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Cybercrime Convention Committee (T-CY)

T-CY Workplan

for the period

1 January 2018 – 31 December 2019

Adopted by T-CY 20 (27 November 2018)

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1 Functions of the Cybercrime Convention Committee (T-CY)

- 1 The Cybercrime Convention Committee (T-CY) is the mechanism enabling the “Consultations of the Parties” in line with Article 46 Budapest Convention on Cybercrime which states that the Parties of the Convention “shall consult periodically... with a view to facilitating”:
 - “the effective use and implementation of the Convention”;
 - “the exchange of information”;
 - “the consideration of possible supplementation or amendment of the Convention”.
- 2 Article 46 is thus the legal basis for the activities of the T-CY. The consultations are to be governed by a “flexible” procedure, leaving it to the Parties to decide how and when to convene.
- 3 The operation and activities of the T-CY are, therefore, defined by [Rules of Procedure](#) as adopted by the T-CY. These state in Article 1 that in pursuance of its functions the T-CY shall:
 - Undertake assessments of the implementation of the Convention by the Parties;
 - Adopt opinion and recommendations on the interpretation and implementation of the Convention, including Guidance Notes;
 - Consider preparing draft legal instruments;
 - Adopt opinions requested by Council of Europe bodies;
 - Review the functioning of 24/7 points of contact;
 - Encourage accessions to the Budapest Convention;
 - Promote common positions of the Parties in international fora;
 - Engage in dialogue with relevant international organisations;
 - Promote capacity building;
 - Establish working groups to address specific questions.

2 Workplans 2012 – 2017

- 4 In November 2011, the T-CY adopted an Action Plan for the period 2012 – 2013, in December 2013, a [Workplan](#) for the period 2014 – 2015, and in December 2014 a [Workplan](#) for 2016 - 2017. Under these workplans, the T-CY, among other things:
 - Carried out three cycles of assessments covering the [preservation](#) provisions of the Convention, the functioning of [mutual legal assistance](#) and [sanctions and measures](#) and ensured follow up to the recommendations of resulting from these assessments;
 - Adopted ten [Guidance Notes](#);
 - Established and concluded work on [transborder access to data](#) and on [cloud evidence](#);
 - Prepared a draft [mapping study on cyberviolence](#);
 - Prepared draft templates for [MLA requests for subscriber information](#) and for [preservation requests](#);
 - Supported the process of [signatures, ratification and accessions](#) to the Convention. During this period, the number of Parties increased to 56 and 15 States had signed it or been invited to accede as at 31 December 2017;
 - Contributed to the streamlining of the accession procedures to Council of Europe conventions;
 - Pursued common positions in several international meetings;
 - Promoted capacity building as an international approach and closely cooperated with the capacity building activities of the Council of Europe, including the Cybercrime Programme Office of the Council of Europe (C-PROC) in Romania;
 - Invited additional international organisations to join the T-CY as observers;
 - Doubled the number of annual meetings; and importantly
 - Launched the negotiation of an additional Protocol to the Budapest Convention on enhanced international cooperation and electronic evidence in the cloud.

5 In short, between 2012 and 2017, the T-CY has become one of the most relevant inter-governmental bodies on cybercrime. The Workplan 2018 – 2019 will build on these achievements

3 Strategic directions of the workplan 2018 - 2019

6 Cybercrime has become a threat to human rights, democracy and the rule of law. Criminal justice authorities are confronted with a massive increase in the scale and quantity of cybercrime and other offences involving electronic evidence, with associated technical challenges, with issues related to cloud computing and jurisdiction, including links to organised crime, and with challenges facing the system of mutual legal assistance.

7 Under international human rights law, governments have the obligation to protect society and individuals against crime and to protect the rights of victims. Effective criminal justice responses, which are subject to safeguards, are needed to address cybercrime and the issue of electronic evidence in relation to any crime. The Budapest Convention on Cybercrime is an important foundation of the international response.

8 With the launching of the preparation of a 2nd additional Protocol in September 2017, the T-CY has taken on a major task that will determine its agenda in 2018 and 2019.

9 In the light of this, the main objectives of the T-CY in 2018 – 2019 are as follows:

- **Objective 1: Ensure the continued relevance of the Budapest Convention.**

The 2nd additional Protocol – if negotiated successfully – is likely to ensure that the Budapest Convention will remain the most relevant international agreement on cybercrime in the years to come, assisting and inspiring Parties and other States in the criminalisation of acts of cybercrime and the establishment of procedural powers as well as safeguards while strengthening international cooperation in this regard. The relevance will be further ensured through Guidance Notes and exchange of experience. The use of the Budapest Convention in practice will be documented in the form of available case studies and statistics. The T-CY will continue to facilitate coordination and common positions by the Parties in relevant international fora to bring in relevant experience of the Budapest Convention.

