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Cybercrime Convention Committee (T-CY)

Role of the Cybercrime Convention Committee in relation to the accession procedure under Article 37 of the Convention on Cybercrime

Adopted by the 35th Plenary of the T-CY on 12 October 2026

1 Background and rationale

1.1 Council of Europe framework on cybercrime and electronic evidence

1 The Council of Europe's approach to cybercrime and electronic evidence is based on three inter-related elements: common legal standards, the Cybercrime Convention Committee (T-CY), and capacity building[1].

2 The common legal standards comprise the Convention on Cybercrime[2] (hereinafter referred to also as the "Budapest Convention"), opened for signature in Budapest in 2001; its First Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems[3], opened for signature in 2003; and its Second Additional Protocol on enhanced co-operation and disclosure of electronic evidence[4], opened for signature in 2022. The Budapest Convention provides for the criminalisation of conduct related to cybercrime, procedural powers to investigate cybercrime and secure electronic evidence in relation to any criminal offence, and international co-operation. The Second Additional Protocol provides additional means of obtaining electronic evidence across borders.

3 The T-CY is the mechanism enabling the "Consultations of the Parties" under Article 46 of the Budapest Convention. Under that Article, the Parties consult periodically with a view to facilitating the effective use and implementation of the Budapest Convention, exchanging information on significant legal, policy or technological developments, and considering possible supplementation or amendment of the Budapest Convention[5].

4 The T-CY Rules of Procedure further specify functions and activities of the T-CY. These include, among others, undertaking assessments of the implementation of the Budapest Convention by Parties, adopting opinions and recommendations on the interpretation and implementation of the Budapest Convention, adopting opinions requested by the Council of Europe bodies, encouraging the accession of States which are not members of the Council of Europe to the Budapest Convention, promoting capacity building on cybercrime and electronic evidence, and engaging in dialogue with relevant international organisations[6].

5 The Council of Europe supports countries worldwide in strengthening their criminal justice capacities to investigate and prosecute cybercrime and other offences involving electronic evidence, and to adjudicate such cases, in line with the Budapest Convention and its Protocols. Capacity-building and legislative support may also assist States in harmonisation of the domestic legislation and preparing for possible accession.

1.2 Scope of the discussion paper

6 The present paper concerns requests by States which are not members of the Council of Europe and which did not participate in the elaboration of the Budapest Convention to be invited to accede to the Budapest Convention under Article 37 (see further Section 1.6 of this document). It sets out

[1] The Council of Europe has undertaken capacity building activities through the Cybercrime Programme Office of the Council of Europe (C-PROC) since 2014.

[2] Convention on Cybercrime (ETS No. 185).

[3] Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189).

[4] Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence (CETS No. 224).

[5] Art. 46 of the Convention on Cybercrime.

[6] T-CY Rules of Procedure, as revised by T-CY on 4 June 2026.

arrangements for a more structured procedure under which the T-CY would consider each such accession request and adopt an advisory opinion for transmission to the Committee of Ministers. The opinion would inform the consideration of the request by the Parties and the Committee of Ministers, without replacing the consultation or decision-making procedure provided for under Article 37.

1.3 Broad participation, mutual trust and conditions and safeguards

7 With 82 Parties from all regions of the world[7], the Budapest Convention has developed into a global framework for co-operation on cybercrime and electronic evidence. Broad participation in the Budapest Convention strengthens effective international co-operation against cybercrime and the collection of electronic evidence. Continued expansion of the membership of the Budapest Convention should be accompanied by an accession procedure that facilitates broader participation while preserving the mutual trust necessary for effective co-operation among Parties.

8 Such mutual trust is particularly important given that the Budapest Convention provides a framework for criminal justice co-operation and for the use of procedural powers that may affect human rights and fundamental freedoms. It is therefore essential that States seeking accession are able and willing to implement the Budapest Convention effectively and in accordance with its conditions and safeguards, in particular Article 15 of the Budapest Convention.

9 A further consideration is that, once it has acceded to the Budapest Convention, a State may subsequently become a Party to either or both Protocols without requiring a further invitation. In particular, the Second Additional Protocol establishes advanced forms of cross-border co-operation for the disclosure of electronic evidence and contains detailed conditions and safeguards, including requirements concerning the protection of personal data. Therefore, it is important that the aspiring country provides concrete assurance that it is able to operate within the Budapest Convention framework in a manner consistent with its human rights, rule of law and other applicable safeguard requirements.

