



Cybersecurity and Cybercrime Workshop in Latin America & the Caribbean:
Taking Steps to Strengthen Policy, Legislation and Regional Partnerships
Montego Bay, Jamaica, December 3-5, 2019

The Budapest Convention on Cybercrime:

A framework for international cooperation on
cybercrime and electronic evidence ...

... and an opportunity for Latin America and the Caribbean

Alexander Seger, Head of Cybercrime Division, Council of Europe



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The argument

- International cooperation on cybersecurity, cybercrime and electronic evidence is needed
- The Budapest Convention is the most relevant international framework for cooperation in criminal matters in this field
- An increasing number of countries of the Americas is joining this treaty
- Capacity building is an important consideration
- Countries of the Caribbean should consider making more use of this opportunity
- Some countries of this region have domestic legislation in place that would enable them to seek accession already now

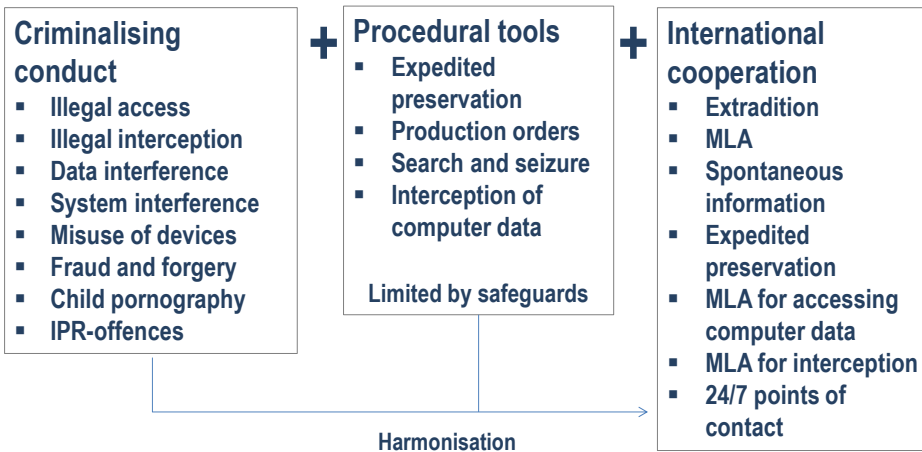
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Functioning of the Budapest Convention



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Scope



Procedural powers and international cooperation for any criminal offence involving evidence on a computer system!

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The Convention remains up-to-date

Protocol on Xenophobia and Racism committed via Computer Systems (2003)

► 32 Parties + 12
Signatories

Guidance Notes on

- Notion of computer systems
- Botnets
- DDOS attacks
- Critical information infrastructure attacks
- Malware
- Spam
- ID theft
- Terrorism
- Transborder access to data (Article 32)
- Production Orders for Subscriber Information (Article 18)
- **New: Election interference**

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The Convention remains up-to-date

Towards a Protocol: Provisions under negotiation

A. Provisions for more efficient MLA

- Emergency MLA
- Joint investigations
- Video conferencing
- Language of requests
- Etc.

Preparation
of the
Protocol:
Sep 2017 –
Dec 2020

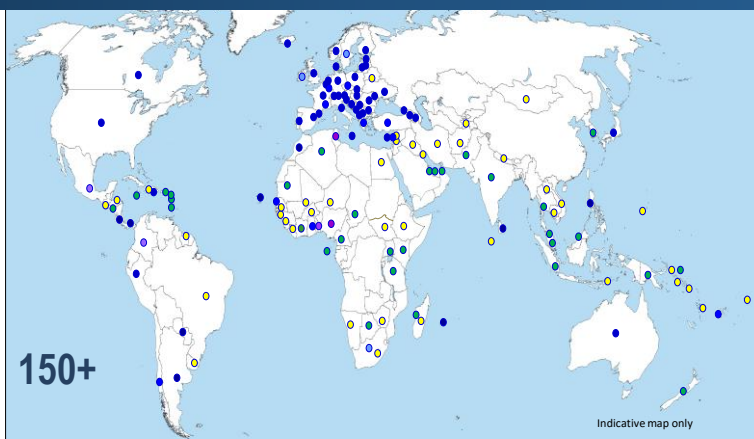
B. Provisions for direct cooperation with providers in other jurisdictions