- **Objective 2: Support the quality of implementation of the Convention and its Protocol by the Parties.**

Assessments have been the primary tool of the T-CY since 2012 to ensure full implementation of the Convention and its Protocol by the Parties. Given the focus on the preparation of the 2nd additional Protocol, assessments are not foreseen for 2018 and 2019. However, preparations for a 4th cycle should commence in 2019. The T-CY will furthermore encourage capacity building activities to support implementation of the Budapest Convention and its Protocol as well as follow up to T-CY assessments.

- **Objective 3: Enlarge membership in the Budapest Convention.**

The relevance and impact of the Budapest Convention will grow with each new Party. The T-CY will thus encourage further States to seek accession. States joining the Budapest Convention must be able to apply the provisions of this treaty and be prepared to engage in cooperation with other Parties. Therefore, the T-CY will encourage capacity building activities in countries that may seek accession to the Budapest Convention.

10 Implementation of the Workplan 2018 – 2019 requires resources. It is recalled that T-CY 9 (June 2013) agreed on [co-funding the T-CY](#) through voluntary contributions. A number of Parties have since provided voluntary contributions to the project [Cybercrime@Octopus](#). These helped ensure the

functioning of the T-CY so far. However, extra-budgetary funding will remain essential given the challenges that the Council of Europe is faced with regarding its Ordinary Budget as of 2017.

11 These priorities can be translated into the following objectives and actions.

4 Objectives and actions 2018 – 2019

Objective 1	Ensure the continued relevance of the Budapest Convention
Action 1.1	Complete the preparation of the draft 2 nd Additional Protocol to the Budapest Convention on Cybercrime. Hold additional meetings of the Protocol Drafting Group and Plenaries in 2018 and 2019 if necessary.
Action 1.2	<p>Prepare Guidance Notes to facilitate the application of the Convention by the Parties.</p> <ul style="list-style-type: none"> ▪ Select topics requiring a clarification and present draft Guidance Notes to Plenary for discussion and approval. ▪ Widely disseminate Guidance Notes upon adoption.
Action 1.3	<p>Ensure close coordination between the Parties and ensure representation of the T-CY in discussions on cybercrime in international <i>fora</i>:</p> <ul style="list-style-type: none"> ▪ 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; - Encourage Parties to attend international meetings and support common positions. - Coordinate between Parties during international meetings: - Set up side-meetings/coordination meetings in the course of the international meetings. ▪ Ensure representation of the T-CY in international fora.
Action 1.4	<p>Ensure close coordination with relevant Council of Europe bodies:</p> <ul style="list-style-type: none"> ▪ Appoint T-CY members to relevant Committees and support their participation in meetings. ▪ Report back to the T-CY on outcomes.
Action 1.5	Document available case studies and statistics on the actual use of the Budapest Convention in practice.
Action 1.6	Follow up on the recommendations of the mapping study on cyberviolence.
Action 1.7	As necessary, identify and document significant legal, policy or technological developments as well as good practices, including with respect to artificial intelligence and challenges related to cybercrime and electronic evidence.

Objective 2	Support the quality of implementation of the Convention and its Protocol on Xenophobia and Racism
Action 2.1	Initiate the 4 th cycle of assessments in 2019.
Action 2.2	Ensure compliance by Parties with Article 35 (24/7 points of contact) <ul style="list-style-type: none"> ▪ Secretariat to update the directory of contact points and to inform the T-CY should issues arise. ▪ Parties to follow up at domestic levels if necessary.
Action 2.3	Adopt multi-language templates on MLA for subscriber information and for preservation requests and promote their use.
Action 2.4	Share experience in the implementation of the Protocol to the Budapest Convention on Xenophobia and Racism (ETS 189).
Action 2.5	Ensure close cooperation and coordination with the capacity building programmes on cybercrime developed by the Council of Europe: <ul style="list-style-type: none"> ▪ T-CY representatives to participate in project activities. ▪ One T-CY Plenary to be held in conjunction with the Octopus Conference. ▪ Parties are encouraged to provide voluntary special purpose contributions to allow for this. ▪ Results of technical cooperation activities to be presented to the T-CY.
Objective 3	Enlarge membership in the Budapest Convention
Action 3.1	Maintain 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 3.2	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 3.3	Support accession by the largest possible number of non-member States: <ul style="list-style-type: none"> ▪ Encourage States with the necessary level of legislation and capacities to request accession to the Budapest Convention; ▪ 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 necessary requirements, either through the capacity building programmes of the COE or other bi- or multilateral actions.

Objective 4	Review the financial resourcing of the Committee
Action 4.1	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 4.2	If necessary, T-CY to take further decisions to ensure co-financing of the T-CY.

5 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.