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## Cybercrime Convention Committee (T-CY)

### **T-CY Workplan**

**for the period**

**January 2022 – December 2023**

Adopted by the 25<sup>th</sup> T-CY Plenary (15 November 2021)

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## 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 to the Convention “shall ... consult periodically... with a view to facilitating”:
  - “the effective use and implementation of this 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 opinions 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 – 2021

- 4 The T-CY had previously adopted an Action Plan for the period 2012 – 2013, a [Workplan](#) for the period 2014 – 2015, a [Workplan](#) for 2016 – 2017, a [Workplan](#) for 2018 – 2019/20<sup>1</sup>, and one for [2021](#). Under these workplans, the T-CY, among other things:
  - Carried out three cycles of assessments covering the [preservation](#) provisions of the Convention, the functioning of [mutual legal assistance](#) and [sanctions and measures](#) and ensured follow up to the recommendations of resulting from these assessments;
  - Adopted eleven [Guidance Notes](#);
  - Established and concluded work on [transborder access to data](#) and on [cloud evidence](#);
  - Prepared a [mapping study on cyberviolence](#); and adopted a recommendation leading to the setting up of [an online tool on cyberviolence](#);
  - Prepared draft templates for [MLA requests for subscriber information](#) and for [preservation requests](#);
  - Supported the process of [signatures, ratification and accessions](#) to the Convention. During this period, the number of Parties increased to 66 and 11 States had signed it or been invited to accede as of August 2021;
  - 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, in particular the [Cybercrime Programme Office of the Council of Europe \(C-PROC\)](#) in Romania;

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<sup>1</sup> In the light of the COVID-19 Pandemic and the postponement of the 23<sup>rd</sup> T-CY Plenary from June 2020 to 30 November 2020, T-CY members had agreed in May 2020 to extend the workplan to December 2020.

- Documented the [use of the Budapest Convention in practice](#);
  - Contributed to the [Octopus Community](#) with its country wikis, legal profiles and tool on international cooperation;
  - Invited additional international organisations to join the T-CY as observers;
  - Doubled the number of annual meetings; and importantly
  - Launched and finalised the negotiation of the [Second Additional Protocol to the Budapest Convention on enhanced cooperation and disclosure of electronic evidence](#).
- 5 With this important work accomplished, including the successful negotiations on the Second Additional Protocol (2AP), the Budapest Convention will remain highly relevant for years to come.

### **3 Strategic directions of the workplan 2022-2023**

- 6 Following the conclusion of the negotiations of the 2AP in 2021, the T-CY will be able to resume its core functions in 2022-2023. However, the T-CY will also need to support the anticipated opening for signature and subsequent entry into force and implementation of the 2AP, assume additional functions pursuant to the 2AP and follow up on some issues that have resulted from the protocol negotiations.
- 7 The T-CY will also need to consider, if and when appropriate, legal, policy or technological developments as well as good practices, for example with respect to ransomware, cryptocurrencies or artificial intelligence.
- 8 Following adoption by the UN General Assembly of Resolution 74/247 (December 2019), a new treaty process related to cybercrime commenced in 2021 at the level of the United Nations. T-CY members should cooperate to ensure that any future UN agreement is consistent with the principles of the Budapest Convention on Cybercrime including by providing for the necessary human rights and rule of law safeguards.
- 9 In the light of this, the objectives of the T-CY in 2022-2023 are as follows:

- Objective 1: Support signature and ratification of the Second Additional Protocol to the Budapest Convention

It is expected that the 2AP will be opened for signature in Spring 2022. Preparatory work will be required in Parties to the Convention to permit signature by their representatives. T-CY members are encouraged to facilitate this process. The T-CY Bureau and T-CY members are also encouraged to raise awareness of this Protocol and its benefits, provide an understanding of the Protocol's provisions, and assist interested States in identifying the necessary steps towards signature and ratification.

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

The preparation of Guidance Notes and assessments of implementation of the Convention are among the core functions that the T-CY will assume following the completion of negotiations of the Second Additional Protocol. The 4<sup>th</sup> cycle of assessments will thus be initiated under this objective. Furthermore, the T-CY will coordinate with the Cybercrime Programme Office of the Council of Europe (C-PROC) regarding capacity building activities in support of the Convention and its Protocols.

- Objective 3: Enlarge membership in the Convention on Cybercrime

The effectiveness of the Convention increases the more States join them. Therefore, the T-CY will engage in dialogue with States that already signed it or been invited to accede to encourage completion of the process of ratification or accession. The T-CY will also reach out to other States

prepared to implement the provisions of the Convention and engage in effective international cooperation in order to encourage accession.

- Objective 4: Ensure the continued relevance of the Budapest Convention

During the preparation of the 2AP, two issues were considered important by Parties, although it was not feasible to include them in the Protocol. It was agreed that more work was needed by the T-CY on these topics, that is, "extension of searches" and "undercover investigations by means of computer systems". A T-CY working group will be established to follow up and identify solutions.

Consideration of significant legal, policy or technological developments related to cybercrime and electronic evidence is also among the core functions of the T-CY, and this may include, if and when appropriate, topics such as ransomware, crypto-currencies or artificial intelligence.

