; 0.2 B*
3 Bureau	1	9		EUR 5,000*	-	

*These figures take into consideration cost in addition to the cost for regular Plenary and Bureau meetings (per diem, interpretation, translation and document printing). Cost will increase to the extent that additional States become Parties.