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Comité de la Convention sur la cybercriminalité (T-CY)

**Préparation d'un 2ème Protocole additionnel à la Convention de Budapest sur la
cybercriminalité**

Rapport de la 3^{ème} Réunion plénière de rédaction du Protocole du T-CY (Strasbourg 28 – 29 novembre 2018)

La 3ème réunion plénière de rédaction du Protocole du T-CY (ci-après : " PDP ") s'est tenue au Conseil de l'Europe à Strasbourg du 28 au 29 novembre 2018. Elle a été présidée par la présidente, Cristina Schulman (Roumanie).

Y ont participé 150 représentants des 61 Parties ainsi que des états observateurs de même que des organisations internationales et des Comités du Conseil de l'Europe.

Le PDP a été précédé par la 20^{ème} session plénière du T-CY le 27 novembre ainsi que des consultations du groupe de rédaction du protocole avec les experts de la protection des données le 26 novembre.

La session plénière du PDP,

- a pris note de l'état actuel de la proposition de règlement et de directive de l'UE sur les preuves électroniques et confirmé la nécessité d'assurer la cohérence entre ces textes et le deuxième Protocole additionnel à la Convention de Budapest ;
- a adopté provisoirement le texte et le rapport explicatif sur la "vidéo conférence" ;
- est convenu de rendre public le projet de disposition sur la "vidéo conférence" pour observations à soumettre avant le 20 février 2019, étant entendu qu'il s'agit d'une version préliminaire qui pourrait, à mesure que le protocole évoluera, changer considérablement ;
- est convenu de partager les projets de dispositions sur les "langues dans lesquelles doit être formulée une demande", "l'entraide judiciaire d'urgence" et la "vidéoconférence" avec le PC-OC (Comité d'experts sur le fonctionnement des conventions européennes sur la coopération en matière pénale) pour commentaires avant le 20 février 2019 ;
- a échangé des points de vues sur :
 - "la juridiction";
 - "le modèle d'approbation";
 - "la coopération directe avec les fournisseurs de services " et " les injonctions de produire internationales ";
 - " l'extension des recherches/accès sur la base des pouvoirs";
 - "enquêtes conjointes et équipes conjointes d'enquête";
 - "techniques d'enquête";
- a convenu de tenir les prochaines consultations avec l'industrie, les institutions liées à la protection des données et/ou les organisations de la société civile d'ici mai 2019, et d'encourager les Parties à engager des consultations avec les parties prenantes au niveau national sur les projets de dispositions publics et les concepts d'autres dispositions le cas échéant ;
- a accepté de rendre public un rapport sommaire de ce PDP.

Annexe 1: Ordre du jour

3^{ème} Réunion plénière de rédaction du Protocole du T-CY (mercredi 28 novembre, 9h30 – jeudi 29 novembre, 18h00)	
1. Résultats de la 4 ^{ème} réunion du Groupe de rédaction du Protocole (PDG)	
Les membres du PDP sont invités à discuter du rapport sommaire de la 4 ^e réunion du PDG (17-19 septembre 2018).	
2. "Videoconférence"	
Les membres du PDP sont invités à examiner le projet de texte de cette disposition et les éléments du Rapport explicatif (tels qu'ils figurent dans le document T-CY(2018)20rev, version 20 septembre 2018) en vue de leur adoption préliminaire.	
3. "Modèle d'approbation"	
Les membres du PDP sont invités à tenir des discussions détaillées sur le "modèle d'approbation" (document T-CY(2018)4).	
4. "Juridiction"	
Les membres du PDP sont invités à tenir des discussions détaillées sur le document de travail sur la "compétence" (document T-CY(2017)35).	
5. Mises à jour sur d'autres dispositions	
Les membres du PDP recevront des mises à jour et sont invités à échanger leurs points de vue sur:	
<ul style="list-style-type: none">– "la coopération directe avec les fournisseurs de services" (document T-CY(2017)34) ;– "les "injonctions de produire internationales" (document T-CY(2017)30) ;– "l'extension des recherches/accès sur la base des pouvoirs"¹ (document T-CY(2017)33) ;– "les enquêtes conjointes et équipes communes d'enquête" (document T-CY(2017)32) ;– "les techniques d'enquête" (document T-CY(2017)28).	
6. Résultats des consultations avec les experts en matière de protection des données	
Les membres du PDP sont invités :	
<ul style="list-style-type: none">– à discuter des résultats des consultations avec les experts en matière de protection des données le 26 novembre ;– de procéder à un échange de vues sur le document de travail sur les "conditions d'obtention d'informations sur les abonnés en ce qui concerne les adresses IP dynamiques et statiques" (document T-CY(2018)26, version 25 octobre 2018).	
7. Prochaine réunion	
Les membres du T-CY sont invités à se prononcer sur la proposition de tenir la quatrième séance plénière de rédaction du Protocole du 9 juillet (après-midi) au 11 juillet 2019, après le T-CY 21.	

