



**OAS Meetings of the Ministers of Justice or Attorneys General of the Americas  
 8th Meeting of the Working Group on Cybercrime, 27-28 Feb 2014, Washington DC  
 Agenda item "International legal frameworks"**

## Implementation of the Budapest Convention on Cybercrime

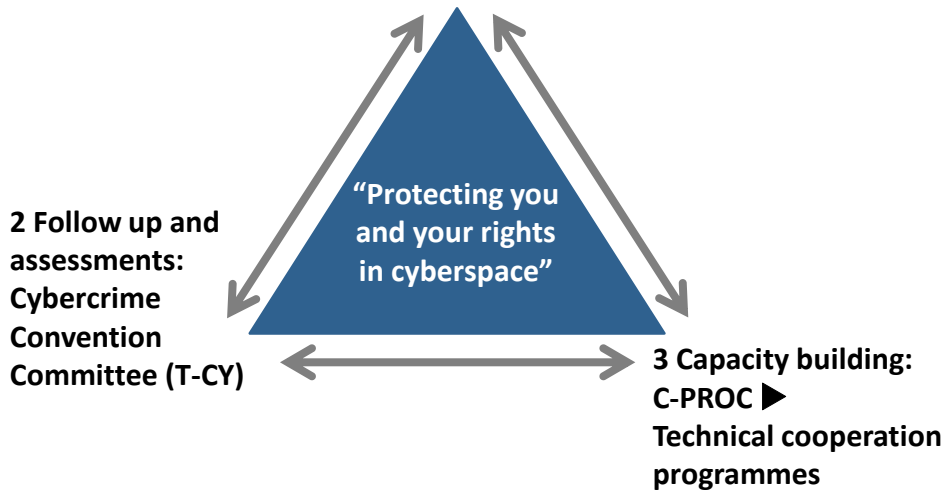
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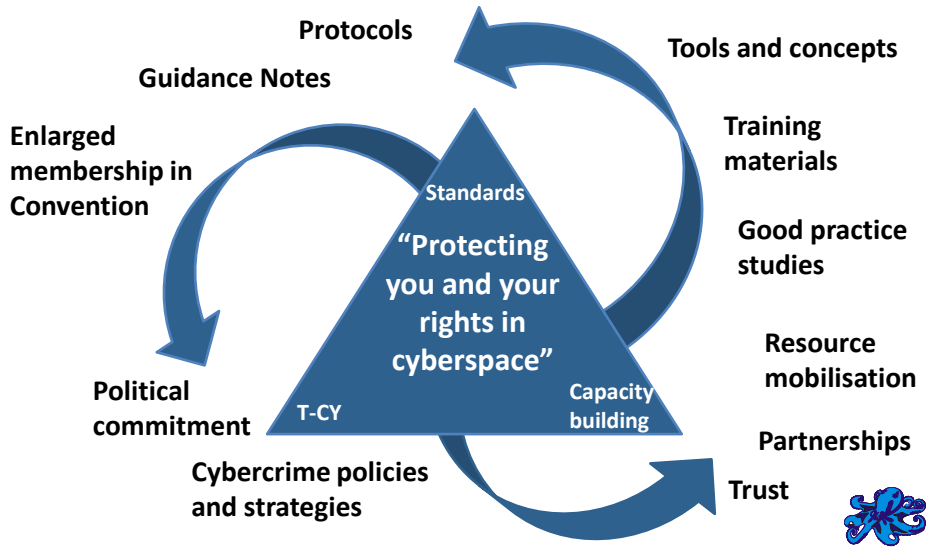


**1 Common standards: Budapest Convention  
 on Cybercrime and relates standards**



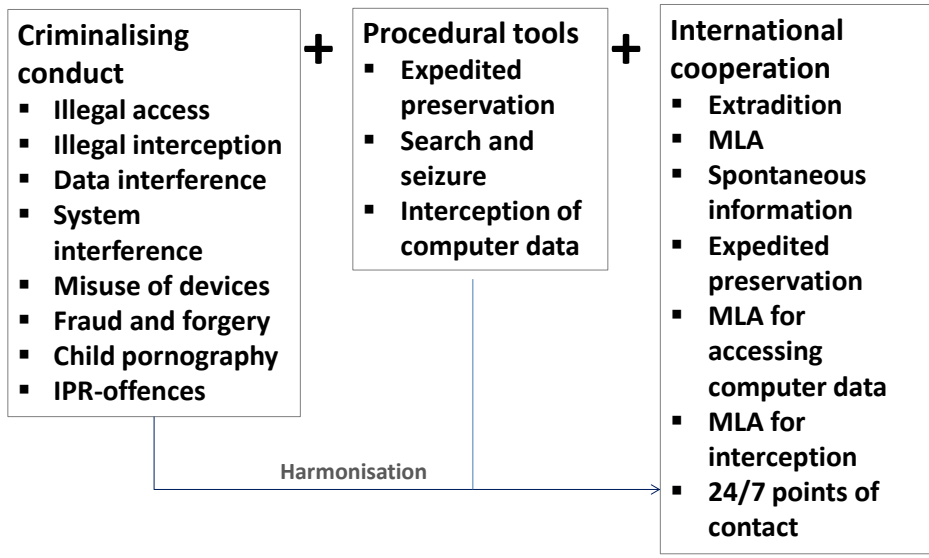
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# A dynamic framework