C. Framework and safeguards for existing practices of extending searches transborder

D. Safeguards/data protection

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Reach of the Budapest Convention



Parties:	64		Other States with laws largely in line with Budapest Convention = 20+	
Signed:	3		Further States drawing on Budapest Convention for legislation = 50+	
Invited to accede:	5			
=	72			

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Capacity building to make an impact ► C-PROC

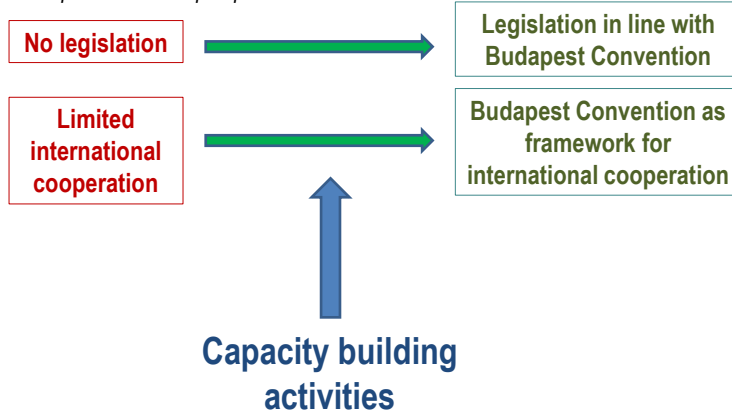
- Cybercrime Programme Office of the Council of Europe in Romania (C-PROC)
 - Responsible for capacity building worldwide
 - Operational since April 2014
 - More than 850 activities involving 120+ countries
 - Strengthening legislation on the basis of the Budapest Convention worldwide
 - Sustainable judicial training programmes on cybercrime and e-evidence
 - Law enforcement training
 - Support to the 24/7 network of contact points of the Budapest Convention
 - Partnerships and synergies
- **Capacity building works and makes an impact**

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Capacity building to make an impact ► C-PROC



Examples from COE perspective:



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An opportunity for LATAM and the Caribbean

Treaty open for accession (article 37)

Phase 1:

- A country with legislation in place or advanced stage
- Letter from Government to CoE expressing interest in accession
- Consultations (CoE/Parties) in view of decision to invite
- Invitation to accede

Phase 2:

- Domestic procedure (e.g. decision by national Parliament)
- Deposit of the instrument of accession

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An opportunity for LATAM and the Caribbean

Parties in the Americas:

- Argentina
- Canada
- Chile
- Costa Rica
- Dominican Republic
- Panama
- Paraguay
- Peru
- USA

Invited to accede:

- Colombia
- Mexico

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An opportunity for LATAM and the Caribbean

Benefits

- ✓ Stronger and more consistent legislation
- ✓ More efficient international cooperation between Parties
- ✓ More investigation, prosecution, adjudication of cybercrime and e-evidence cases
- ✓ Trusted partnerships and public/private cooperation
- ✓ Catalyst for capacity building
- ✓ Better cybersecurity performance
- ✓ Participation in the Cybercrime Convention Committee (T-CY)
- ✓ Participation in future standard setting (Guidance Notes, Protocols and other additions to Budapest Convention)
- ✓ Contribution to human rights/rule of law in cyberspace

“Cost”: Commitment to cooperate

Disadvantages?

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Starting point: domestic legislation ► Situation in Caribbean

Country	Substantive law	Procedural powers	Could consider accession
Antigua and Barbuda	Partial	Largely in place	Yes
Barbados	Largely in place	Largely in place	Yes
Dominica	Partial	Largely in place	Yes
Grenada	Partial	Largely in place	Yes
Guyana	Largely in place	Largely in place	Yes
Jamaica	Largely in place	Largely in place	Yes
Saint Vincent and the Grenadines	Largely in place	Largely in place	Yes

Belize: COE support to bring legislation in line

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Questions?

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