¹ Antérieurement connu sous le nom de « l'accès transfrontalier »

Appendix 2: List of participants

Bureau members

Country	Name	Institution
ROMANIA	Cristina SCHULMAN (T-CY Chair)	Legal Adviser Ministry of Justice Directorate International Law and Judicial Cooperation
PORTUGAL	Pedro VERDELHO (T-CY Vice-chair)	Public Prosecutor General Prosecutor's Office of Lisbon
ARGENTINA	Marcos SALT	Member Advisory Committee Against Computer-Related Crimes
CANADA	Gareth SANSOM	Global Affairs Canada
ESTONIA	Markko KÜNNAPU	Adviser Ministry of Justice
FRANCE [APOLOGIZED]	Vanessa EL KHOURY-MOAL	Magistrate at the European and International Criminal Bargaining Office, Criminal Matters and Pardons Directorate Ministry of Justice
MAURITIUS [APOLOGIZED]	Karuna Devi GUNESH-BALAGHEE	Puisne Judge Supreme Court of Mauritius
NETHERLANDS	Erik PLANKEN	Senior Policy Advisor Cybercrime Law Enforcement Department Ministry of Justice
SRI LANKA	Jayantha FERNANDO	Chairman Sri Lanka CERT (National Centre for Cyber Security) & Legal Advisor, ICTA
SWITZERLAND	Andrea CANDRIAN	Stv. Chef, International Criminal Law Unit Federal Office of Justice
UKRAINE	Oleksii TKACHENKO	International Relations Officer Cyber Department, SBU

Parties

COUNTRY	NAME	INSTITUTION
ALBANIA	Diana Stillo SILA	Head of Unit Department of Foreign Jurisdiction Relations Ministry of Justice
ALBANIA	Hergis JICA	Chief Commisar, Sector for the Investigations of Computer Crimes, State Police, Albania
ALBANIA	Aferdita NDOI	Prosecutor, Prosecution Office of Tirana District
ANDORRA	Maria Àngels MORENO AGUIRRE	Juge Instruction criminelle spécialisée sur la criminalité socioéconomique et le crime organisé Batllia d'Andorra
ARGENTINA	Marcos SALT	Member of the Advisory Committee Against Computer-Related Crimes
ARMENIA	Arsen ELOYAN	Senior Officer Police Senior Lieutenant Hi-Tech Crime Department Police of the Republic of Armenia
ARMENIA	Rafayel VARDANYAN	Investigator of Special Important Cases, PhD, Investigative Committee of the RA, General Investigative Department
ARMENIA	Gevorg SARGSYAN	Prosecutor, Department for Cases Investigated by National Security Bodies, General Prosecutor's Office
AUSTRALIA	Briony DALEY WHITWORTH	Senior Legal Officer Communications Security and Intelligence Branch Attorney-General's Department
AUSTRIA	Judith HESTER	Referentin in der Sektion IV Federal Ministry of Justice
AZERBAIJAN	Rail BAYRAMLI	Cyber Crime Investigator State Security Service of Azerbaijan
AZERBAIJAN	Kenan HAJIYEV	Investigator, Cybercrime Unit of the Ministry of Internal Affairs
AZERBAIJAN	Arzu ZEYNALABDIYEVA	Prosecutor of International Relations Department, Prosecutor General's Office of the Republic of Azerbaijan
BOSNIA AND HERZEGOVINA	Sabina BARAKOVIĆ	Expert Adviser Sector for IT and Telecommunication Systems Ministry of Security