1.4 Evolving international context

10 The international context has evolved following the adoption of the United Nations Convention against Cybercrime (hereinafter referred to as the "UN Convention"). States now have an additional international treaty framework specifically addressing cybercrime, electronic evidence and related international co-operation. The UN Convention is largely consistent with the Budapest Convention and may provide an additional framework for co-operation between States. Some States may for example first become Parties to the UN Convention and, having gained experience in its implementation, subsequently seek accession to the Budapest Convention and its Protocols.[8]

11 The availability of this additional international framework does not diminish the importance of broad participation in the Budapest Convention. It does, however, underline the importance of preserving the

[7] As of August 2026, 82 States were Parties to the Budapest Convention (European countries as well as Argentina, Australia, Benin, Brazil, Cabo Verde, Cameroon, Canada, Chile, Colombia, Costa Rica, Cote d'Ivoire, Dominican Republic, Ecuador, Fiji, Ghana, Grenada, Israel, Japan, Kiribati, Mauritius, Morocco, New Zealand, Nigeria, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, Sri Lanka, Tonga, Tunisia, the USA and Vanuatu), an additional 2 countries had signed it (Ireland and South Africa), and 13 countries had been invited to accede (Antigua and Barbuda, Guatemala, Kazakhstan, Kenya, Korea, Malawi, Malaysia, Mexico, Mozambique, Seychelles, Timor-Leste, Trinidad and Tobago, Uruguay).

[8] Council of Europe, Conventions on cybercrime: The Budapest Convention and the draft UN treaty, August 2024.

Budapest Convention as an established community of co-operation based on mutual trust, effective implementation and adherence to common conditions and safeguards. Requests for accession should therefore be considered carefully, with particular attention to the requesting State's ability and willingness to meet the Budapest Convention's human rights and rule of law requirements.

1.5 T-CY Workplan for 2026-2027

12 The T-CY Workplan for 2026–2027 reflects this approach. It calls for States possessing the necessary legislation and capacities, and complying with the Budapest Convention's conditions and safeguards, to be encouraged to request accession. It also calls on T-CY members, once an accession request and supplementary information have been received, to participate actively in consultations within their governments and to seek active governmental participation in discussions on accession requests within Council of Europe bodies.[9]

1.6 Article 37 of the Convention and current accession practice

13 Article 37 of the Budapest Convention on Cybercrime provides that, after the entry into force of the Convention, the Committee of Ministers, after consulting with and obtaining the unanimous consent of the Contracting States to the Budapest Convention, may invite any State which is not a member of the Council of Europe and which has not participated in the elaboration of the Budapest Convention to accede to it. The decision is taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

14 Once a formal request for accession to the Budapest Convention has been received, the Council of Europe Treaty Office (Directorate of Legal Advice and Public International, DLAPIL) launches the consultation provided for in Article 37 of the Budapest Convention. Under the current practice, which has been followed for approximately 15 years, the T-CY Secretariat prepares a note on co-operation with the requesting State, which the Treaty Office shares during that consultation. The note contains information on co-operation activities with the State, legislative developments, a mapping of the provisions of the Budapest Convention against corresponding domestic legislation, safeguards and institutional capacities.

15 C-PROC's engagement with States interested in accession, including through capacity-building activities, legislative support and assessments, has been instrumental in gathering the information on which the note prepared by the T-CY Secretariat is based. In practice, early and sustained involvement in Council of Europe capacity-building activities before submission of an accession request has assisted States in identifying legislative or institutional gaps, strengthening operational capacities, preparing for effective implementation of the Budapest Convention, and building trust through practical co-operation from the pre-accession stage onwards. This important practice should be reinforced and encouraged through the process described below, and in particular with the development of a new accession questionnaire to be filled out by States interested in accession as soon as they signal such interest to the Treaty office, Secretariat or CPROC.

1.7 Proposed development of a T-CY opinion

16 The note by the T-CY Secretariat prepared under the current practice provides Parties with relevant factual and technical information. Proposed collective consideration by the T-CY and the adoption of a

[9] T-CY Workplan for the period January 2026 – December 2027, adopted by the 33rd T-CY Plenary (13-14 November 2025).

T-CY opinion would build on this established practice by providing the Parties and the Committee of Ministers with a collective, Budapest Convention-specific opinion drawing on the expertise of the T-CY.

17 A structured procedure should therefore be established under which the T-CY considers each accession request and adopts an opinion for transmission to the Committee of Ministers. Such a procedure is appropriate in view of the continued expansion and geographical diversification of potential Parties to the Budapest Convention and the need to ensure that States joining the Budapest Convention framework possess the necessary legislation and capacities and are committed to effective implementation of the Budapest Convention, including its conditions and safeguards. This need is further reinforced by the possibility for new Parties subsequently to become Parties to the Protocols, including the Second Additional Protocol with its advanced co-operation measures and detailed safeguards.

