

Session 4 – Criminal Justice in cyberspace: Solutions

# Making better use of what we have: Enhancing the use of the Budapest Convention

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# Council of Europe and cybercrime: WHY?

to protect

Human rights  
Democracy  
Rule of law

Cooperation on  
cybercrime



# Council of Europe and cybercrime: HOW?

## Budapest Convention on Cybercrime and related standards

Cybercrime  
Convention  
Committee  
(T-CY)



Cybercrime  
Programme  
Office  
(C-PROC)

# About the Budapest Convention

## SCOPE

### Criminalising conduct

- Illegal access
- Illegal interception
- Data interference
- System interference
- Misuse of devices
- Fraud and forgery
- Child pornography
- IPR-offences

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### Procedural tools

- Expedited preservation
- Production orders
- Search and seizure
- Interception of computer data

Limited by safeguards

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### International cooperation

- Extradition
- MLA
- Spontaneous information
- Expedited preservation
- MLA for accessing computer data
- MLA for interception
- 24/7 points of contact

Harmonisation



# About the Budapest Convention

## SCOPE

### Cybercrime

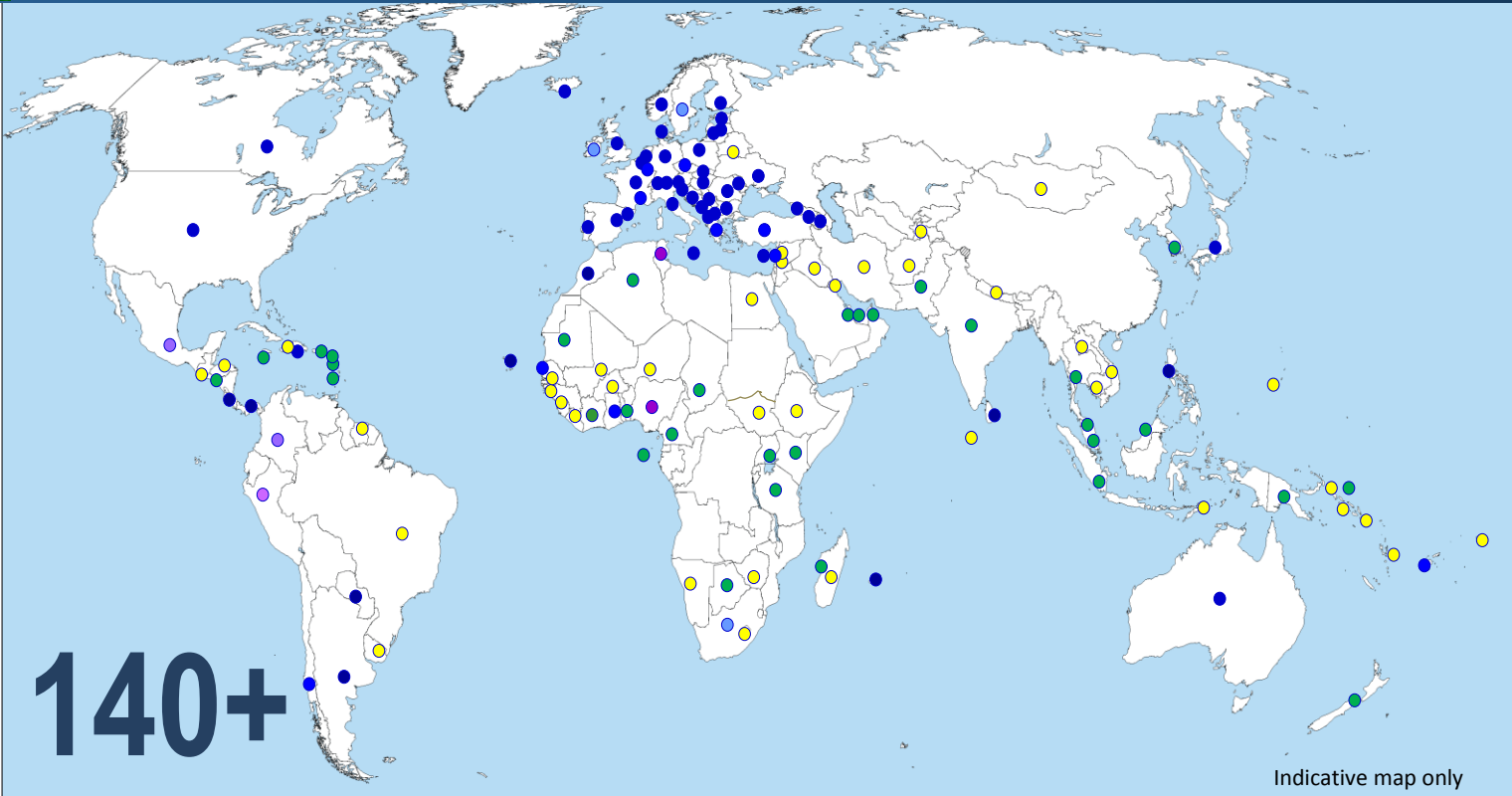
- ▶ Offences against computer systems and data
- ▶ Offences by means of computer systems and data

