



C-PROC

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The global state of cybercrime legislation 2013 – 2019: A cursory overview

Update as at 30 June 2019

prepared by the

Cybercrime Programme Office
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Disclaimer

This technical report does not necessarily reflect official positions of the Council of Europe or Parties to the treaties referred to.

1 Background

The Council of Europe is cooperating with a large range of countries in all regions of the world, including with respect to reforms of legislation on cybercrime and electronic evidence. The Cybercrime Programme Office of the Council of Europe ([C-PROC](#)) in Bucharest, Romania, responsible for the management of the capacity building projects on cybercrime of the Council of Europe, thus constantly receives information on legislation in place or in preparation.

In January 2013, prior to the 2nd meeting of the [UN Intergovernmental Expert Group on Cybercrime](#), a review of the state of cybercrime legislation had been prepared under the then [Global Project on Cybercrime](#) in order to inform Parties to the Budapest Convention on Cybercrime. An update was prepared by C-PROC in January 2018,

The current update by C-PROC with the support of several capacity building projects¹ provides a cursory overview² of the state of legislation in 193 States as at 30 June 2019.

The purpose of this overview is to inform Parties to the Budapest Convention, to encourage further reforms and to help target further technical assistance.

2 Reforms of legislation on cybercrime and electronic evidence

Some countries began to work on specific legislation on cybercrime and electronic evidence already in the 1990s. By June 2019, some 92% of UN Member States had either carried out such reforms or reforms were underway. This represents a considerable increase since January 2013 (74%).

Many African States in particular, have commenced reforms during the past six years.

		Reforms underway or undertaken in recent years					
	States	By January 2013		By January 2018		By June 2019	
All Africa	54	25	46%	45	83%	46	85%
All Americas	35	25	71%	31	89%	32	91%
All Asia	42	34	81%	37	88%	38	90%
All Europe	48	47	98%	48	100%	48	100%
All Oceania	14	12	86%	12	86%	13	93%
All	193	143	74%	173	90%	177	92%

Obviously, reforms of legislation can never be considered completed and should be understood as a continuous process.

One problem seems to be that in many countries reforms are initiated but not carried through, with draft laws sometimes pending for years or being abandoned.

Furthermore, some Governments are careful not to adopt laws without the necessary capacities to apply them. In some instances, laws have been adopted but not their implementing regulations.

¹ Project [Cybercrime@Octopus](#) and the joint projects of the Council of Europe and the European Union [GLACY+ on Global Action on Cybercrime Extended](#), [CyberSouth](#), [CyberEast](#) and [iPROCEEDS](#).

² This cursory overview does not represent the results of a thorough assessment.

Capacity building support is required to move ahead with legislative reforms and to create the necessary criminal justice capacities for the application of legislation.

3 Substantive criminal law provisions

By June 2019, as a result of reforms undertaken, more than half of UN Member States (52%) had substantive criminal law provisions “largely in place”, that is, they had specific domestic provisions corresponding to most of the substantive criminal law Articles 2 to 11 of the Budapest Convention.³

An additional one third of States had adopted at least some specific substantive criminal law provisions.

Good progress had been made between January 2013 and January 2018, and the pace of reforms further increased between January 2018 and June 2019, with 100 States now having substantive law largely in line with the Budapest Convention.

By January 2013	Substantive criminal law provisions						
	States	Largely in place		Partially in place		Not in place or no information	
All Africa	54	6	11%	18	33%	30	56%
All Americas	35	10	29%	12	34%	13	37%
All Asia	42	13	31%	17	40%	12	29%
All Europe	48	38	79%	8	17%	2	4%
All Oceania	14	3	21%	6	43%	5	36%
All	193	70	36%	61	32%	62	32%

By January 2018	Substantive criminal law provisions						
	States	Largely in place		Partially in place		Not in place or no information	
All Africa	54	14	26%	21	39%	19	35%
All Americas	35	13	37%	15	43%	7	20%
All Asia	42	17	40%	18	43%	7	17%
All Europe	48	44	92%	4	8%	0	0%
All Oceania	14	5	36%	6	43%	3	21%
All	193	93	48%	64	33%	35	19%

By June 2019	Substantive criminal law provisions						
	States	Largely in place		Partially in place		Not in place or no information	
All Africa	54	18	33%	20	37%	16	30%
All Americas	35	15	43%	17	49%	3	9%
All Asia	42	18	43%	20	48%	4	10%
All Europe	48	45	94%	3	6%	0	0%
All Oceania	14	4	29%	7	50%	3	21%
All	193	100	52%	67	35%	26	13%

³ This does not necessarily mean that they were fully in line with these provisions of the Budapest Convention.

