COUNCIL OF EUROPE

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Cybercrime Convention Committee (T-CY)

T-CY Rules of Procedure

As revised by T-CY 21 on 8 July 2019[1]

[1] The Rules of Procedure, adopted by the 10th Plenary of the T-CY (3 December 2013), had subsequently been revised by 12th Plenary (3 December 2014) and the 18th Plenary (28 November 2017).

The Cybercrime Convention Committee (hereafter the "T-CY"),

- Having regard to Article 46, paragraph 1, of the Council of Europe Convention on Cybercrime (hereafter "the Convention"), which provides that

  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;

- Recalling that as of the first meeting of the consultation of the Parties, there has been a constant practice to refer to such consultation of the Parties as to the T-CY;

- Considering the need to clarify the working procedures applied by the T-CY in the fulfilment of its mission as set forth in Article 46, paragraph 1, aforementioned;

Adopts the following rules of procedure:

Article 1 Functions and activities of the T-CY

1.1 In pursuance of its functions as set out in the aforementioned Article 46, paragraph 1 of the Convention, the T-CY shall carry out the following activities:

a. undertake assessments of the implementation of the Convention by the Parties to enhance the practical application of the Convention on Cybercrime by identifying good practices, by helping address problems encountered and by sharing experience between current and potential future Parties to this treaty;

b. adopt opinions and recommendations on the interpretation and implementation of the Convention. If adopted unanimously, these opinions may take the form of Guidance Notes representing the common understanding of the parties as to the use of the Convention;

c. consider preparing draft legal instruments (namely conventions, protocols, agreements or recommendations) with a view to their adoption by the Committee of Ministers;

d. adopt opinions requested by Council of Europe bodies;

e. review the functioning of 24/7 points of contact established under Article 35 of the Convention;

f. encourage the accession of States which are not members of the Council of Europe to the Convention on Cybercrime under Article 37 of the Convention;

g. promote common positions of the Parties in relevant international fora;

h. engage in dialogue with relevant international organisations in view of enhanced international cooperation on cybercrime;

i. promote capacity building on cybercrime and electronic evidence;

j. establish working groups to research or otherwise address specific questions.

Article 2 Assessment procedure and follow-up

2.1 T-CY members shall participate in the assessment of the implementation of the Convention by the Parties in line with the following procedure:

a. The T-CY shall decide which provisions of the Convention on Cybercrime are to be assessed;

b. The T-CY Bureau with the support of the Secretariat shall prepare a questionnaire and send it to T-CY members (Heads of Delegation of each Party) for comments and adoption, before the adopted questionnaire is sent to T-CY members by the Secretariat;

c. T-CY members shall respond to the questionnaire within the timeline foreseen. Heads of Delegation shall coordinate with their respective domestic authorities to collect comprehensive replies;

d. The T-CY Bureau with the support of the Secretariat shall prepare a draft assessment report. The draft report shall be sent to T-CY members for comments and subsequently be reviewed in Plenary meetings;

e. T-CY members shall be invited to provide additional information upon request by the Secretariat;

f. The final assessment report shall be adopted by unanimity and may include recommendations addressed to a specific State. It is understood that a delegation will not participate in a vote regarding the assessment of an issue concerning its own State;

g. The T-CY shall review progress made in the implementation of recommendations within 18 months of the adoption of the report.

2.2 Observer States may volunteer to participate in the assessment.

Article 3 Composition

3.1 The T-CY shall consist of members and observers as well as ad-hoc participants.

3.2 T-CY members comprise delegations representing the Parties to the Convention on Cybercrime. Parties shall appoint a head of delegation and convey the contact details – as well as changes as they occur – to the Secretariat. A head of delegations shall have the necessary experience and be able to represent the position of the Party. Parties may appoint additional delegates to T-CY meetings. The travelling and subsistence expenses of one delegate per Party shall be borne by the Council of Europe within the limits of budgetary appropriations.

3.3 T-CY observers comprise:

a. Representatives of States, other than Parties to the Convention on Cybercrime, which have signed or been invited to accede to the Convention or that are member States of the Council of Europe. They have no right to vote or to the defrayal of expenses unless funding is available through voluntary contributions. Observers may appoint more than one representative to T-CY meetings;

b. Representatives of committees or other bodies of the Council of Europe engaged in related work without the right to vote but with defrayal of expenses at the charge of their respective administrative budgets (see list in the Appendix). The T-CY may invite additional Council of Europe bodies to participate as observers upon which the List in the Appendix and thus the present Rules shall be amended;

c. Representatives of international organisations involved in measures related to cybercrime without the right to vote and without defrayal of expenses (see list in the Appendix). The T-CY may invite other organisations to participate as observers upon which the List in the Appendix and thus the present Rules shall be amended.

3.4 The T-CY may invite additional participants ad-hoc to specific meetings to address specific questions or share experience, without the right to vote or defrayal of expenses.

Article 4 Operation

4.1 The T-CY shall draw up and adopt a workplan covering the forthcoming biennium.

4.2 Within the limits of budgetary appropriations, the T-CY shall hold two plenary meetings a year and may decide to set up working groups whenever necessary.

4.3 The T-CY shall hold its meetings in closed session.

4.4 Each T-CY member shall dispose of one vote. A quorum shall be reached when the majority of delegations is present.

4.5 As a general rule, the T-CY shall take decisions by consensus. Should it not be possible to reach consensus, decisions shall be taken by voting and by a two-thirds majority of the votes cost, subject to any provision in these Rules requiring unanimity. For the purposes of these Rules, "votes cast" shall mean the votes of delegations cast for or against. Delegations abstaining shall be regarded as not having cast a vote. The T-CY shall vote by a show of hands, unless a member of the T-CY requests a secret ballot.

