

www.coe.int/TCY

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 4 November 2013

T-CY (2013)24

Cybercrime Convention Committee (T-CY)

T-CY Workplan

For the period

1 January 2014 – 31 December 2015

Proposal prepared by the Bureau

1. Article 46 of Budapest Convention provides for "*Consultations of the Parties*". According to this provision, the Parties of the Convention "*shall consult periodically*". These "*consultations*" are envisaged to facilitate the "*effective use and implementation of the Convention*", the exchange of information and the "*consideration of possible supplementation or amendment of the Convention*". Regarding the "*use and implementation*" of the Convention the Parties can, within the framework of the consultations, identify "*any problems thereof, as well as the effects of any declaration or reservation made under this Convention*" – Article 46, 1, a, b and c.

2. The Cybercrime Convention Committee (T-CY) is the mechanism enabling the Consultations of the Parties. Article 46 is the legal framework of the activities of the T-CY.

3. According to the Explanatory Report of the Convention, the "*consultations*" shall in particular examine issues that have arisen in the use and implementation of the Convention, including the effects of declarations and reservations.

4. These consultations are to be governed by a "flexible" procedure, leaving it to the Parties to decide how and when to convene. This flexibility was, according to the Explanatory Report, necessary "*to ensure that all Parties to the Convention, including non-member states of the Council of Europe, could be involved - on an equal footing - in any follow-up mechanism*". "*Given the needs of effective prevention and prosecution of cyber-crime and the associated privacy issues, the potential impact on business activities, and other relevant factors, the views of interested parties, including law enforcement, non-governmental and private sector organisations, may be useful to these consultations*".

5. In line with Article 46, in November 2011 the Committee adopted an Action Plan for the period 2012-2013 through which the T-CY, in cooperation with the capacity building programmes of the Council of Europe, supported the process of ratification and accession to the Convention by new Parties, initiated a reflection in view of the functioning of the accession procedure to the Convention for non-member States of the Council of Europe, and reviewed the financial resourcing of the Committee. A further important achievement under this plan is that the T-CY began to assess the effective implementation of the Convention by the Parties. The T-CY also issued a series of Guidance Notes which allow Parties to apply the provisions of the Budapest Convention to new types of cybercrime. Furthermore, the T-CY established an ad-hoc subgroup on transborder access to data. The report prepared by this subgroup led to a decision by the T-CY to begin work on a Protocol to the Budapest Convention. Finally, the T-CY enhanced coordination between the Parties in view of common positions in international fora. In order to achieve these results, the T-CY doubled the number of annual meetings.

6. By the end of the period covered by the workplan, that is, by December 2013, the number of Parties has increased to [40], while an additional [11] had signed the convention and [11] other States have been invited to accede. Interest by additional States continues to increase and the Budapest Convention is seen by many as a global instrument.

7. Implementation of the 2012/13 workplan was facilitated by the reform of the Council of Europe Secretariat of 2011 which allowed for close links between the T-CY and the capacity building programmes of the Council of Europe.

8. In short, much has been accomplished since the adoption of the workplan in November 2011. It is clear that the T-CY will need to continue to assume such a pro-active role also in the period 2014/15.

9. The purpose of the present workplan is to ensure follow up. In the period 2014/2015, the T-CY will focus on the following objectives and actions:

Objective 1	Support ratification of and accession to the Convention.
Action 1.1	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 1.2	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 1.3	Support accession by the largest possible number of non-member states: <ul style="list-style-type: none"> – Once an accession request and supplementary information have been received, T-CY members <ul style="list-style-type: none"> - 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.
Action 1.4	Contribute to further reviews of procedures for the accession by non-member States to Council of Europe Conventions.
Objective 2	Review the effective implementation of the Budapest Convention by the Parties.
Action 2.1	Review the implementation (in terms of domestic legislation and practices) of specific provisions of the Convention: <ul style="list-style-type: none"> – T-CY Plenary to agree which provisions to review in forthcoming sessions; – Bureau to prepare questionnaires on these provisions to be sent to all Parties; – The Bureau (with the support of other T-CY members) to compile replies and draft a report; – Plenary to engage in peer review/discussion and adopt

	<p>recommendations;</p> <ul style="list-style-type: none"> - Final report to help share and disseminate good practices and lessons learnt, to be published on the T-CY website.
Action 2.2	Ensure compliance by Parties with Article 35 (24-7 points of contact) and update of the contact points directory.
Action 2.3	<p>Ensure follow up to assessment reports:</p> <ul style="list-style-type: none"> - Review progress made regarding the expedited preservation provisions by mid-2014; - Review progress made regarding the international cooperation provisions within 18 months following adoption of the report; - Address operational and practical issues arising from the application of the provisions of the Budapest Convention through Guidance Notes or other means.
Objective 3	Continue the preparation of Guidance Notes to facilitate the application of the Convention by the Parties.
Action 3.1	Select topics requiring a clarification and present draft Guidance Notes to Plenary for discussion and approval.
Action 3.2	<p>Widely disseminate Guidance Notes. For example:</p> <ul style="list-style-type: none"> - Publish a compilation of Guidance Notes and attract attention to them; - Include Guidance Notes in the Cybercrime Convention booklets.
Objective 4	Consider an additional protocol to the Budapest Convention on transborder access to data.
Action 4.1	<p>The Transborder Group to prepare and submit a report for consideration by the T-CY Plenary on:</p> <ul style="list-style-type: none"> - its further dialogue with data protection authorities, civil society and private sector on safeguards and conditions to protect the rights of individuals in the context of transborder access to data; - additional proposals resulting from the T-CY assessments that could be reflected in a Protocol; - a revised Guidance Note on Article 32b.
Action 4.2	T-CY Plenary to make a decision based on this report, and the Transborder Group to provide follow-up.

Objective 5	Ensure close coordination between the Parties and ensure representation of the T-CY in discussions on cybercrime in international fora
Action 5.1	Prior to international meetings, consult within the Bureau in view of agreeing on common positions: <ul style="list-style-type: none"> - Email Bureau members and set up a conference call; - Share common position with all Parties.
Action 5.2	Encourage Parties to attend international meetings and support common positions.
Action 5.3	Coordinate between Parties during international meetings: <ul style="list-style-type: none"> - Set up side-meetings/coordination meetings in the course of the international meetings
Action 5.4	Ensure representation of the T-CY in international fora.
Objective 6	Ensure close cooperation and coordination with the capacity building programmes on cybercrime of the Council of Europe developed by the Council of Europe
Action 6.1	T-CY representatives to participate in project activities.
Action 6.2	At least one T-CY Plenary to be held in conjunction with the annual Octopus Conference.
Action 6.3	Parties are encouraged to provide voluntary special purpose contributions to allow for this.
Action 6.4	Results of technical cooperation activities to be presented to the T-CY.
Objective 7	Exchange of information on significant legal, policy or technological developments pertaining to cybercrime and the collection of evidence in electronic form.
Action 7.1	T-CY in cooperation with the technical cooperation programme to maintain a database on cybercrime legislation in countries worldwide.

Action 7.2	T-CY to contribute to the organisation of the Octopus conferences.
Action 7.3	Parties to contribute information to the cybercrime websites of the Council of Europe.
Objective 8	Review the financial resourcing of the Committee.
Action 8.1	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 th Plenary (June 2013).
Action 8.2	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.