4 Specific procedural powers to secure e-evidence

The situation is more diverse and more difficult to assess with respect to specific procedural powers to secure electronic evidence for use in criminal proceedings (corresponding to Articles 16 to 21 Budapest Convention and subject to the safeguards of Article 15).

	Specific procedural powers to secure electronic evidence						
	States	By January 2013 Largely in place		By January 2018 Largely in place		By June 2019 Largely in place	
All Africa	54	5	9%	10	19%	15	28%
All Americas	35	5	14%	9	26%	11	31%
All Asia	42	8	19%	13	31%	13	31%
All Europe	48	31	65%	39	81%	40	83%
All Oceania	14	1	7%	3	21%	3	21%
All	193	50	26%	74	38%	82	42%

Progress was made during the past six years and by June 2019 some 42% had specific powers largely in place. Most countries still rely on general procedural law provisions (for search, seizure and so on).

Again, Governments may be reluctant to adopt specific procedural powers without the capacity of their criminal justice authorities to apply them in practice, and further capacity building would be needed to advance.

5 Links to the Budapest Convention

By June 2019, 37% of UN Member States were either Parties (63) or Signatories to the Budapest Convention or had been invited to accede (9). These 72 States were thus members or observers in the Cybercrime Convention Committee (T-CY).

	Party, signatory or invited to accede to Budapest Convention						
	States	By January 2013		By January 2018		By June 2019	
All Africa	54	3	6%	8	15%	9	17%
All Americas	35	8	23%	11	31%	11	31%
All Asia	42	2	5%	4	10%	4	10%
All Europe	48	43	90%	46	96%	46	96%
All Oceania	14	1	7%	2	14%	2	14%
All	193	57	30%	71	37%	72	37%

It should be noted that in the 18 months between January 2018 and June 2019, eight States that had signed it or been invited to accede actually became Parties, so that in this period the number of Parties increased from 55 to 63.

By June 2019, several governments had taken the political decision to request accession and they are expected to submit their requests shortly.

There is thus consistent progress in terms of membership.

Beyond membership, the Budapest Convention now appears to serve almost 80% of States worldwide as a guideline or at least as a source inspiring domestic legislation, as reflected in the structure or concepts used for at least some provisions or as explicitly stated in documents supporting the legislative process.

	States	Use of Budapest Convention as guideline or source					
		By January 2013		By January 2018		By June 2019	
All Africa	54	21	39%	33	61%	38	70%
All Americas	35	22	63%	24	69%	25	71%
All Asia	42	25	60%	27	64%	28	67%
All Europe	48	46	96%	47	98%	47	98%
All Oceania	14	10	71%	11	79%	14	100%
All	193	124	64%	142	74%	152	79%

One reason for the influence of the Budapest Convention beyond the 72 States participating in the Cybercrime Convention Committee is that many more States are benefiting from capacity building activities. For illustration, between April 2014, when C-PROC became operational, and June 2019, this Office supported some 840 activities in all regions of the world.

By January 2018, some 160 States had participated in Council of Europe activities on cybercrime in recent years. By June 2019, this number had increased to 179 or 93% of UN Member States.

	States	Participation in Council of Europe cybercrime activities previously					
		January 2013		January 2018		June 2019	
All Africa	54	20	37%	35	65%	50	93%
All Americas	35	24	69%	33	94%	35	100%
All Asia	42	25	60%	31	74%	32	76%
All Europe	48	47	98%	48	100%	48	100%
All Oceania	14	12	86%	14	100%	14	100%
All	193	128	66%	161	83%	179	93%