



# Cybercrime: the state of legislation

UN Commission for Crime Prevention and Criminal Justice, Side-event  
Vienna International Centre, Tuesday, 15 May 2018, 9h00h – 9h50, Conference Room M3

## Purpose

Specific legislation, consistent with human rights and rule of law requirements, is the basis for criminal justice action on cybercrime and electronic evidence. Many governments around the world have undertaken legal reforms during the past five years, often using the Budapest Convention on Cybercrime as a guideline. The adoption of substantive legislation to criminalise offences against and by means of computers and of procedural powers to permit the collection of electronic evidence is often the starting point for further capacity building activities. Measureable progress is being noted and important lessons can be drawn from this experience.

The aim of this side-event is to encourage governments to follow examples of good practice and to initiate or complete similar reforms.

## Agenda

1. From 2013 to 2018: overview of progress made in the adoption of legislation on cybercrime and electronic evidence
2. Laws on cybercrime and electronic evidence: what is needed?
  - ▶ Substantive criminal law: offences against and by means of computers
  - ▶ Procedural powers for law enforcement to secure electronic evidence
  - ▶ Human rights and rule of safeguards
3. How to go about developing and adopting legislation?
4. Lessons learnt

## Speakers

- Cristina Schulman, Vice-Chair of the Cybercrime Convention Committee, Ministry of Justice, Romania
- Jayantha Fernando, Information and Communication Technology Agency, Sri Lanka
- Marcos Salt, University of Buenos Aires, Ministry of Justice, Argentina
- Pedro Verdelho, Office of the Prosecutor General, Portugal
- Graham Willmott, Head of Cybercrime Unit, European Commission
- Alexander Seger, Cybercrime Division, Council of Europe

## Organisers and partners

Organised by the Council of Europe (contact: [alexander.seger@coe.int](mailto:alexander.seger@coe.int)) in partnership with the Governments of Argentina, Portugal, Romania, Sri Lanka and the United Kingdom as well as the European Union.

[www.coe.int/cybercrime](http://www.coe.int/cybercrime)



# The State of cybercrime legislation: a cursory overview\*

## 1. Reforms of legislation on cybercrime and electronic evidence

Some countries began to work on specific legislation on cybercrime and electronic evidence already in the 1990s. By January 2018, some 90% of UN Member States had either carried out such reforms or reforms were underway (compared to 74% by January 2013). Many African States in particular, have commenced reforms during the past five years.

## 2. Substantive criminal law provisions

By January 2018, as a result of reforms undertaken, nearly half of UN Member States (48%) had substantive criminal law provisions “largely in place”, that is, they had specific domestic provisions corresponding to many of the substantive criminal law articles of the Budapest Convention.

By January 2013	States	Largely in place		Partially in place		Not in place or no information	
All Africa	54	6	11%	18	33%	30	56%
All Americas	35	10	29%	12	34%	13	37%
All Asia	42	13	31%	17	40%	12	29%
All Europe	48	38	79%	8	17%	2	4%
All Oceania	14	3	21%	6	43%	5	36%
<b>All</b>	<b>193</b>	<b>70</b>	<b>36%</b>	<b>61</b>	<b>32%</b>	<b>62</b>	<b>32%</b>

By January 2018	States	Largely in place		Partially in place		Not in place or no information	
All Africa	54	14	26%	21	39%	19	35%
All Americas	35	13	37%	15	43%	7	20%
All Asia	42	17	40%	18	43%	7	17%
All Europe	48	44	92%	4	8%	0	0%
All Oceania	14	5	36%	6	43%	3	21%
<b>All</b>	<b>193</b>	<b>93</b>	<b>48%</b>	<b>64</b>	<b>33%</b>	<b>35</b>	<b>19%</b>

## 3. Specific procedural powers to secure e-evidence

The situation is more diverse with respect to specific procedural powers to secure electronic evidence for use in criminal proceedings (corresponding to Articles 16 to 21 Budapest Convention and subject to the safeguards of Article 15).

	States	By January 2013 Largely in place		By January 2018 Largely in place	
All Africa	54	5	9%	10	19%
All Americas	35	5	14%	9	26%
All Asia	42	8	19%	13	31%
All Europe	48	31	65%	39	81%
All Oceania	14	1	7%	3	21%
<b>All</b>	<b>193</b>	<b>50</b>	<b>26%</b>	<b>74</b>	<b>38%</b>

While progress was made during the past five years, by January 2018 less than 40% had specific powers largely in place. Most countries still rely on general procedural law provisions (for search, seizure and so on).

\*Based on data collected by the Cybercrime Programme Office of the Council of Europe (C-PROC) in Romania.