

Romanian Presidency of the Council of the European Union  
in cooperation with the Council of Europe  
**Conference on Criminal Justice in Cyberspace**  
Bucharest, 25 – 27 February 2019

Session 4 – Criminal Justice in cyberspace: Solutions

## Making better use of what we have: Enhancing the use of the Budapest Convention

Alexander Seger, Council of Europe



[www.coe.int/cybercrime](http://www.coe.int/cybercrime)

1

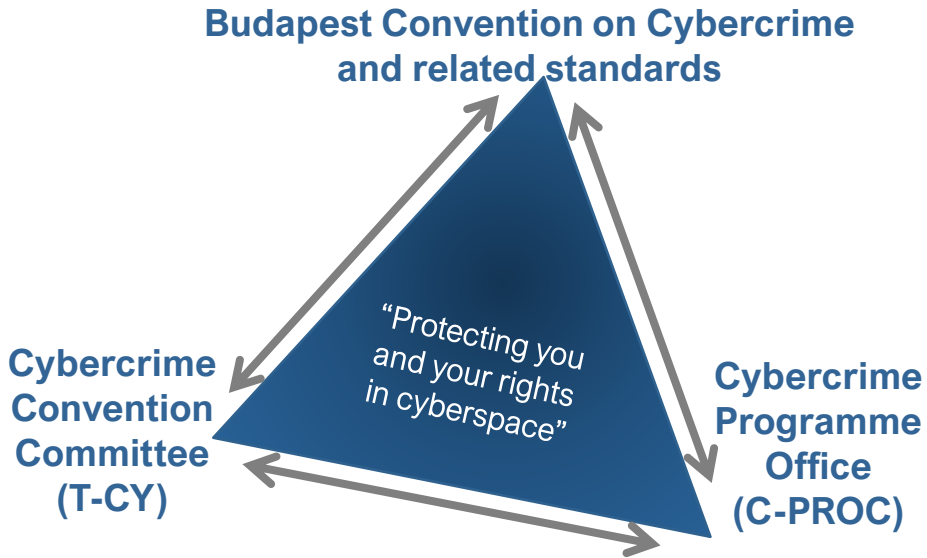


**Council of Europe and cybercrime: WHY?**



2

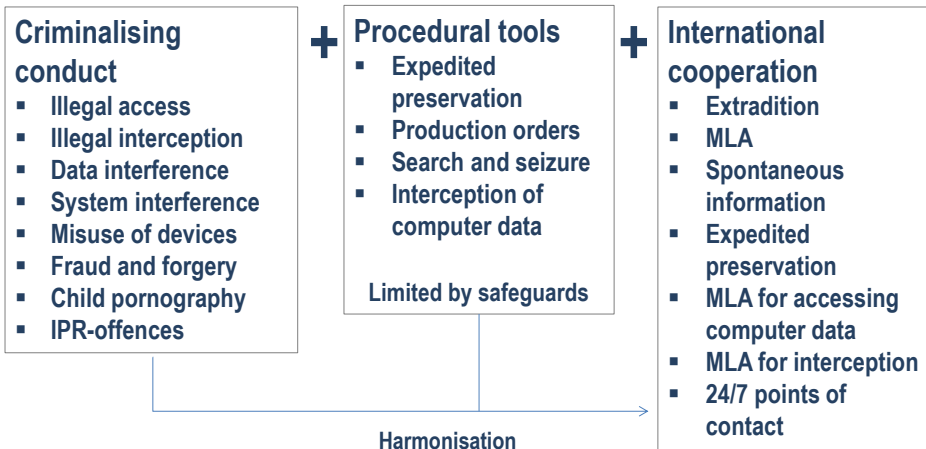
# Council of Europe and cybercrime: HOW?



