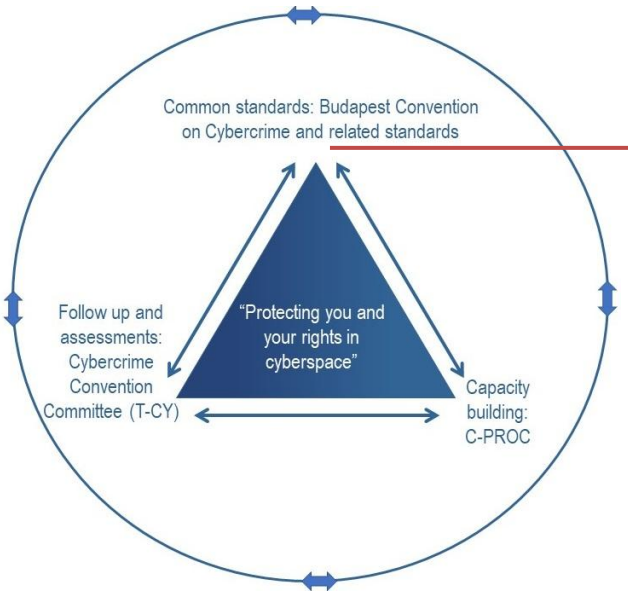
Convention on Cybercrime:

links to cyberviolence, artificial intelligence and relevant COE treaties

Alexander Seger, Head of Cybercrime Division, Council of Europe

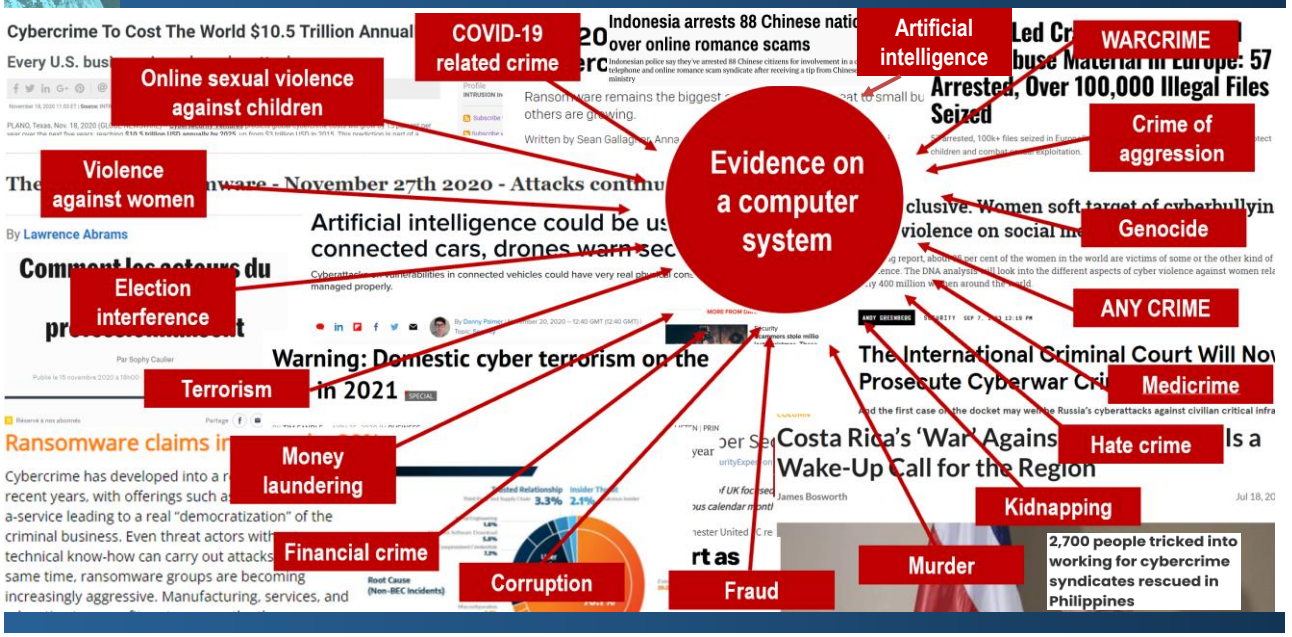
Convention on Cybercrime and other relevant COE treaties



The Council of Europe has 225 treaties:

- Which ones are relevant for the Convention on Cybercrime?

Cybercrime and e-evidence re all types of crime



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T-CY Guidance Note: scope

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Strasbourg, 27 June 2023 T-CY(2023)6

Cybercrime Convention Committee (T-CY)

T-CY Guidance Note #13
The scope of procedural powers and of international co-operation provisions of the Budapest Convention

Adopted by T-CY 28 (27-28 June 2023)

"The procedural law provisions and the principles and measures for international co-operation of the Convention on Cybercrime are applicable not only to offences related to computer systems and data but also to the **collection of electronic evidence of any criminal offence**. This broad scope also applies to the measures of the Second Additional Protocol to the Convention.

This scope furthermore permits **synergies between the Budapest Convention and other international agreements**."

