



Cybercrime policies and capacity building in the Eastern Partnership region

International meeting under the CyberCrime@EAP project organised by the Ministry of Justice of Moldova in cooperation with the Council of Europe

Chisinau, Moldova, 12-14 November 2014

T-CY assessment of international cooperation provisions (draft report)

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www.coe.int/cybercrime

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COUNCIL OF EUROPE



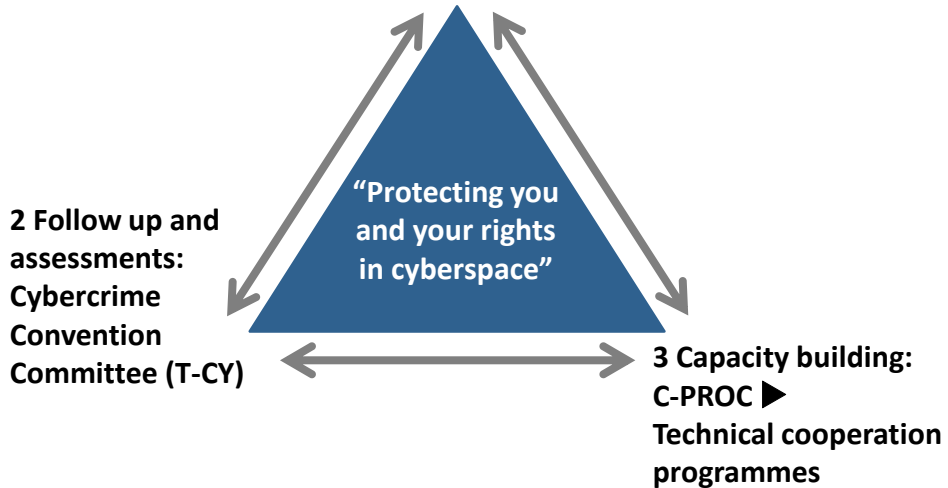
Implemented by the Council of Europe

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COE approach on cybercrime

1 Common standards: Budapest Convention on Cybercrime and relates standards



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## Cybercrime Convention Committee (T-CY)

### Established under Article 46 Budapest Convention

#### Membership

(status March 2014):

- 42 Members (State Parties)
- 20 Observer States
- 10 International organisations (African Union Commission, ENISA, European Union, Europol, INTERPOL, ITU, OAS, OECD, OSCE, UNODC)

#### Functions:

- Assessments of the implementation of the Convention by the Parties
- Guidance Notes
- Draft legal instruments
- Etc.

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## T-CY Assessments in 2013/14

#### 2<sup>nd</sup> round of T-CY Assessments:

Efficiency of international cooperation provisions:

- Article 31 on mutual assistance regarding accessing of stored computer data.
- And related Articles 23, 25, 26, 27, 28 and 35.

Aim:

- Better use of existing provisions
- Additional solutions

#### Procedure and status:

- Questionnaire February 2013.
- Plenary discussions June 2013, Dec 2013, June 2014.
- Revised report to be discussed (adopted) in December 2014.

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## T-CY assessment: preliminary findings

### Overall conclusions

- **MLA process inefficient, many investigations abandoned**
- **Opportunities of existing agreements not yet fully utilised**
- **Data/statistics on MLA not available**

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## T-CY assessment: preliminary findings