3

# About the Budapest Convention

## SCOPE



4

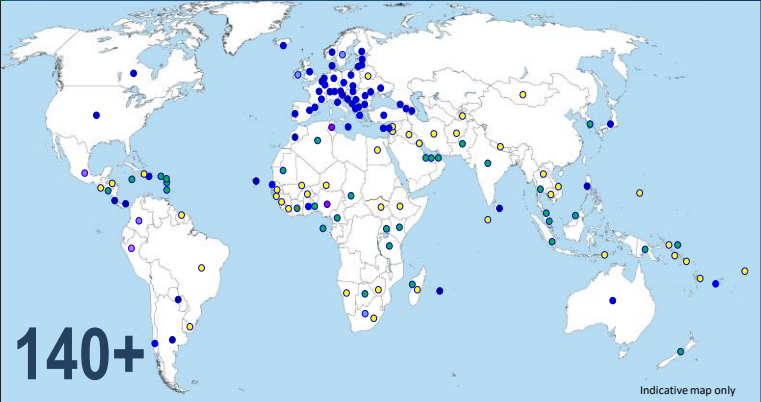
# About the Budapest Convention

## SCOPE

<h3>Cybercrime</h3> <ul style="list-style-type: none"> <li>▶ Offences against computer systems and data</li> <li>▶ Offences by means of computer systems and data</li> </ul>	+	<h3>Electronic evidence</h3> <ul style="list-style-type: none"> <li>▶ Any crime may involve evidence in electronic form on a computer system</li> <li>▶ Needed in criminal proceedings</li> <li>▶ No data, no evidence, no justice</li> </ul>
--	---	---

5

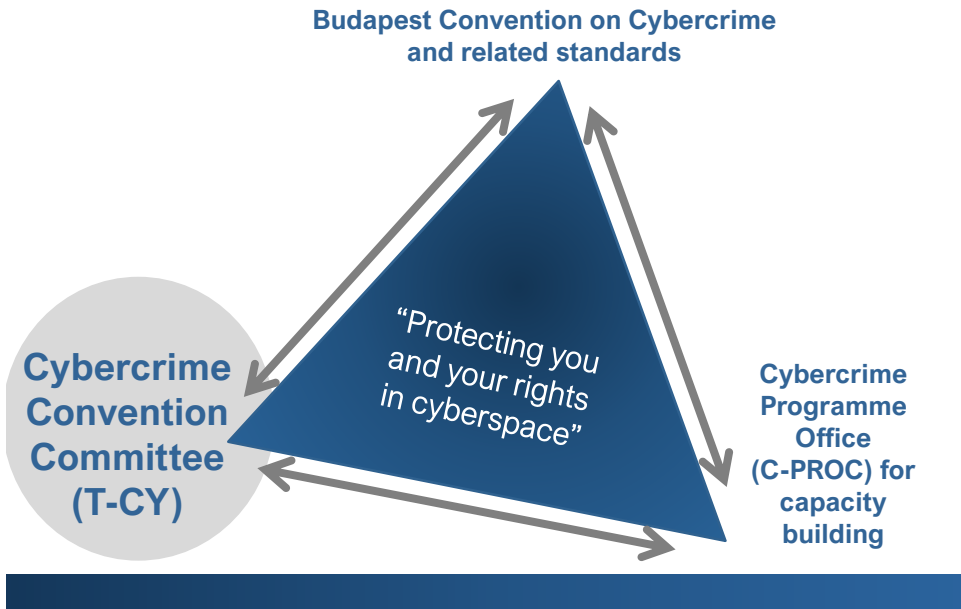
# REACH of the Budapest Convention



Ratified/acceded: 62		Other States with laws/draft laws largely in line with Budapest Convention = 20+	
Signed: 4		Further States drawing on Budapest Convention for legislation = 50+	
Invited to accede: 5 = 71			

6

## About the Cybercrime Convention Committee



7

## Ensuring the functioning of the Budapest Convention

### The Cybercrime Convention Committee (T-CY)

- **62 members (Parties to Convention), 9 observer States, 10 observer organisations (including EUROPOL and INTERPOL)**
- **Plenaries and working groups**
- **Assessing implementation of the Convention by the Parties**
- **Guidance Notes to use existing provision to address new challenges**
- **Preparation of new instruments ► Protocol to the Budapest Convention**

