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Cybercrime Convention Committee (T-CY)

T-CY Workplan

for the period

1 January 2016 – 31 December 2017

Draft prepared by the T-CY Bureau for discussion by T-CY 13 (15-16 June 2015)

1 Functions of the Cybercrime Convention Committee (T-CY)

1 The Cybercrime Convention Committee (T-CY) is the mechanism enabling the "Consultations of the Parties" in line with Article 46 Budapest Convention on Cybercrime which states that the Parties of the Convention "shall consult periodically… with a view to facilitating":

- "the effective use and implementation of the Convention";
- "the exchange of information";
- "the consideration of possible supplementation or amendment of the Convention".

2 Article 46 is thus the legal basis for the activities of the T-CY. The consultations are to be governed by a "flexible" procedure, leaving it to the Parties to decide how and when to convene.

3 The operation and activities of the T-CY are, therefore, defined by Rules of Procedure as adopted by the T-CY. These state in Article 1 that in pursuance of its functions the T-CY shall:

- Undertake assessments of the implementation of the Convention by the Parties;
- Adopt opinion and recommendations on the interpretation and implementation of the Convention, including Guidance Notes;
- Consider preparing draft legal instruments;
- Adopt opinions requested by Council of Europe bodies;
- Review the functioning of 24/7 points of contact;
- Encourage accessions to the Budapest Convention;
- Promote common positions of the Parties in international fora;
- Engage in dialogue with relevant international organisations;
- Promote capacity building;
- Establish working groups to address specific questions.

2 Workplans 2012-2013 and 2014-2015

4 In November 2011, the T-CY adopted an Action Plan for the period 2012 – 2013 and in December 2013, a Workplan for the period 2014 – 2015. Under these workplans, the T-CY, among other things:

- Carried out two cycles of assessments covering the preservation provisions of the Convention and the functioning of mutual legal assistance;
- Adopted eight Guidance Notes;
- Established and concluded work on transborder access to data and established a new working group on Cloud Evidence;
- Supported the process of signatures, ratification and accessions to the Convention. During this period, an additional 15 States [as at 31 May 2015] became Parties and another eight [as at 31 May 2015] signed or were invited to accede;
- Contributed to the streamlining of the accession procedures to Council of Europe conventions;
- Pursued common positions in several international meetings;
- Promoted capacity building as an international approach and closely cooperated with the capacity building activities of the Council of Europe, including the Cybercrime Programme Office of the Council of Europe (C-PROC) in Romania;
- Invited additional international organisations to join the T-CY as observers;
- Doubled the number of annual meetings.

5 In short, between 2012 and 2015, the T-CY has become a highly relevant inter-governmental body on cybercrime. The Workplan 2016 – 2017 will build on these achievements.

3 Strategic directions of the workplan 2016 - 2017

6 Cybercrime has become a threat to human rights, democracy and the rule of law. Criminal justice authorities are confronted with a massive increase in the scale and quantity of cybercrime and other offences involving electronic evidence, with arising technical challenges, with issues related to cloud computing and jurisdiction, including links to organised crime, and with limitations of the system of mutual legal assistance.

7 Under international human rights law, governments have the obligation to protect society and individuals against crime and to protect the rights of victims. Effective criminal justice responses, which are subject to safeguards, are needed to address cybercrime and the issue of electronic evidence in relation to any crime. The Budapest Convention on Cybercrime is an important foundation of the international response.

8 In the light of this, the main objectives of the T-CY in 2016 – 2017 are as follows:

- Objective 1: Ensure the continued relevance of the Budapest Convention.

  Through Guidance Notes, documentation of good practices and exchange of experience and consideration of a Protocol to the Budapest Convention, the Budapest Convention will remain relevant and address new challenges in the light of legal, policy and technological developments. The reports of the T-CY Transborder Group, the recommendations resulting from the assessment of the mutual legal assistance provisions and the ongoing work of the T-CY Cloud Evidence Group raise relevant questions and comprise proposals for follow up in 2016 and 2017.

- Objective 2: Support the quality of implementation of the Convention and its Protocol by the Parties.

  Assessments are the primary tool of the T-CY to ensure full implementation of the Convention and its Protocol by the Parties. In 2016 and 2017, this includes the 3rd cycle of assessment covering Article 13 on sanctions and measures, and reviews of follow up given to the earlier assessment of preservation provisions and the assessment of mutual legal assistance provisions. The 4th cycle of assessment may be initiated in 2017. The T-CY will furthermore encourage capacity building activities to support implementation of the Budapest Convention and its Protocol as well as follow up to T-CY assessments.