Cybercrime and electronic evidence are transversal challenges that affect other areas of work of the Council of Europe. Therefore, the T-CY will need to increase the engagement with other relevant bodies of the organisation. Examples include the Lanzarote Convention Committee regarding the protection of children against online sexual exploitation and sexual abuse, the Consultative Committee on Data Protection, the Steering Committee on Counter-Terrorism (CDCT), the MONEYVAL anti-money laundering evaluation mechanism or bodies dealing with [artificial intelligence](#).

Especially with the new Protocol, the Budapest Convention will remain the most relevant international treaty on cybercrime in the years to come. However, it will also be necessary to ensure that the principles of this treaty are taken into account as additional international responses are being developed, including in the follow up to UN General Assembly Resolution 74/247 (December 2019). The T-CY will continue to facilitate coordination and common positions by the Parties to rely on the experience of the Budapest Convention so that international responses are effective, meet human rights and rule of law requirements, and maintain a free and open Internet.

- Objective 5: Review the financial resourcing of the Committee

Implementation of the Workplan 2022–2023 requires resources. It is recalled that T-CY 9 (June 2013) agreed on [co-funding the T-CY](#) through voluntary contributions. A number of Parties have since provided voluntary contributions to the project [Cybercrime@Octopus](#) and, since 2021, to the [Octopus Project](#). These helped ensure the functioning of the T-CY so far. However, extra-budgetary funding will remain essential given increased requirements related to growing membership in the Convention and the launch of the Second Additional Protocol.

<sup>10</sup> These priorities can be translated into the following actions.<sup>2</sup>

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<sup>2</sup> This is with the understanding that the support of a Party regarding actions related to the First or Second Additional Protocol may be subject to its status regarding these instruments.

## 4 Objectives and actions 2022-2023

<b>Objective 1</b>	<b>Support signature and ratification of the Second Additional Protocol to the Budapest Convention</b>
Action 1.1	Support the opening for signature of the 2AP in Spring 2022, including <ul style="list-style-type: none"> <li>▪ T-CY members to facilitate domestic procedures to permit signature;</li> <li>▪ T-CY Bureau and members to raise awareness and provide explanations of the Protocol.</li> </ul>
Action 1.2	Prepare a concept regarding additional functions of the T-CY and Secretariat emanating from the 2AP.
Action 1.3	Policy dialogue and other assistance to promote implementation and ratification of the 2AP in addition to the Convention and the First Additional Protocol.
<b>Objective 2</b>	<b>Support the quality of implementation of the Convention and its Protocols by the Parties</b>
Action 2.1	Prepare Guidance Notes to facilitate the application of the Convention by the Parties.
Action 2.2	Initiate the 4 <sup>th</sup> cycle of assessments in 2022-2023.
Action 2.3	Ensure compliance by Parties with Article 35 (24/7 points of contact) <ul style="list-style-type: none"> <li>▪ Secretariat to update the directory of contact points and to inform the T-CY should issues arise;</li> <li>▪ Parties to follow up at domestic levels if necessary.</li> </ul>
Action 2.4	Share experience in the implementation of the Protocol to the Budapest Convention on Xenophobia and Racism (ETS 189) by its Parties.
Action 2.5	Promote capacity building through the Cybercrime Programme Office of the Council of Europe (C-PROC) in Bucharest.
<b>Objective 3</b>	<b>Enlarge membership in the Convention on Cybercrime</b>
Action 3.1	Engage in policy dialogue with States that have signed or been invited to accede to the Convention but are not yet Parties in view of completing the process of ratification or accession. This may include T-CY missions to these countries.
Action 3.2	Support accession by States: <ul style="list-style-type: none"> <li>▪ Encourage States with the necessary level of legislation and capacities to request accession to the Budapest Convention;</li> <li>▪ Once an accession request and supplementary information have been received, T-CY members <ul style="list-style-type: none"> <li>- to participate actively in the consultations within their governments to reach a decision on the request;</li> <li>- to seek to have their governments participate actively in discussions on accession requests in CoE bodies;</li> </ul> </li> <li>▪ Parties to the Convention and the Council of Europe to provide or facilitate targeted technical assistance, if necessary, to help meet necessary requirements, either through the capacity building programmes of the CoE or other bi- or multilateral actions.</li> </ul>

<b>Objective 4</b>	<b>Ensure the continued relevance of the Budapest Convention</b>
Action 4.1	Establish a working group to follow up to the 2AP drafting process on the issues of "extension of searches" and "undercover investigations by means of computer systems".
Action 4.2	Identify and document significant legal, policy or technological developments as well as good practices, including, if and when appropriate, with respect to ransomware, cryptocurrencies or artificial intelligence and challenges related to cybercrime and electronic evidence.
Action 4.3	Ensure transversal coordination with relevant Council of Europe bodies and appoint T-CY members to participate in the work of relevant committees.
Action 4.4	Ensure close coordination between the Parties, ensure representation of the T-CY and facilitate common positions in relevant international meetings on cybercrime.
Action 4.5	Facilitate outreach to States interested in the experience of the Budapest Convention and its Protocols.
<b>Objective 5</b>	<b>Review the financial resourcing of the Committee</b>
Action 5.1	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 9 <sup>th</sup> Plenary (June 2013).
Action 5.2	If necessary, T-CY to take further decisions to ensure co-financing of the T-CY.

## 5 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.