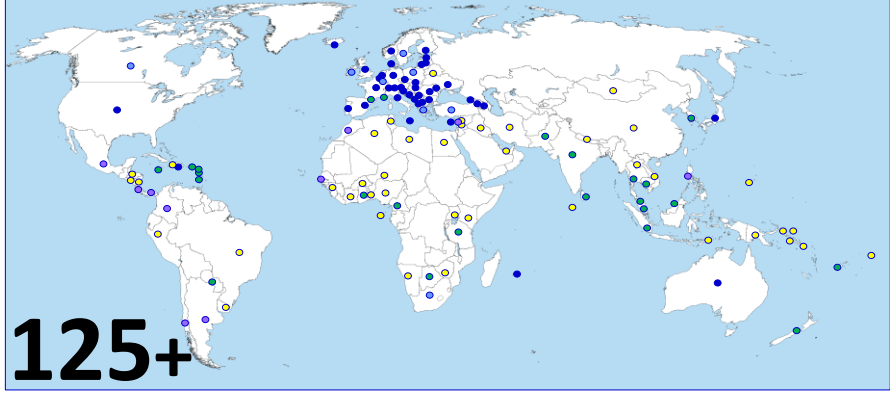
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# Contents of the Budapest Convention

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**Reach of Budapest Convention**





Indicative map only

- Ratified/acceded: 41** ● **Other States with laws/draft laws largely in line with Budapest Convention = 20** ●
- Signed: 11 (incl. 5 EU m/s)** ● **Further States drawing on Budapest Convention for legislation = 43+** ●
- Invited to accede: 10 = 62** ●

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**OAS m/s and the Budapest Convention**



- Parties:**
- Dominican Republic
  - USA
- Signed:**
- Canada

- Invited to accede:**
- Argentina
  - Chile
  - Colombia
  - Costa Rica
  - Mexico
  - Panama

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## Cybercrime Convention Committee (T-CY)



### Established under Article 46 Budapest Convention

#### Membership

(status January 2014):

- 41 Members (State Parties)
- 21 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 Guidance Notes



#### Guidance Notes adopted:

- ✓ Notion of "Computer Systems"
- ✓ Botnets
- ✓ Identity theft
- ✓ DDOS attacks
- ✓ Critical Infrastructure Attacks
- ✓ Malware

#### Guidance Notes under negotiation:

- IP address/Subscriber information
- Article 32 b (Transborder access)

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## T-CY work on transborder access



- Analysis of question of transborder access to data and jurisdiction, including Article 32 since 2009
- T-CY subgroup on Transborder Access established in November 2011 and its report adopted by T-CY in December 2012:
  1. Work on a Guidance Note on the existing Article 32b
  2. Work on an Additional Protocol to the Budapest Convention
- Dialogue with civil society, data protection and industry in 2013.
- T-CY decision December 2013 ► Before commencing negotiation of a Protocol:
  1. Continue dialogue with stakeholders [Conference, June 2014]
  2. Take into account results of T-CY assessment of MLA provisions
  3. Submit proposals regarding a Protocol to 12th Plenary of T-CY (Dec 2014)

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## T-CY Assessments in 2012



### 1<sup>st</sup> round of Assessments (2012):

Implementation of the expedited preservation provisions of the Budapest Convention:

- Article 16 (domestic)
- Article 17 (domestic)
- Article 29 (international)
- Article 30 (international)

Coordinated with EU DG Home work on data retention.

Report adopted in December 2012.

### Findings:

- Much use of general powers to secure data.
- Preservation powers underused.
- Consider specific preservation powers in procedural law.
- Data preservation and data retention are complementary tools, but serve different purposes; are not substitutes for each other.

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# T-CY Assessments in 2013/14



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

- **Article 31 on mutual assistance regarding accessing of stored computer data.**
- **And related Articles 23, 25, 26, 27, 28 and 35.**
- **Issues:**
  - **Frequency of requests and types of data**
  - **Procedures and requirements**
  - **Channels and means of cooperation**
  - **Solutions.**

## Procedure and status:

- **Questionnaire February 2013.**
- **Plenary discussions June 2013 and December 2013.**
- **Revised report to be circulated for comments, consideration and adoption in [June] 2014.**

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# CAPACITY BUILDING ON CYBERCRIME

Council of Europe projects in 2014

**GLACY** EU/COE Joint Project on Global Action on Cybercrime



**Cybercrime@EAP** EU/COE Eastern Partnership (extension)



**Cybercrime@Octopus** (voluntary contribution funded)



To be managed by:

**C-PROC** Cybercrime Programme Office of the Council of Europe  
(Bucharest, Romania)



## CAPACITY BUILDING ON CYBERCRIME

Council of Europe projects in 2014

### **Cybercrime@Octopus workshop on cybercrime legislation**

**Mexico City, 1-2 April 2014**

**For countries invited to accede or  
considering accession to Budapest  
Convention**

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