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### Electronic evidence

- ▶ Any crime may involve evidence in electronic form on a computer system
- ▶ Needed in criminal proceedings
- ▶ No data, no evidence, no justice

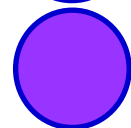
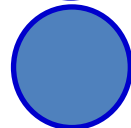
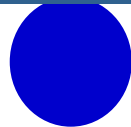
# REACH of the Budapest Convention



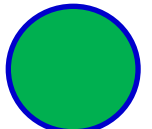
Ratified/acceded: 62

Signed: 4

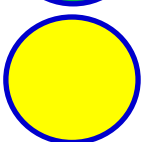
Invited to accede: 5  
= 71



Other States with laws/draft laws largely in line with Budapest Convention = 20+



Further States drawing on Budapest Convention for legislation = 50+



# About the Cybercrime Convention Committee

Budapest Convention on Cybercrime  
and related standards

Cybercrime  
Convention  
Committee  
(T-CY)

*“Protecting you  
and your rights  
in cyberspace”*

Cybercrime  
Programme  
Office  
(C-PROC) for  
capacity building





# Ensuring the functioning of the Budapest Convention

## The Cybercrime Convention Committee (T-CY)

- 62 members (Parties to Convention), 9 observer States, 10 observer organisations (including EUROPOL and INTERPOL)
- Plenaries and working groups
- Assessing implementation of the Convention by the Parties
- Guidance Notes to use existing provision to address new challenges
- Preparation of new instruments ► Protocol to the Budapest Convention



