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Please quote: JC/AS/TCY

Mr. Jesper HJORTENBERG
Chair of CDPC

Strasbourg, 26 May 2014

Dear Mr. Hjortenberg,

Thank you for your letter of 25 March 2014 concerning the implementation of the Committee of Ministers' decision of 10 April 2013 on the review of Council of Europe Conventions and the responsibilities of the CDPC and relevant convention-based bodies in this respect.

Membership in the Convention on Cybercrime ("Budapest Convention"), ETS 185, is increasing steadily and currently comprises 42 Parties, including non-member States of the Council of Europe, namely, Australia, the Dominican Republic, Japan, Mauritius, Panama and the USA. All Council of Europe member States have at least signed it with the exception of the Russian Federation and San Marino. An additional eleven non-member States have signed it (Canada and South Africa) or have been invited to accede. Further accession requests are in process. It is indeed advisable that all member States, which have not yet done so, sign and become Parties to this treaty.

The Protocol on Xenophobia and Racism Committed Through Computer Systems (ETS 189) has been ratified by 20 and signed by a further 18 States (including Canada and South Africa).

Since November 2011, the quality of implementation of the Convention on Cybercrime increased in particular through a more active role of the Cybercrime Convention Committee (T-CY). I wish to point out that the T-CY now holds two plenary sessions as well as several bureau and working group meetings per year. The T-CY currently comprises 42 Parties as members, 22 observers States and ten international organisations. It has become a highly relevant international body for cybercrime matters. The main impediment is that resources for the T-CY are not commensurate with the additional functions, meetings, members and observers.

In 2012, the T-CY, began to assess implementation of the Convention by the Parties. A first cycle, focusing on the expedited preservation provisions, was completed in December 2012. A second cycle, focusing on some of the international cooperation provisions, is to be completed in the course of 2014.

Moreover, the T-CY is preparing and adopting Guidance Notes. Such Guidance Notes represent the common view of the Parties and allow applying existing provisions of the Budapest Convention to new cybercrime phenomena without the need for constant amendments to the treaty.

The Budapest Convention and the T-CY are complemented by capacity building projects. These projects enable many Parties to implement the Budapest Convention in practice and States invited to accede to complete the accession process.

The triangle of common standards (Budapest Convention), follow up and assessments (T-CY) and capacity building projects represents a highly dynamic approach and make the Council of Europe unique in cybercrime matters. With the newly established Cybercrime Programme Office (C-PROC) in Bucharest (operational as of April 2014), the Council of Europe now disposes of the necessary infrastructure to provide further support to countries worldwide.

The T-CY does not see a need for amendments to the Budapest Convention. However, the Committee is giving consideration to a possible Additional Protocol on international cooperation, including transborder access to data. The current assessment of the international cooperation provisions is likely to result in proposals for inclusion in a possible Protocol. Already in 2011, the T-CY decided to establish a working group on transborder access. Research and dialogue with different stakeholders are underway. The further course of action regarding a possible Additional Protocol should become clearer by the end of 2014. The T-CY will certainly keep the CDPC informed of any developments in this respect.

Yours sincerely

Markko Künnapu
Chair of the Cybercrime Convention Committee (T-CY)