4.6 All documents adopted by the T-CY shall be public.

Article 5 Composition of the T-CY Bureau

5.1 The Bureau shall be composed of the Chair and the Vice-Chair of the T-CY, together with at least four elected members and the outgoing Chair who may remain a member *de iure* of the Bureau during the first mandate of the new Chair. The other members shall be elected from among the delegates of the T-CY. Bureau members are expected to be available for Bureau meetings and to actively contribute to the functions of the Bureau under Article 8.

5.2 The Vice-Chair shall replace the Chair, if the latter is absent or otherwise unable to preside over the meeting. If the Vice-Chair is absent, the Chair shall be replaced by another member of the Bureau, appointed by the latter.

5.3 If a member of the Bureau ceases to be a member of the T-CY or resigns his/her office before its normal expiry, the T-CY may elect a successor for the remainder of the term of that office.

Article 6 Election of the Bureau

6.1 Any Party may propose candidates for Chair, Vice-Chair and members of the Bureau. Candidates to be considered for election must be supported by at least a second Party.

6.2 Election of the Chair and the Vice-Chair shall require a two-thirds majority at the first ballot and a simple majority at the second ballot. The election shall be held by a show of hands, unless a member of the T-CY requests a secret ballot.

6.3 Other members of the Bureau shall be elected in the same manner as the Chair and Vice-Chair. They shall be elected immediately after the Chair and the Vice-Chair in accordance with an equitable distribution of posts, taking into account in particular, geographical distribution, gender balance and legal systems.

6.4 The Chair, Vice-Chair and Bureau members shall be elected for a period of two years and may be re-elected for one consecutive term.[2]

6.5 Outgoing Bureau members shall be eligible for the positions of Chair or Vice-Chair.

6.6 The outgoing Vice-Chair shall be eligible for the position of Chair.

Article 7 Meetings of the Bureau

7.1 Except where otherwise decided by the Bureau, it shall meet in closed session.

Article 8 Functions of the Bureau

8.1 The Bureau shall direct the work of the T-CY between plenary meetings, and in particular:

a. prepare draft documents related to the functions and activities of the T-CY for consideration by the T-CY plenary;

b. prepare the draft T-CY workplan, propose priorities for future work for consideration by the T-CY plenary and follow the T-CY workplan;

c. review the agenda of plenary meetings and propose the way the T-CY's functions should be accomplished;

d. facilitate common positions of the Parties in international fora (in line with Article 1.g of the present Rules), accession of States to the Budapest Convention (Article 1.f) and dialogue with relevant international organisations (Article 1.h);

[2] In order to ensure rotation and continuity at the same time, at the first elections after entry into force of the revised Rules not more than half of current Bureau members may present themselves for re-election.

e. appoint experts – following consultation with the T-CY – to carry out specific activities;

f. appoint T-CY delegates to participate in other Council of Europe bodies;

g. report back to the T-CY on its activities between the plenary meetings;

h. deal with any other matter specifically delegated to it by the T-CY.

Article 9 Decisions of the Bureau

9.1 Before taking a decision, unless the matter has been specifically delegated to it by the T-CY, the Bureau shall consult the members of the T-CY and take their observations into account. When the Bureau exercises the powers of the T-CY, its decisions shall be taken by consensus. Where there is disagreement, it shall submit its draft decision to the T-CY.

Article 10 Secretariat

10.1 The T-CY and its Bureau shall be assisted by an Executive Secretary and other staff appointed by the Secretary General of the Council of Europe.

Article 11 Agenda

11.1 Following consultations with the Bureau, the Executive Secretary shall transmit a draft agenda to the members of the T-CY at least two weeks in advance of the meeting.

11.2 The agenda shall be adopted by the T-CY in the beginning of the meeting.

Article 12 Budget

12.1 T-CY activities shall be funded by the Ordinary Budget of the Council of Europe and by voluntary contributions by T-CY members and observers. The Secretariat shall inform the T-CY on the financial situation of the T-CY.

12.2 Decisions of the T-CY requiring Parties to the Convention to contribute to expenses not covered by the Ordinary Budget of the Council of Europe shall require unanimity.

Article 13 Languages

13.1 The official and working languages of the T-CY shall be English and French. The Bureau may decide by unanimity to hold a particular meeting in only one of the two languages.

Article 14 Amendments

14.1 The T-CY may amend these Rules by a two-thirds majority. Where the present Rules of Procedure foresee unanimity, the requirement of unanimity may only be amended by a decision taken unanimously.

Appendix: Observers in the Cybercrime Convention Committee

Representatives of committees or other bodies of the Council of Europe:

- European Committee on Crime Problems (CDPC);
- Steering Committee on Media and Information Society (CDMSI);
- Consultative Committee of the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data (T-PD);
- Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (T-ES).

Representatives of international organisations involved in measures related to cybercrime:

- African Union Commission;
- Commonwealth Secretariat;
- European Union, including also the European Network and Information Security Agency (ENISA), EUROPOL and EUROJUST;
- G7 High-tech Crime Subgroup;
- International Telecommunication Union (ITU);
- INTERPOL;
- Organisation for Economic Cooperation and Development (OECD);
- Organisation of American States (OAS);
- Organisation for Security and Cooperation in Europe (OSCE);
- Southeast European Law Enforcement Center (SELEC);
- United Nations Office on Drugs and Crime (UNODC).