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Cybercrime Convention Committee (T-CY)

Preparation of a 2nd Additional Protocol to the Budapest Convention on Cybercrime

Report of the 2nd Meeting of the T-CY Protocol Drafting Plenary (Strasbourg 10 – 11 July 2018)

The 2nd meeting of the T-CY Protocol Drafting Plenary (PDP) was held at the Council of Europe in Strasbourg on 10 and 11 July 2018 and chaired by Erik Planken (Netherlands).

Some 160 representatives of 66 Parties and Observer States as well as of international organisations and Council of Europe committees participated.

The PD Plenary,

- Took note of relevant national and international developments, including court decisions and procedural rules, related to subscriber information;
- Took note of the US CLOUD Act and the proposed EU Regulation and Directive on e-evidence and underlined the need to ensure consistency between these texts and the 2nd Additional Protocol to the Budapest Convention;
- Provisionally adopted the text and explanatory report on “languages of requests”;
- Provisionally adopted the text and explanatory report on “emergency mutual assistance”;
- Agreed to make the draft provisions on “languages of request” and “emergency mutual assistance” public for comments to be submitted by mid-September 2018 on the understanding that these are preliminary versions which may, as the protocol develops, change considerably;
- Discussed revised drafts of the provision on video conferencing;
- Exchanged views on:
 - direct cooperation with providers;
 - international production orders;
 - endorsement model;
 - extending searches/access based on credentials;
- Agreed to hold further consultations with industry, data protection and civil society organisations in the afternoon of Monday, 26 November 2018, that is, prior to T-CY 20 and the 3rd meeting of the PDP, and invite the PDG to prepare and adopt a plan for further consultations at its meeting in September 2018;

Appendix 1: Agenda

2nd Meeting of the Protocol Drafting Plenary* (Tuesday, 10 July, 9h00 – Wednesday, 11 July, 12h30)
<p>1. Outcome of the 2nd and 3rd meeting of the Protocol Drafting Group (PDG)</p> <p>PDP members are invited to discuss the Summary Report of the 2nd (1-2 February 2018) and 3rd meeting (11-13 May) of the PDG.</p>
<p>2. Relevant international developments</p> <p>PDP members are invited to a brief exchange of views on:</p> <ul style="list-style-type: none">- European Court of Human Rights: Benedikt v. Slovenia;- US CLOUD Act;- EU e-evidence proposals
<p>3. “Language of requests”</p> <p>PDP members are invited to consider the draft text of this provision and elements of the Explanatory Report in view of preliminary adoption. (Note: documents to be circulated by 20 June 2018.)</p>
<p>4. “Emergency mutual assistance”</p> <p>PDP members are invited to consider the draft text of this provision and elements of the Explanatory Report in view of preliminary adoption. (Note: documents to be circulated by 20 June 2018.)</p>

Appendix 2: List of participants

Bureau members

COUNTRY	NAME	INSTITUTION
NETHERLANDS	Erik PLANKEN (T-CY Chair)	Senior Policy Advisor Cybercrime Law Enforcement Department Ministry of Justice
ROMANIA (T-CY Vice-chair)	Cristina SCHULMAN (T-CY Vice-chair)	Legal adviser Department for International Law and Judicial Cooperation Ministry of Justice
CANADA	Gareth SANSOM	Director Technology and Analysis Criminal Law Policy Section Department of Justice Canada
DOMINICAN REPUBLIC	Claudio PEGUERO	Advisor to the chief of Police in ICT National Police
ESTONIA	Markko KÜNNAPU	Adviser on EU Affairs Ministry of Justice
MAURITIUS	Karuna Devi GUNESH- BALAGHEE	Assistant Solicitor General
NORWAY	Eirik TRØNNES HANSEN	Prosecutor Kripos
PORTUGAL	Pedro VERDELHO	Public Prosecutor General Prosecutor's Office of Lisbon
SRI LANKA	Jayantha FERNANDO	Director ICTA
SWITZERLAND	Andrea CANDRIAN	Stv. Chef High Tech Crime and Counter Terrorism Unit Federal Office of Justice
UKRAINE	Oleksii TKACHENKO	International Relations officer Cyber Department SBU

