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Public

## **Cybercrime Convention Committee (T-CY)**

**Preparation of a 2<sup>nd</sup> Additional Protocol to the Budapest Convention on Cybercrime**

### **Report of the 3<sup>rd</sup> Meeting of the T-CY Protocol Drafting Plenary (Strasbourg 28 – 29 November 2018)**

The 3<sup>rd</sup> meeting of the T-CY Protocol Drafting Plenary (PDP) was held at the Council of Europe in Strasbourg on 28 and 29 November 2018 and chaired by Cristina Schulman (Romania).

Some 150 representatives of 61 Parties and Observer States as well as of international organisations and Council of Europe committees participated.

The PDP was preceded by the 20<sup>th</sup> Plenary of the T-CY on 27 November and consultations of the Protocol Drafting Group with data protection experts on 26 November.

The PD Plenary,

- Took note of the current state of the proposed EU Regulation and Directive on e-evidence and confirmed the need to ensure consistency between these texts and the 2<sup>nd</sup> Additional Protocol to the Budapest Convention;
- Provisionally adopted the text and explanatory report on “video conferencing”;
- Agreed to make the draft provision on “video conferencing” public for comments to be submitted by 20 February 2019 on the understanding that this is preliminary version which may, as the protocol develops, change considerably;
- Agreed to share the draft provisions on “languages of request”, “emergency mutual assistance” and “video conferencing” with the PC-OC (Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters) for comments by 20 February 2019;
- Exchanged views on:
  - “jurisdiction”;
  - “endorsement model”;
  - “direct cooperation with providers” and “international production orders”;
  - “extended searches and access based on credentials”;
  - “joint investigations and joint investigation teams”;
  - “investigative techniques”;
- Agreed to hold the next consultations with industry, data protection and/or civil society organisations by May 2019, and to encourage Parties to engage in consultations with stakeholders at domestic levels on public draft provisions and concepts of other provisions as appropriate;
- Agreed to make a summary report of this PDP public.

## Appendix 1: Agenda

<b>3<sup>rd</sup> Meeting of the Protocol Drafting Plenary (Wednesday, 28 November, 9h30 – Thursday, 29 November, 18h00)</b>	
1. Outcome of the 4 <sup>th</sup> meeting of the Protocol Drafting Group (PDG)	
PDP members are invited to discuss the Summary Report of the 4 <sup>th</sup> meeting of the PDG (17-19 September 2018)	
2. "Video conferencing"	
PDP members are invited to consider the draft text of this provision and elements of the Explanatory Report (as contained in document T-CY(2018)20rev, version 20 September 2018) in view of preliminary adoption.	
3. "Endorsement model"	
PDP members are invited to hold detailed discussions on "endorsement model" (document T-CY(2018)4)	
4. "Jurisdiction"	
PDP members are invited to hold detailed discussions on the working paper on "jurisdiction" (document T-CY(2017)35)	
5. Updates on other provisions	
PDP members will be provided with updates and are invited to exchange views on:	
<ul style="list-style-type: none"><li>- "direct cooperation with providers" (document T-CY(2017)34);</li><li>- "international production orders" (document T-CY(2017)30);</li><li>- "extending searches/access based on credentials"<sup>1</sup> (document T-CY(2017)33);</li><li>- "joint investigations and joint investigation teams" (document T-CY(2017)32);</li><li>- "investigative techniques" (document T-CY(2017)28).</li></ul>	
6. Outcome of the consultations with data protection experts	
PDP members are invited:	
<ul style="list-style-type: none"><li>- to discuss the results of the consultations with data protection experts on 26 November;</li><li>- to exchange views on the discussion paper on "conditions for obtaining subscriber information in relation to dynamic versus static IP addresses" (<a href="#">document T-CY(2018)26, version 25 October 2018</a>).</li></ul>	
7. Next meeting	
T-CY members are invited to decide on the proposal to hold the forth meeting of the Protocol Drafting Plenary from the afternoon of 9 July to evening of 11 July 2019, following T-CY 21.	

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<sup>1</sup> Formerly known as „transborder access“

## 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

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

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

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

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



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

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

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

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

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

### Observer States

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

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

### Observer Organisations

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

### Council of Europe experts

<b>ORGANISATION</b>	<b>NAME</b>	<b>POSITION</b>
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 <a href="mailto:alexander.seger@coe.int">alexander.seger@coe.int</a>
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 <a href="mailto:nina.lichtner@coe.int">nina.lichtner@coe.int</a>
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 <a href="mailto:valerie.schaeffer@coe.int">valerie.schaeffer@coe.int</a>
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 <a href="mailto:Irina.DREXLER@coe.int">Irina.DREXLER@coe.int</a>

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 <a href="mailto:Ana.ZEMLICOF@coe.int">Ana.ZEMLICOF@coe.int</a>
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 <a href="mailto:Iulia.SUCIU@coe.int">Iulia.SUCIU@coe.int</a>