BOSNIA AND HERZEGOVINA	Dragana VUJIĆ	Inspector in the Department for high-tech crime Crime Police Banja Luka
BOSNIA AND HERZEGOVINA	Nedžad ĆATIĆ	Head of the Department for the fight against cybercrime Ministry of the Interior
BULGARIA	Mihail DRAGODANOV	Chief inspector Head of Sector Cyber Crime "Department" General Directorate "Combating Organized Crime" Ministry of Interior
CABO VERDE	Nandixany de Lurdes Souto AMADO V.ANDRADE	Assessora Ministra da Justiça e Trabalho
CABO VERDE	Evanilda Cristina DUARTE METTE	Internal Security Auditor, Information Systems Operational Nucleus
CABO VERDE	Ariano FORTES DA COSTA	Legal Advisor, Ministry of Internal Affairs
CANADA	Gareth SANSOM	Director Technology and Analysis, Criminal Law Policy Section Department of Justice
CANADA	Annemieke HOLTHUIS	Counsel, Criminal Law Policy Section Policy Sector, Justice Canada
CANADA	Jacqueline PALUMBO	General Counsel and Director, Mutual Legal Assistance and Cyber Unit International Assistance Group National Litigation Sector Department of Justice Canada
CANADA	Paul WILLIAMS	Global Affairs Canada
CANADA	Normand WONG	Criminal Law Policy Section Counsel Justice Canada
CHILE	Camila BOSCH CARATGENA	Public Prosecutor´s Office
CHILE	Montserrat RAMIREZ HERRERA	Public Prosecutor´s Office
CHILE	Pablo CASTRO	Deputy Director for International Security International and Human Security Directorate Ministry of Foreign Affairs
COSTA RICA	Juan Carlos CUBILLO MIRANDA	Sub Jefe Fiscalia General de la Republica Public Ministry

COSTA RICA	Floribeth RODRIGUEZ PICADO	Fiscalia de la Fiscalía Adjunta de Alajuela
COSTA RICA	Elizeth Maria HERNANDEZ CESPEDES	Abogada de la Oficina de Asesoría Técnica y Relaciones Internacionales de la Fiscalía General
CROATIA	Renato GRGURIĆ	Ministry of Interior, Head of Cyber Security Dept, General Police Directorate
CZECH REPUBLIC	Jakub PASTUSZEK	General Police Directorate
DENMARK	Daniel SOLTEN	Director of Public Prosecutions International Affairs
DOMINICAN REPUBLIC	Claudio PEGUERO	Advisor to the Director General of Police in Cyber Matters National Police
DOMINICAN REPUBLIC	Cesar MOLINE RODRIGUEZ	Cybersecurity Director, Dominican Institute of Telecommunications (INDOTEL)
DOMINICAN REPUBLIC	Ivan Vladimir FELIZ VARGAS	High Tech Crimes Prosecution Service Director, General Attorney's Office
ESTONIA	Markko KÜNNAPU	Adviser Ministry of Justice
FINLAND	Janne KANERVA	Counsellor of Legislation Legislative Affairs Ministry of Justice
FINLAND	Jouko HUHTAMÄKI	Ministry of the Interior, Police Department
FRANCE	Emmanuel KESSLER	Commandant de police Coordonnateur opérationnel OCLCTIC Sous direction de lutte contre la cybercriminalité
FRANCE	Thomas GREGOIRE	Rédacteur au bureau de la négociation pénale européenne et internationale Direction des affaires criminelles et des grâces Ministère de la justice
GEORGIA	Nikoloz CHINKORASHVILI	Head of the Unit of European Integration and Cooperation with International Organisations Office of the Chief Prosecutor Ministry of Justice of Georgia
GEORGIA	Levan DIDEBULIDZE	Detective of the Cybercrime Division of the Central Criminal Police Department, Ministry of Internal Affairs, Georgia
GEORGIA	Nata GODERDZISHVILI	Head of Legal Division of Data Exchange Agency, Ministry of Justice

GERMANY	Susanne MÜNCH	Government Director Criminal Procedure Law Federal Ministry of Justice and Consumer Protection
HUNGARY	János IVÁNYI	Legal Expert Department of European Cooperation Ministry of Interior
ISRAEL	Haim WISMONSKY	Director, Cybercrime Department State Attorney's Office
ISRAEL	Naomi ELIMELECH SHAMRA	Director Office of the Legal Advisor Ministry of Foreign Affairs
ISRAEL	Elad BLIBAUM	Head Cyber Fusion Center National Police
ITALY	Francesco CAJANI	High Tech Crime Unit, Deputy Public Prosecutor Court of Law in Milan
JAPAN	Hidetoshi AZECHI	Attorney Treaties Division, International Legal Affairs Bureau Ministry of Foreign Affairs
JAPAN	Kazuki OGAWA	Attorney International Safety and Security Cooperation Division Foreign Policy Bureau Ministry of Foreign Affairs
JAPAN	Kazutaka MAEDA	Attorney, Criminal Affairs Bureau Ministry of Justice
JAPAN	Kosuke YUKI	Consul, Magistrat, au Consulat du Japon à Strasbourg,
JAPAN	Mayumi AMANO	Assistant Director, General Affairs Division, Commissioner General's Secretariat, National Police Agency
JAPAN	Naoki WATANABE	Senior Attorney Criminal Affairs Bureau Ministry of Justice
JAPAN	Shoko FUJIWARA	Section chief, General Affairs Division Commissioner General's Secretariat National Police Agency
JAPAN	Yukiko TAHIRA	Assistant Director, General Affairs Division Commissioner General's Secretariat, National