18 A T-CY opinion would not replace the consultation of the Contracting States or the decision-making role of the Committee of Ministers under Article 37. Rather, it would provide a collective, Budapest Convention-specific expert opinion to inform those processes, support Parties in forming their national positions, and enhance the transparency, predictability and consistency of the accession procedure.[10]

19 This paper therefore provides that the T-CY will consider and adopt an opinion on each request for accession under Article 37. The opinion will be made available for the purposes of the consultation, and in any event, for the examination of the accession request by the Committee of Ministers through its Rapporteur Group on Legal Co-operation (GR-J).

2 Preparation and use of an accession questionnaire

20 As a first step in implementing this paper, the T-CY shall prepare a standard questionnaire for States interested in accession to the Budapest Convention. The questionnaire shall focus in particular on the conditions and safeguards applicable to the procedural powers provided for by the Budapest Convention, including the protection of human rights and the rule of law.

21 The questionnaire may also seek the information necessary to establish whether the State concerned has, or is committed to putting in place[11], the legal framework, institutional and operational capacities, and international co-operation mechanisms required to implement the Budapest Convention and co-operate effectively with its Parties. It shall not be intended to constitute a comprehensive article-by-article assessment of implementation of the Budapest Convention.

22 The questionnaire shall be intended to:

- make transparent to States interested in accession the conditions, safeguards and other elements of preparedness that will be considered in relation to their request;
- provide a consistent basis for the preparation of T-CY opinions on accession requests;
- support pre-accession dialogue, legislative assistance and capacity-building activities; and

[10] This follows approach of accession requests to other Council of Europe conventions on international co-operation in criminal matters. See Committee of Ministers, Policy paper dealing with the question of accession of non-member States to Council of Europe conventions on international co-operation in criminal matters, CM(2023)3-add2final, 15 March 2023.

[11] The questionnaire may seek further information on how the State intends to implement any potential reforms, including the anticipated timeline for doing so, as States invited to accede have 5 years to complete their accession. See Ministers' Deputies Decisions, CM/Del/Dec (2013)1168 - 1168th meeting, 10 April 2013 - Decisions adopted, Item 10.2.

- identify matters that may require clarification, reform or technical assistance before or following accession.

23 In addition to conditions and safeguards, the questionnaire may contain concise sections concerning:

- the domestic legal framework relevant to implementation of the Budapest Convention;
- institutional and operational capacities;
- international co-operation mechanisms and the establishment or planned establishment of a 24/7 point of contact;
- commitment to co-operate with the Parties and participate actively in the T-CY; and
- outstanding issues and capacity-building needs.

24 The T-CY Bureau is invited to prepare the draft questionnaire and submit it to the T-CY for consideration and adoption at the 36th T-CY Plenary in June 2027. The questionnaire may subsequently be reviewed in the light of experience gained through its use, relevant T-CY assessments, and legal or policy developments concerning the Budapest Convention and its Protocols.

3 Procedure for preparing and adopting a T-CY opinion

25 Whenever the T-CY or the T-CY Secretariat learns, including through information communicated by the Treaty Office or another relevant Council of Europe body, that a State intends to request, or has requested, an invitation to accede to the Budapest Convention under Article 37, the T-CY Secretariat shall initiate the preparation of a T-CY opinion[12] and provide the State concerned with information on the procedure set out in this paper. The T-CY Secretariat shall also provide the State with the accession questionnaire in accordance with Paragraph 27.

26 States are encouraged to inform the T-CY Secretariat as early as possible, and preferably before submitting a formal request for accession, of their intention to seek the invitation to accede to the Budapest Convention. They are also encouraged to engage with the T-CY Secretariat at that stage, complete the accession questionnaire before submitting a formal request for accession and, where appropriate, participate in relevant capacity-building, legislative assistance or other co-operation activities supported by C-PROC. Experience shows that the pre-accession engagement facilitates the provision of relevant information, the identification of any matters requiring clarification, reform or technical assistance, and the State's preparation for effective implementation of the Budapest Convention. It may also facilitate the timely preparation of the background document and the T-CY opinion.