### Types of requests

#### Types of data requested:

- 1. Subscriber information (80+%?)**
- 2. Traffic data**
- 3. Content data**

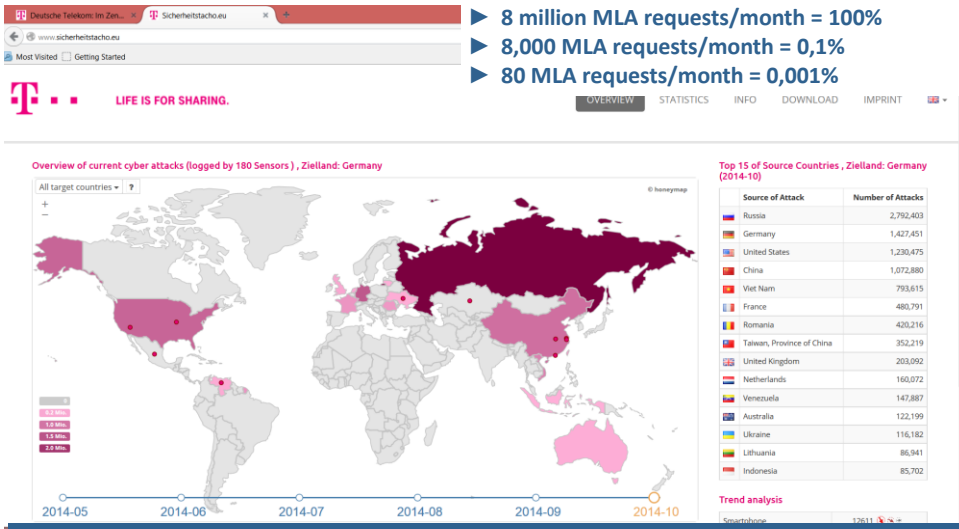
#### Underlying offences

- 1. Fraud and other financial crimes**
- 2. Violent and serious crime (murder, assault, trafficking, child abuse etc.)**
- 3. Offences against computer systems**

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# Food for thought

German Telekom sensors:  
8+ million attacks from abroad in October 2014

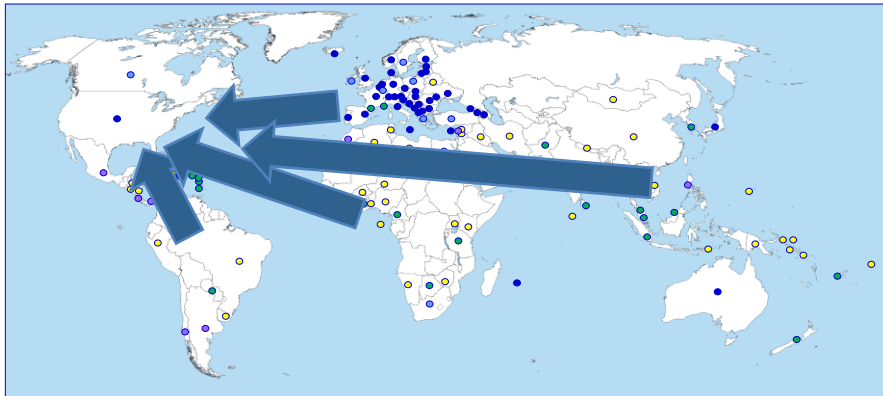


- ▶ 8 million MLA requests/month = 100%
- ▶ 8,000 MLA requests/month = 0,1%
- ▶ 80 MLA requests/month = 0,001%

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# Food for thought

## Mapping requests sent/received



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## T-CY assessment: preliminary findings

### Procedures and requirements

- Often not known, requests incomplete
- No response in minor cases
- Language

### Channels and means of cooperation

- Use of multiple channels and agreements
- Possibility of direct cooperation underused
- Diverse procedures for urgent cases
- Role of 24/7 points of contact often too limited
- Issue of direct cooperation with foreign service providers
- Joint investigation teams (not yet foreseen in Budapest Convention)

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## T-CY assessment: draft recommendations

# Possible solutions?

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## T-CY assessment: draft recommendations

### Recommendations falling under the responsibility of domestic authorities

- **Implement provisions of Budapest Convention**
- **Statistics or other measures to monitor efficiency of the MLA process**
- **More technology-literate staff for MLA**
- **More training**
- **Strengthen 24/7 contact points**
- **Streamline procedures and reduce the number of steps required for MLA at domestic levels**
- **Make use of all available channels for international cooperation**
- **Establish emergency procedures**
- **Confirm receipts of MLA requests**
- **Open domestic investigations upon a foreign request or spontaneous information**
- **Electronic transmission of requests (art. 25.3)**
- **Make sure requests are specific and complete**
- **Consult foreign authorities before sending MLA requests**

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## T-CY assessment: draft recommendations

### Recommendations falling under the responsibility of CoE capacity building programmes

- **Multi-language templates for Article-31 type MLA requests**
- **Online resource on MLA requirements by Parties to Budapest Convention**

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## T-CY assessment: draft recommendations

### Recommendations that may require an Additional Protocol

- Allow for expedited disclosure of subscriber information
- Introduce international production order
- Direct cooperation between judicial authorities
- Directly obtain specified traffic and subscriber information from foreign service providers
- Joint investigations and JITs
- Requests in English language

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## T-CY assessment: draft recommendations

Recommendations to be discussed in view of adoption by T-CY in December 2014.

Q & A

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