- Objective 3: Enlarge membership in the Budapest Convention.

  The relevance and impact of the Budapest Convention will grow with each new Party. It is essential that those States that have already signed it or have been invited to accede become Parties as soon as possible. In order to achieve this, the T-CY will engage in enhanced policy dialogue, including T-CY visits to these States. States joining the Budapest Convention must be able to apply the provisions of this treaty and be prepared to engage in cooperation with other Parties. Therefore, the T-CY will encourage capacity building activities in countries that may seek accession to the Budapest Convention.

9 Implementation of the Workplan 2016 – 2017 requires resources. It is recalled that T-CY 9 (June 2013) agreed on co-funding the T-CY through voluntary contributions, and in the light of this, T-CY 10 (December 2013) encouraged Parties and Observers to consider voluntary contributions to the project Cybercrime@Octopus. Should co-funding through voluntary contributions not be sufficient, the T-CY may need to pursue other options as indicated during T-CY 9.

10 These priorities can be translated into the following objectives and actions.

4 Objectives and actions 2016 – 2017

Objective 1	**Ensure the continued relevance of the Budapest Convention**
Action 1.1	Prepare Guidance Notes to facilitate the application of the Convention by the Parties – Select topics requiring a clarification and present draft Guidance Notes to Plenary for discussion and approval. – Widely disseminate Guidance Notes upon adoption
Action 1.2	Complete the work of the Cloud Evidence Group and ensure follow up to its recommendations subject to adoption by the T-CY.
Action 1.3	Ensure close coordination between the Parties and ensure representation of the T-CY in discussions on cybercrime in international *fora:* – Prior to international meetings, consult within the Bureau in view of agreeing on common positions: - Email Bureau members and set up a conference call; - Share common position with all Parties. – Encourage Parties to attend international meetings and support common positions. – Coordinate between Parties during international meetings: - Set up side-meetings/coordination meetings in the course of the international meetings. – Ensure representation of the T-CY in international for a.
Action 1.4	Ensure close coordination with relevant Council of Europe bodies: – Appoint T-CY members to relevant Committees and support their participation in meetings.
Objective 2	**Support the quality of implementation of the Convention and its Protocol**
Action 2.1	Complete the assessment of Article 13 (Sanctions and measures)
Action 2.2	Ensure follow up to assessment reports: – Review progress made regarding the supplementary reports on expedited preservation provisions by end-2016; – Review progress made regarding the international cooperation provisions by mid-2016.
Action 2.3	Initiate the 4th cycle of assessments in 2017.
Action 2.4	Ensure compliance by Parties with Article 35 (24/7 points of contact) – Secretariat to update the directory contact points and to inform the T-CY should issues arise. – Parties to follow up at domestic levels if necessary.
Action 2.5	Ensure close cooperation and coordination with the capacity building programmes on cybercrime of the Council of Europe developed by the Council of Europe:

	– T-CY representatives to participate in project activities. – One T-CY Plenary to be held in conjunction with the Octopus Conference. – Parties are encouraged to provide voluntary special purpose contributions to allow for this. – Results of technical cooperation activities to be presented to the T-CY.
Objective 3	**Enlarge membership in the Budapest Convention**
Action 3.1	Engage in policy dialogue with CoE member States that have not signed or ratified it yet. The policy dialogue may include T-CY missions to these countries.
Action 3.2	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. The policy dialogue may include T-CY missions to these countries.
Action 3.3	Support accession by the largest possible number of non-member states: – Once an accession request and supplementary information have been received, T-CY members - to participate actively in the consultations within their governments to reach a decision on the request; - to seek to have their governments participate actively in discussions on accession requests in CoE bodies. – Parties to the Convention and the Council of Europe to provide or facilitate targeted technical assistance if necessary to help meet minimum requirements, either through the capacity building programmes of the COE or other bi- or multilateral actions.
Objective 4	**Review the financial resourcing of the Committee**
Action 4.1	The Secretariat to inform the T-CY at each Plenary on the status of T-CY financing in the light of the decision taken by the T-CY at the 9th Plenary (June 2013).
Action 4.2	If necessary, T-CY to take further decisions to ensure co-financing of the T-CY.

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.