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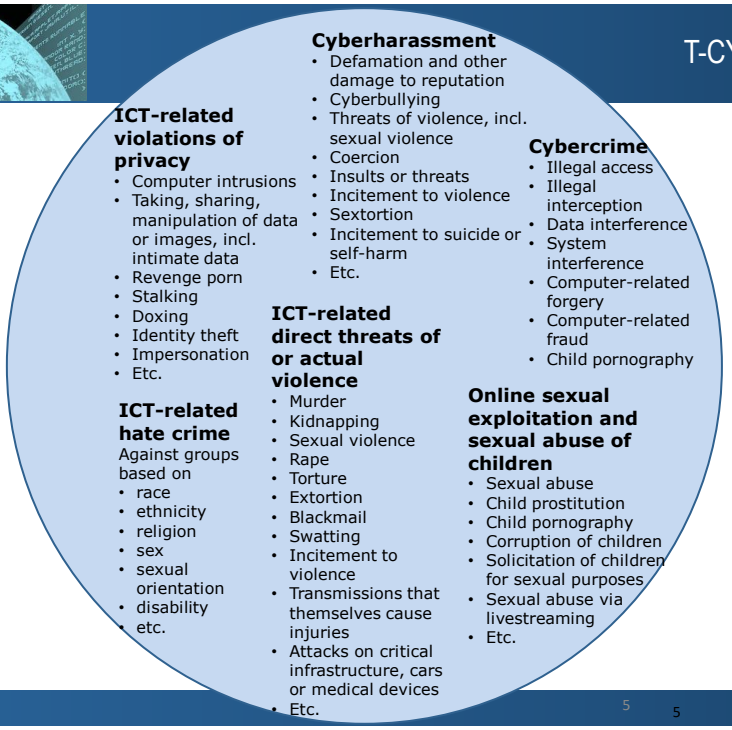
T-CY Mapping Study on Cyberviolence 2018



- Cyberviolence is the use of computer systems to cause, facilitate, or threaten violence against individuals that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering and may include the exploitation of the individual's circumstances, characteristics or vulnerabilities

Note: This definition is an adaptation of the definition of "violence against women" in Article 3 Istanbul Convention

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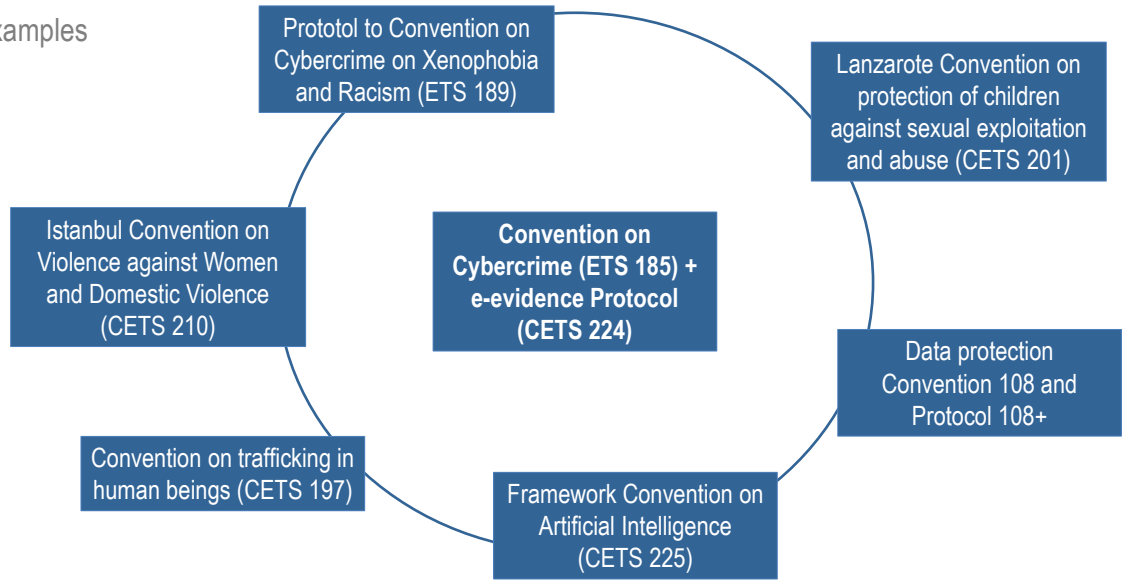
Convention on Cybercrime and other relevant COE treaties

Examples



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The first Protocol on Xenophobia and Racism (ETS 189)

Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems

Opening for signature 28 January 2003

Entry into force 1 March 2006

Currently 36 Parties + 10 Signatories

Key provisions

- Dissemination of racist and xenophobic material through computer systems (Article 3)
- Racist and xenophobic-motivated threat (Article 4) and insults (Article 5)
- Denial, gross minimisation, approval or justification of genocide or crimes against humanity (Article 6)
- Relation between the Convention and this Protocol (Article 8)

Need to counter increasing hate speech and hate crime online ► XR Protocol

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The first Protocol on Xenophobia and Racism: implementation

Octopus Project

Strasbourg, 1 December 2023 (provisional)

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Lanzarote Convention on the Protection of Children against Sexual Exploitation and Abuse

The Lanzarote Convention as a whole is aimed – through a holistic approach – at the protection of children against sexual violence:

- Prevention
- Protection and assistance to victims
- Substantive criminal law, including
  - sexual abuse (article 18)
  - child prostitution (article 19)
  - child pornography (article 20)
  - participation of a child in pornographic performances (article 21)
  - corruption of children (article 22)
  - solicitation of children for sexual purposes (article 23)
- Investigation, prosecution, procedural law
- International cooperation

- Interpretative opinion of Lanzarote Committee (May 2017): Provisions apply also if committed or facilitated via ICT.
- Lanzarote and Budapest Conventions are complementary.