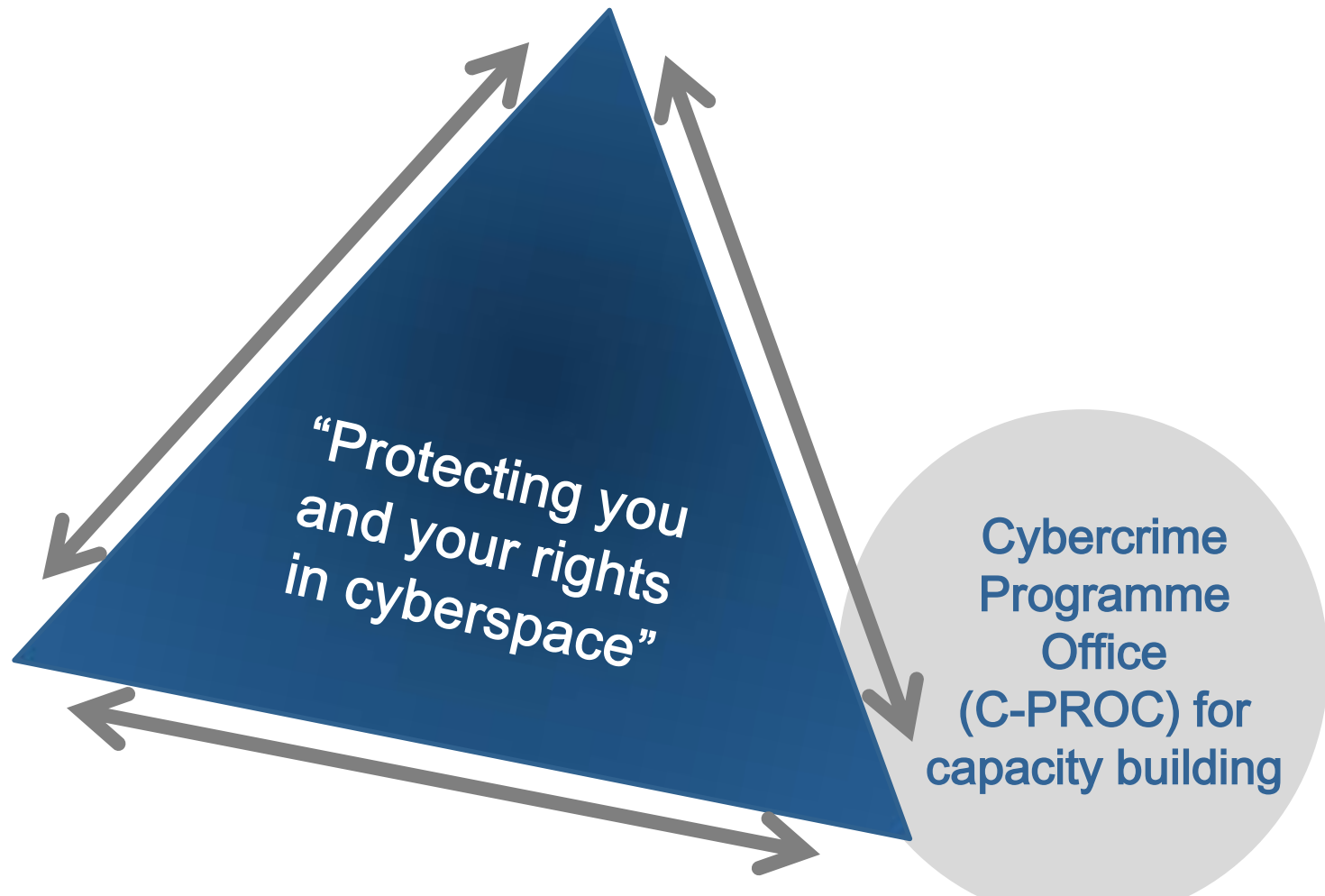


# Keeping the Budapest Convention up to date

- ▶ Protocol on Xenophobia and Racisms via Computer Systems (31 Parties + 13 Signatories)
  
- ▶ Guidance Notes on
  - Notion of computer systems
  - Botnets
  - Malware
  - Spam
  - Terrorism
  - Transborder access to data (Article 32)
  - Production Orders for Subscriber Information (Article 18)
  - Election interference [in preparation]
  
- ▶ Protocol on enhanced international cooperation under negotiation
  
- = Budapest Convention remains up-to-date and relevant

# Capacity building for implementation of the Budapest Convention

Budapest Convention on Cybercrime and related standards



Cybercrime Convention Committee (T-CY)



# C-PROC Programmes

30 staff running 6 projects with a volume of EU 30 million covering all regions of the world:

- ▶ **GLACY+** on Global Action on Cybercrime Extended (EU/COE Joint Project)
- ▶ **iPROCEEDS** Targeting proceeds from online crime in South-eastern Europe (EU/COE Joint Project)
- ▶ **Cybercrime@Octopus** resource for global capacity building (voluntary contribution funded)
- ▶ **CyberSouth** for the Southern Neighbourhood (EU/COE Joint Project)
- ▶ **EndOCSEA@Europe** on ending online child sexual exploitation and abuse (funded by WEPROTECT)
- ▶ **CyberEast** for the Eastern Partnership region (EU/COE Joint Project TBC)

- Stronger and more harmonised legislation
  - More efficient international cooperation between Parties
  - Better cybersecurity performance
  - More investigation, prosecution and adjudication of cybercrime and e-evidence cases
  - Trusted partnerships and public/private cooperation
  - Catalyst for capacity building
  - Contribution to human rights/rule of law in cyberspace
- = “Protecting you and your rights in cyberspace”**

## QUALITY of implementation

- Implementation of procedural powers by all Parties
- With safeguards (article 15)
- Follow up to T-CY assessment report on MLA
  - Preservation powers
  - Training and resources for MLA
  - 24/7 points of contact
  - Streamlining procedures
  - Use of templates
- Capacity building
- Documenting Budapest Convention in operation



# Making better use of what we have ...

## QUANTITY of Parties

- Enlarging membership in Budapest Convention
- Support accession by additional Parties
- Capacity building



# Making better use of what we have ...

## Discussion

- How can we make better use of the Budapest Convention in its present form?