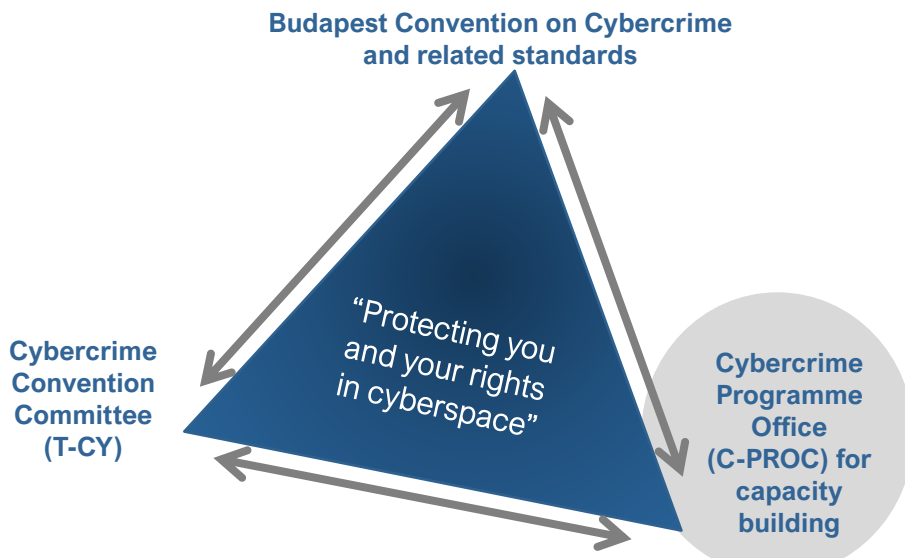
8

## Keeping the Budapest Convention up to date

- ▶ Protocol on Xenophobia and Racisms via Computer Systems (31 Parties + 13 Signatories)
  - ▶ Guidance Notes on
    - Notion of computer systems
    - Botnets
    - Malware
    - Spam
    - Terrorism
    - Transborder access to data (Article 32)
    - Production Orders for Subscriber Information (Article 18)
    - Election interference [in preparation]
  - ▶ Protocol on enhanced international cooperation under negotiation
- = Budapest Convention remains up-to-date and relevant

9

## Capacity building for implementation of the Budapest Convention



10



## C-PROC Programmes

**30 staff running 6 projects with a volume of EU 30 million covering all regions of the world:**

- ▶ **GLACY+** on Global Action on Cybercrime Extended (EU/COE Joint Project)
- ▶ **iPROCEEDS** Targeting proceeds from online crime in South-eastern Europe (EU/COE Joint Project)
- ▶ **Cybercrime@Octopus** resource for global capacity building (voluntary contribution funded)
- ▶ **CyberSouth** for the Southern Neighbourhood (EU/COE Joint Project)
- ▶ **EndOCSEA@Europe** on ending online child sexual exploitation and abuse (funded by WEPROTECT)
- ▶ **CyberEast** for the Eastern Partnership region (EU/COE Joint Project TBC)

11



## Impact to date

- Stronger and more harmonised legislation
  - More efficient international cooperation between Parties
  - Better cybersecurity performance
  - More investigation, prosecution and adjudication of cybercrime and e-evidence cases
  - Trusted partnerships and public/private cooperation
  - Catalyst for capacity building
  - Contribution to human rights/rule of law in cyberspace
- = “Protecting you and your rights in cyberspace”**

12



## Making better use of what we have ...

### QUALITY of implementation

- Implementation of procedural powers by all Parties
- With safeguards (article 15)
- Follow up to T-CY assessment report on MLA
  - Preservation powers
  - Training and resources for MLA
  - 24/7 points of contact
  - Streamlining procedures
  - Use of templates
- Capacity building
- Documenting Budapest Convention in operation

13



## Making better use of what we have ...

### QUANTITY of Parties

- Enlarging membership in Budapest Convention
- Support accession by additional Parties
- Capacity building

14



## Making better use of what we have ...

### Discussion

- How can we make better use of the Budapest Convention in its present form?