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Istanbul Convention on Violence against Women and Domestic Violence

The Istanbul Convention (CETS 210) contains a number of relevant provisions:

- Article 33 – Psychological violence
- Article 34 – Stalking
- Article 40 – Sexual harassment

- Article 17 – Participation of the private sector and the media

The Budapest and Istanbul Conventions appear complementary.

A country implementing the Budapest Convention should thus consider also implementation of articles 33, 34 and 40 Istanbul Convention in order to combat psychological violence, stalking and sexual harassment in an online context.

Parties to the Istanbul Convention may apply the procedural powers and tools for international cooperation to investigate and collect electronic evidence of violence against women and domestic violence

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Cybercrime, electronic evidence and artificial intelligence

Council of Europe:

FRAMEWORK CONVENTION ON ARTIFICIAL INTELLIGENCE, HUMAN RIGHTS, DEMOCRACY AND THE RULE OF LAW

- Purpose: to establish "fundamental principles, rules and rights aimed at ensuring that design, development and application of artificial intelligence systems is fully consistent with respect for human rights, the functioning of democracy and the observance of rule of law".
- This Convention shall apply to design, development and application of artificial intelligence systems that are used in a context involving issues relating to the respect for human rights, the functioning of democracy and the observance of rule of law…
- Principles of:
  - Equality and anti-discrimination
  - Privacy and data protection
  - Accountability, responsibility and legal liability
  - Transparency and oversight
  - Redress mechanisms
  - Assessment and mitigation of risks and adverse impacts
  - Etc.

Opened for signature September 2024

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Cybercrime, electronic evidence and artificial intelligence

Coming up (Dec 2024):

T-CY decision to prepare a **mapping study on cybercrime, e-evidence and AI** (2025-26)

- Offences committed against and by means of AI systems
- The use of AI systems for the prevention, detection, investigation and prosecution of offences, for the collection of electronic evidence and for international cooperation
- The applicability of human rights and rule of law safeguards, chain of custody, territoriality and jurisdiction, and other conditions and principles

► Applicability of the Convention on Cybercrime and other agreements?

► Gaps?

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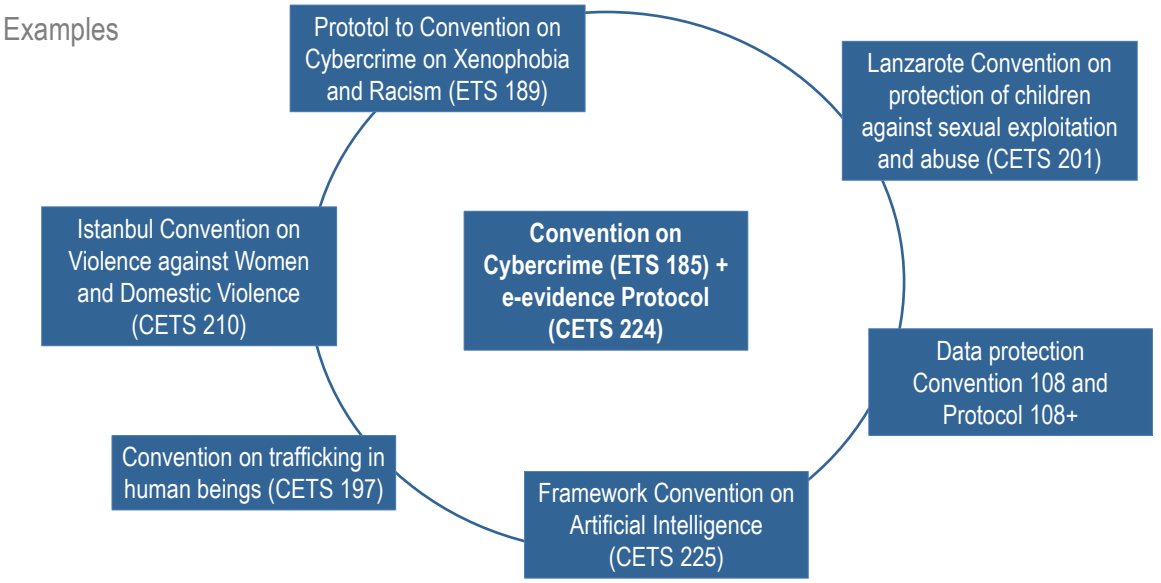
Conclusion: Brazil may consider joining additional COE treaties



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Q & A

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