

**Octopus Conference
Cooperation against cybercrime**

Cybercrime Convention Committee: an update

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Budapest Convention: status of implementation

As at December 2013:

- **40 parties (36 European and Australia, Dominican Republic, Japan, USA)**
 - **11 signatories (9 European, Canada, South Africa)**
 - **11 states invited to accede (Argentina, Chile, Colombia, Costa Rica, Israel, Mauritius, Mexico, Morocco, Panama, Philippines, Senegal)**
- = 62 states are parties/are committed to become parties**

March 2014 – Mauritius becomes officially a Party

- **Many more have used Budapest Convention as a guideline for domestic legislation**

T-CY activities

- **Cybercrime Convention Committee (T-CY) = Committee of the Parties. Based on Art 46 of the Convention**
- **Plenary meets 2 times per year**
- **In 2011 T-CY workplan 2011-2013 was adopted**
- **New T-CY workplan 2014-2015**
- **1st assessment round in 2012: expedited preservation, disclosure of data**
- **2nd assessment round in 2013, continues in 2014: mutual assistance, international cooperation, 24/7**

T-CY activities

- **Accession criteria and procedure**
- **T-CY financing. First attempt to reach consensus in 2010, second in 2013**
- **Rules of procedure for the Committee**
- **Better coordination at other fora**

Guidance Notes

Why? The need for guidance notes?

- ✓ **GN # 1 - Computer system**
- ✓ **GN # 2 – Botnets**
- ✓ **GN # 4 – Identity theft**
- ✓ **GN # 5 - DDoS attacks**
- ✓ **GN # 6 – Critical information infrastructure attacks**
- ✓ **GN # 7 – New forms of malware**

Transborder access to data

- **Discussion started in 2010**
- **First questionnaire and analysis - different practices related to implementation of Art 32b**
- **November 2011 - T-CY agreed to establish ad hoc Sub-Group on Transborder Access to Data and Jurisdiction**
- **December 2012 – T-CY adopted the report and instructed the sub-group to prepare:**
 - **draft Guidance Note on Transborder Access to Data**
 - **draft elements of the Additional Protocol to the Convention**
- **June 2013 – T-CY agreed to commence drafting the 2nd Additional Protocol to the Convention on Cybercrime on Transborder Access to Data**

Transborder access to data – what is the need?

- Different practices on the implementation of Art 32b
- Current Art 32b might not be sufficient for cloud computing
- Criminal investigators face practical problems, MLAT does not work effectively always
- Options that are beyond Art 32b
 - location of data are not known
 - without the consent of the data subject
 - can ISP disclose data to the LEA ?
 - extension of transborder search
 - power of disposal as connecting legal factor

Transborder access to data – challenges

- **Data protection and disclosure of data under scrutiny**
- **Calls for stronger legal regime on data protection and transborder access to data**
- **Review of the T-CY decision made in June 2013**
- **Next steps at slower pace.**
- **Further analysis, collection of additional ideas, additional meetings with the data protection community and private sector**

Thank you!

Further information

www.coe.int/cybercrime

www.coe.int/tcy