		Police Agency
LATVIA	Kristina TIMOFEJEVA	Senior Inspector 1st Unit (Operational cross-border cooperation (24/7) and SIS/SIRENE) International Cooperation Department Central Criminal Police Department State police of Latvia
LIECHTENSTEIN	Dominic SPRENGER	Division for Security and Human Rights Office for Foreign Affairs Principality of Liechtenstein
LUXEMBOURG	Cindy COUTINHO	Ministère de la Justice
MOLDOVA	Veaceslav SOLTAN	Prosecutor Chief of Department on Information Technology and Cybercrime Investigation General Prosecutor Office
MOLDOVA	Daniela DAN	Head of the International Legal Co-operation Direction, Ministry of Justice
MOLDOVA	Sergiu LISNIC	Chief of the Electronic payment means Division of the Center for Combating Cyber Crimes, National Inspectorate of Investigations
MONACO	Hervé POINOT	Procureur Général Adjoint
MONTENEGRO	Ognjen MITROVIĆ	Ministry of Justice of Montenegro
MONTENEGRO	Jakša BACKOVIĆ	Head of Unit for Anti-High Tech Crime Department for the fight against organised crime and corruption Police Directorate Ministry of Interior
MONTENEGRO	Miloš SOSKIC	State Prosecutor Higher State Prosecutor office in Podgorica
MOROCCO	Abdeljalil TAKI	DGST Ministère de l'intérieur
MOROCCO	Jaafar EL MOUDEN	Chef de la brigade régionale de lutte contre la cybercriminalité à la Préfecture de Police de Rabat
MOROCCO	Layla EZZOUINE	Chef du Service Central de lutte contre la Criminalité liée aux Nouvelles Technologies
MOROCCO	Ahmed ALAOUI TAHIRI	Chef de l'unité de la lutte contre la crime organisée Magistrat près du présidence du Ministère Public
MOROCCO	Hamza ES SAID	GLACY+ National Coordinator

NETHERLANDS	Erik PLANKEN	Senior Policy Advisor Cybercrime Law Enforcement Department Ministry of Justice
NETHERLANDS	Joost RAEVEN	Law Enforcement Directorate Ministry of Security and Justice
NORWAY	Eirik Trønnes HANSEN	Prosecutor
PANAMA	Ricaurte GONZALEZ TORRES	IT Security Attorney Second Protection Office on Organized Crime
PARAGUAY	Maria SOLEDAD MACHUCA	Deputy Attorney General of Cybercrime
PHILIPPINES	Markk PERETE	Under Secretary Department of Justice
PHILIPPINES	Angela Marie M. DE GRACIA	State Council, Department of Justice
PHILIPPINES	Victor V. LORENZ	Supervising Agent, National Bureau of Investigation
PHILIPPINES	Maria Theresa SINDICO- GUILLAUME	State Council, Department of Justice
POLAND	Cecylia BERNACKA	Second Secretary, Permanent Representation of Poland to the Council of Europe
PORTUGAL	Pedro VERDELHO (T-CY Vice-Chair)	Public Prosecutor General Prosecutor's Office of Lisbon
ROMANIA	Cristina SCHULMAN (T-CY Chair)	Legal Adviser Directorate International Law and Judicial Cooperation Ministry of Justice
ROMANIA	Ioana ALBANI	Deputy Chief-Prosecutor Directorate for Investigating Organised Crime and Terrorism Prosecutor's Office attached to the High Court of Cassation and Justice
ROMANIA	Marius-Daniel CUCIURIANU	Head of Cybercrime Department, Bucharest Organised Crime Unit, Romanian Police
SENEGAL	Papa Assane TOURE	Magistrat Secrétaire Général Adjoint du Gouvernement Dakar
SENEGAL	Mamadou Cisse FALL	Magistrat, Ministère de la Justice
SENEGAL	Yakham Ben Abdel Kader LEYE	National Coordinator GLACY+