Parties

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ALBANIA	Armand GURAKUQI	Prosecutor District Prosecution Office of Tirana
ALBANIA	Hergis JICA	Chief Commissar Cybercrime Unit Albanian State Police
ALBANIA	Diana Stillo SILA	Head of Unit Department of Foreign Jurisdiction Relations Ministry of Justice
ANDORRA	Maria Àngels MORENO AGUIRRE	Juge Instruction criminelle spécialisée sur la criminalité socioéconomique et le crime organisé Batllia d'Andorra
ARGENTINA	Marcos SALT	Member Advisory Committee Against Computer-Related Crimes
ARMENIA	Robert ADILKHANYAN	General Investigative Department of Special Important Cases Investigative Committee
ARMENIA	Arsen ELOYAN	Senior Officer Police Senior Lieutenant Hi-Tech Crime Department Police of the Republic of Armenia
ARMENIA	Hayk MKRTCHYAN	Deputy head of Division on Combating High-Tech Crimes Police of the Republic of Armenia
AUSTRALIA	Briony DALEY WHITWORTH	Senior Legal Officer A/g National Security Policy Branch Department of Home Affairs
AUSTRALIA	Andrew WARNES	Assistant Secretary National Security Policy Branch Attorney-General's Department
AUSTRALIA	Nathan WHITEMAN	A/g Senior Legal Officer International Law Enforcement Cooperation Australian Government 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 Republic
AZERBAIJAN	Kenan HAJIYEV	Investigator, Cybercrime Unit Ministry of Internal Affairs
AZERBAIJAN	Shahin SHAHYAROV	Second Secretary Ministry of Foreign Affairs
BELGIUM	Frederik DECRUYENAERE	Attaché au Service des Infractions et Procédures Particulières Service Public Fédéral Justice
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CABO VERDE	Franklin Afonso FURTADO	Deputy Public Prosecutor General Prosecutor’s Office
CABO VERDE	Dilvia LOPES	Prosecutor Public Ministry of Cabo Verde
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COSTA RICA	Henry ZUÑIGA CARMONA	Fiscal Auxiliar Ministerio Público de Costa Rica
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DOMINICAN REPUBLIC	Cesar MOLINE	Cybersecurity and Digital Signature Director
DOMINICAN REPUBLIC	Claudio PEGUERO	Advisor to the Director General of Police in Cyber Matters National Police
DOMINICAN REPUBLIC	Leyda Margarita PIÑA MEDRANO	Jueza 1era sustituta del Tribunal Constitucional Constitutional Court of the Dominican Republic
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MEXICO	Santiago OÑATE LABORDE	Observateur Permanent Permanent Representation of Mexico to the Council of Europe
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NIGERIA	Ama Ehi Sandra OHIEN	Senior State Counsel, CCPU
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RUSSIA	Ekaterina LAPIKHINA	Counsellor, Legal Department Ministry of Foreign Affairs of the Russian Federation
RUSSIA	Vadim SMEKHOV	Senior Investigaor-Forensic Expert, Chief Directorate of Forensics Investigative Committee of the Russian Federation
TUNISIA	Béchir BEN HASSEN	Commissaire Général Ministère de l'Intérieur

TUNISIA	Mohamed MESSAI	Conseiller à la Cour d'Appel de Tunis Ministère de l'Intérieur
TUNISIA	Salma ABIDA	Chargée de mission auprès du cabinet du Ministère de la Justice

Observer Organisations

ORGANISATION	NAME	POSITION
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EUROPEAN UNION DG HOME	Toma MILIESKAITE	Legal Officer Unit JUST.DDG.B.2 - Procedural criminal law European Commission
EUROPEAN UNION EU Delegation to the Council of Europe	Per IBOLD	Legal Counsellor
EUROPEAN UNION ENISA	Andreas MITRAKAS	Head of Data Security and Standardisation Unit (COD2) European Union Agency for Network & Information Security (ENISA) European Union
EUROPEAN UNION EUROJUST	Daniela BURUIANA	Chair of the Task Force on cybercrime National member for Romania
EUROPEAN UNION / EUROPEAN COUNCIL	Monika KOPCHEVA	Political Administrator General Secretariat DG D 2C Justice and Home Affairs Council of the European Union
EUROPEAN UNION / EUROPEAN COUNCIL	Christina STROMHOLM	Political Administrator Council of the European Union
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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-PD (CONSULTATIVE COMMITTEE OF DATA PROTECTION CONVENTION 108)	Peter KIMPIAN	Programme Advisor Data Protection Unit Council of Europe

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