27 The T-CY Secretariat shall send the accession questionnaire to the State that has expressed an intention to submit, or having submitted, a request for accession and invite it to provide replies and relevant supporting information within a specified time limit. The State shall be invited to provide replies and relevant supporting information before submitting, a formal request for accession. The time limit shall take account, where applicable, of the anticipated submission of the formal request, the consultation of the Contracting States and the timetable for examination by the Committee of Ministers. In setting the time limit and seeking supporting information, the T-CY Secretariat shall take account of the State's

[12] This early initiation reflects the approach followed for other Council of Europe conventions on international co-operation in criminal matters, under which the competent committee begins its review as soon as it is informed that a non-member State intends to request an invitation to accede. See Committee of Ministers, Policy paper dealing with the question of accession of non-member States to Council of Europe conventions on international co-operation in criminal matters, CM(2023)3-add2final, 15 March 2023.

available resources and, where appropriate, discuss with it a practicable timetable and available capacity-building support.

28 The State concerned should provide complete and sufficiently detailed replies, together with relevant legislation, draft legislation, regulations, administrative guidance and information on institutional arrangements and practice. The Secretariat may request clarifications or supplementary information where necessary.

29 The Cybercrime Division (T-CY Secretariat) shall compile a background document for the preparation of the draft opinion. The background document may include the replies to the questionnaire and any supporting material provided by the State concerned.

30 The Cybercrime Division (T-CY Secretariat) may supplement this material with relevant information available through the State's co-operation with the Council of Europe, information provided by T-CY delegations or relevant Council of Europe bodies, and information from other publicly available sources. It may also seek clarifications or additional information from the State concerned.

31 On the basis of the responses to the questionnaire, the background document, the Bureau, with the support of The Cybercrime Division (T-CY Secretariat), shall prepare a draft opinion for consideration by the T-CY. The draft opinion, questionnaire replies and background document shall be circulated to T-CY delegations sufficiently in advance of the T-CY's consideration of the draft opinion to allow for their careful examination.

32 On that basis, the T-CY shall consider whether the intended or submitted request raises any concerns and shall provide its opinion on whether the State concerned should be invited to accede to the Budapest Convention.

33 The opinion shall be presented in general terms and shall briefly indicate the procedural background, the principal categories of information taken into account and the T-CY's conclusion on whether an invitation to accede should be extended. Where appropriate, the opinion may indicate that further time and capacity-building work, including through the C-PROC may be beneficial before a final conclusion is reached on whether an invitation to accede should be extended. It shall not reproduce all the information contained in the responses to the questionnaire or the background document.

34 Where agreement cannot be reached within the T-CY, the opinion shall set out the majority and dissenting views.

35 The opinion shall not identify the positions taken by individual Parties or delegations. The opinion, questionnaire replies and background document shall not be made public. Other information provided in confidence by the State concerned, Parties or other sources shall not be disclosed without the consent of the provider.

36 The opinion shall be prepared as early as possible with a view to informing, where feasible, the consultation of the Contracting States and, in any event, the examination of the accession request by the Committee of Ministers.

37 The T-CY opinion shall be advisory. It shall not replace the consultation of the Contracting States or affect the competence of the Committee of Ministers to decide, in accordance with Article 37 of the Budapest Convention, whether to invite the State concerned to accede.

4 Application, transitional arrangements and review

38 Upon endorsement of this paper by the Committee of Ministers, the procedure set out therein shall apply to the consideration of each request for accession under Article 37 of the Convention and shall inform the consultation of the Contracting States and the examination of each request by the Committee of Ministers.

39 Following the endorsement of this paper by the Committee of Ministers, the T-CY shall amend its Rules of Procedure to give effect to the procedure set out herein and to provide for the preparation and adoption of advisory opinions on requests for accession under Article 37 of the Budapest Convention.

40 The T-CY Secretariat shall make information on the accession procedure set out in this paper available to States interested in accession, including through the Council of Europe's Action against Cybercrime website. Once adopted by the T-CY, the questionnaire shall also be made available.

41 Pending the adoption of the questionnaire referred to in Section 2, the T-CY Secretariat may, for the purposes of preparing the background document and the draft T-CY opinion, invite a State that intends to request an invitation to accede, or that has requested such an invitation but has not yet been invited, to provide the necessary information and supporting material. The information requested should focus, in particular, on the conditions and safeguards applicable to procedural powers, including human rights and rule of law safeguards, as well as the State's relevant legal framework, institutional and operational capacities, and international co-operation mechanisms. During this period, States concerned may also be encouraged, where appropriate, to engage in relevant capacity-building activities in order to support clarification of such matters and preparation for effective implementation.

42 The absence of an adopted questionnaire shall not prevent the preparation and adoption of a T-CY opinion in accordance with this paper.

43 The T-CY may review these arrangements and the questionnaire in the light of experience gained through their application, relevant T-CY assessment activities, including any assessment concerning Article 15 of the Budapest Convention, and legal, policy or technological developments concerning the Budapest Convention and its Protocols.