SENEGAL	Madiaw DIAW	Magistrat, Ministere de la Justice
SERBIA	Branko STAMENKOVIC	Deputy Republic Prosecutor Republic Public Prosecutor's Office of Serbia
SERBIA	Dragan JOVANOVIC	Deputy Head of Department Department for Cyber Crime Service for Combating Organized Crime Ministry of Interior
SLOVAKIA	Jan KRALIK	Senior State Counsellor International Law Department Judicial Cooperation in Criminal Matters Division Ministry of Justice of the Slovak Republic
SLOVENIA	Tomaž JAKSE	Senior Criminal Police Inspector – Specialist Computer Investigation Centre
SPAIN	Maria Elvira TEJADA DE LA FUENTE	Head Cybercrime Prosecutor's Office General Prosecutor's Office
SPAIN	Maria Eugenia HERNÁNDEZ FERNÁNDEZ	Fiscal. Asesora de la Dirección General de Cooperación Jurídica Internacional y Relaciones con las Confesiones Ministry of Justice
SPAIN	Antonio LÓPEZ MELGAREJO	Inspector National Police
SPAIN	Alberto REDONDO SÁNCHEZ	Captain Guardia Civil
SRI LANKA	Jayantha FERNANDO	Chairman (Actg) Sri Lanka CERT & Director Legal, ICTA
SWITZERLAND	Andrea CANDRIAN	Stv. Chef, International Criminal Law Unit Federal Office of Justice
SWITZERLAND	Françoise NICATI	Département fédéral de justice et police DFJP Office fédéral de la justice OFJ Domaine de direction Entraide judiciaire internationale Traités internationaux
SWITZERLAND	Peter HÜNIG	CAMS Federal Office of Justice MLA Unit II
"THE FORMER YUGOSLAV REPUBLIC OF	Vladimir MILOSHESKI	Public Prosecutor Basic Public Prosecutor's Office in Skopje

MACEDONIA"		
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"	Spasenka ANDONOVA	Public Prosecutor Basic public prosecutors office in Skopje
TONGA	Aminiasi KEFU	Acting Attorney General and Director of Public Prosecution
TONGA	Kalisi Kafoatu TOHIFOLAU	Acting Deputy Commissioner for Police, Tonga Police
TONGA	Siosaia Fatai VAIPUNA	Director of CERT Tonga
TURKEY	Ozgür AKDOĞAN	Head of Department Ministry of Justice General Directorate of Criminal Affairs
TURKEY	İhsan ERDOĞAN	Deputy Head Department of Cybercrime Turkish National Police
UKRAINE	Oleksii TKACHENKO	International Relations Officer Cyber Department Security Service
UKRAINE	Stanislav SAMOILOV	Department for IT and Programming Cyber Police, Ministry of Interior
UKRAINE	Tetiana SHORSTKA	Deputy Head of Department, Head of the Division on Mutual Legal Assistance in Criminal Matters, Directorate of International Law, Ministry of Justice
UNITED KINGDOM	Daniel GRUBB	Cyber Crime Policy
UNITED KINGDOM	Veronique READ	Policy Advisor International Criminality Unit International Directorate International and Immigration Policy Group
UNITED KINGDOM	Craig JONES	National Crime Agency
USA	Albert C. REES JR.	Senior Counsel, International Programs Computer Crime & Intellectual Property Section United States Department of Justice
USA	Katie EINSPANIER	Attorney-Adviser Office of the Legal Adviser United States Department of State

USA	Kenneth HARRIS	Senior Counselor for the European Union, Office of International Affairs United States Department of Justice
USA	Sheri SHEPHERD-PRATT	Trial Attorney Office of International Affairs United States Department of Justice

Observer States

COUNTRY	NAME	INSTITUTION
COLOMBIA	Diana Carolina KECAN CERVANTES	Ministry of Foreign Affairs
GHANA	Yvonne ATAKORA OBUOBISA	Office of the Attorney-General Ministry of Justice
GHANA	Albert ANTWI-BOASIAKO	Coordinator, GLACY+ National Team, National Cybersecurity Centre
IRELAND	Siobhan MCCABE	Department of Justice
IRELAND	Ian MULHOLLAND	Department of Justice
MEXICO	Esdras Yegezquel LOPEZ TORRES	Sous-directeur de Cybersécurité, Bureau du procureur général de la République
NIGERIA	Terlumun George-Maria TYENDEZWA	Head Cybercrime Prosecution Unit Ministry of Justice
NIGERIA	Nkem MBA	Deputy Chief Registrar, Federal High Court
NIGERIA	Ama S OHIEN	Senior State Counsel, Cybercrime Prosecution Unit
RUSSIAN FEDERATION	Anton MARKOVSKIY	Deputy to the Permanent Representative of the Russian Federation to the Council of Europe
RUSSIAN FEDERATION	Ernest CHERNUKHIN	Head of Division Department of New Threats and Challenges Ministry of Foreign Affairs
RUSSIAN FEDERATION	Ayrat HAMIDULLIN	Attaché Department of New Threats and Challenges Ministry of Foreign Affairs
RUSSIAN FEDERATION	Anastasiya TOROPOVA	Attaché Legal Department Ministry of Foreign Affairs
RUSSIAN FEDERATION	Anastasiya KAZAKOVA	Project Co-ordinator Kaspersky Labs LLC

SAN MARINO	Sylvie BOLLINI	S.E. Ambassadeur de la République de Saint-Marin
TUNISIA	Mohamed Kadhém ZINELABIDINE	Directeur General, l'Institute Supérieur de Magistrature, Ministère de la Justice
TUNISIA	Mohamed MESSAI	Conseiller à la Cour d'Appel de Tunis Ministère de l'Intérieur
TUNISIA	Mbarka MISSAOUI EP GASMI	Directrice générale, Chargée du service juridique au Ministère des Technologies de la communication et de l'Economie Numérique

Observer Organisations

ORGANISATION	NAME	POSITION
EUROPEAN COMMISSION	Tjabbe BOS	Policy officer Cybercrime Unit Directorate General for Migration and Home Affairs (DG HOME)
EUROPEAN COMMISSION	Toma MILIESKAITE	Legal officer DG JUSTICE and CONSUMERS Unit B2 - Procedural Criminal Law
EUROPEAN COUNCIL	Christina STRÖMHOLM	Political Administrator Directorate of Justice Justice and Home Affairs General Secretariat
EUROPEAN COUNCIL	Filipa MELO ANTUNES	Political Administrator Directorate of Justice Justice and Home Affairs General Secretariat
EUROJUST	Daniela BURUIANA	Chair of the Task Force on cybercrime National member for Romania
INTERPOL	Dong Uk KIM	Specialized Officer, Cybercrime Directorate
OSCE	Rasa OSTRAUSKAITE	Director, Transnational Threats Department Organization for Security and Co-Operation in Europe (OSCE)

Council of Europe experts

ORGANISATION	NAME	POSITION
CONSULTANT	Betty SHAVE	Consultant

Council of Europe Committees

COMMITTEES	NAME	POSITION
PC-OC (Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters)	Gabriela BLAHOVA	Director of the International Department for Criminal Matters Ministry of Justice of the Czech Republic
T-ES (Lanzarote Convention Committee)	Claude JANIZZI	Conseiller de direction 1re classe Service des droits de l'enfant / Service des relations internationales Ministère de l'Education nationale, de l'Enfance et de la Jeunesse Luxembourg

Council of Europe Secretariat

Name	Details
Alexander SEGER	Executive Secretary of the Cybercrime Convention Committee Head of Cybercrime Division Head of Cybercrime Programme Office (C-PROC) Information Society - Action against Crime Directorate Directorate General Human Rights and Rule of Law alexander.seger@coe.int
Peter KIMPIAN	Programme Officer Data Protection Unit Information Society - Action against Crime Directorate Directorate General Human Rights and Rule of Law
Nina LICHTNER	Programme Officer Cybercrime Division Information Society - Action against Crime Directorate Directorate General of Human Rights and Rule of Law T +33 3 8841 2175 nina.lichtner@coe.int
Valérie SCHAEFFER	Project Assistant Cybercrime Division Information Society and Action against Crime Directorate Directorate General Human Rights and Rule of Law T +33 (0)3 90 21 40 21 valerie.schaeffer@coe.int
Irina DREXLER	Project assistant Cybercrime Programme Office (C-PROC) Bucharest Information Society and Action against Crime Directorate Directorate General Human Rights and Rule of Law Irina.DREXLER@coe.int

Ana ZEMLICOF	Project assistant Cybercrime Programme Office (C-PROC) Bucharest Information Society and Action against Crime Directorate Directorate General Human Rights and Rule of Law Ana.ZEMLICOF@coe.int
Iulia SUCIU	Project assistant Cybercrime Programme Office (C-PROC) Bucharest Information Society and Action against Crime Directorate Directorate General Human Rights and Rule of Law Iulia.SUCIU@coe.int