



Forum International de la Cybersécurité

Lille, 21 janvier 2014

La Convention de Budapest: quel avenir?

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www.coe.int/cybercrime

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Qualité x quantité = impact





Formule:

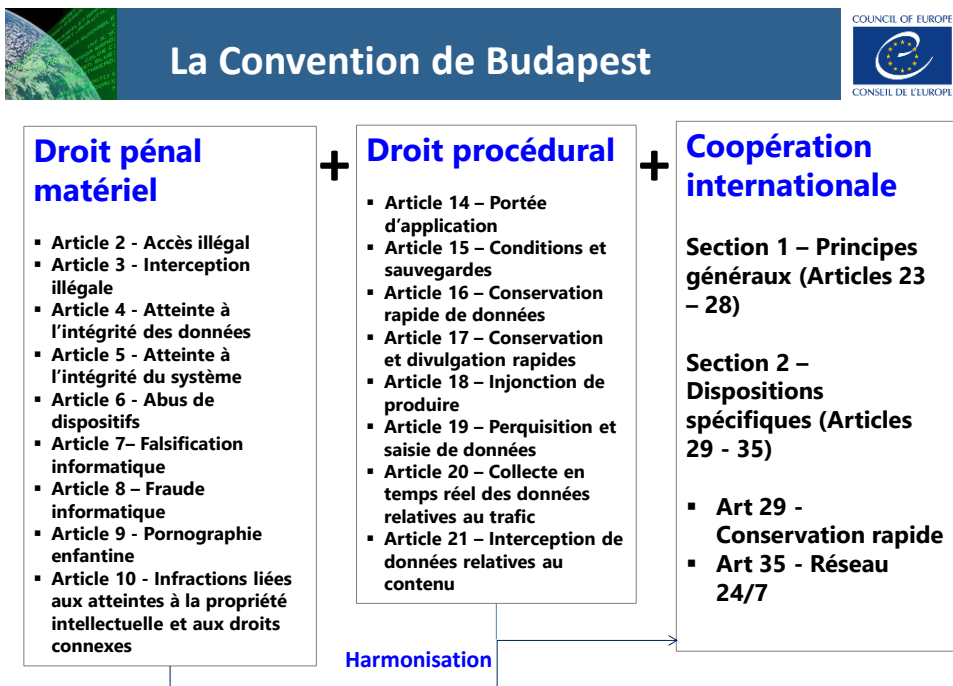
**Qualité (de la Convention et de la mise en oeuvre) X
Quantité (nombre d'Etats qui participent)**

= Impact

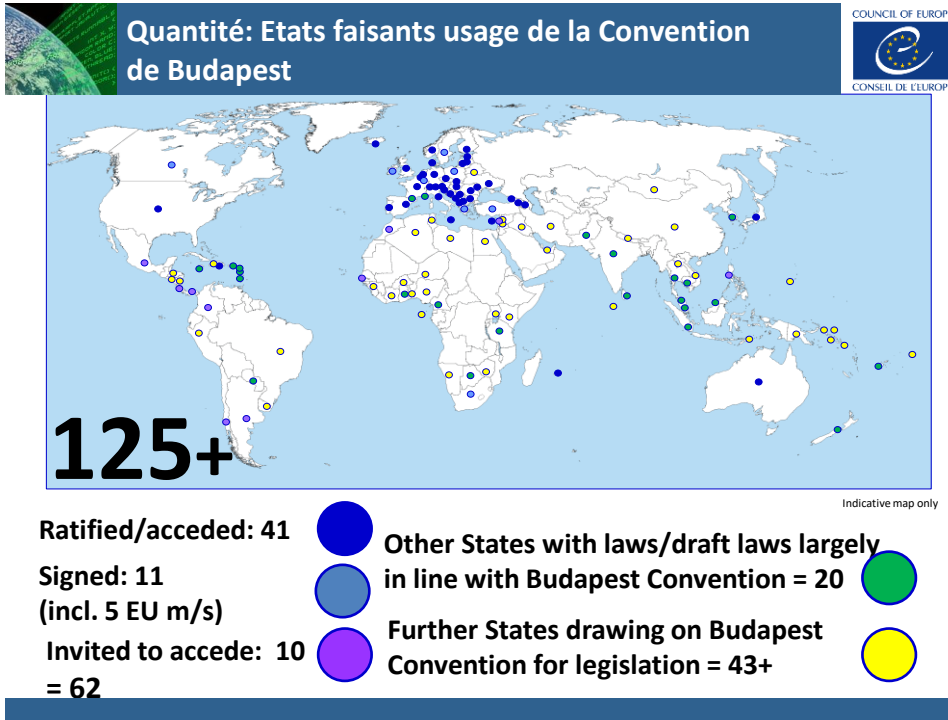
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 Qualité 	
Champ d'application	⇒ Droit matériel + droit procédural + coopération + internationale + preuve électronique pour tous les crimes ⇒ Enquêtes criminales spécifiées uniquement
Substance et contenu	⇒ Specific and comprehensive ⇒ Garanties état de droit/droits de l'homme ⇒ test du temps et la pratique
Fermeté	⇒ Chaque partie doit mettre en place / doit envisager ⇒ Some reservations/declarations possible
Elasticité	⇒ technologiquement neutre ⇒ les éléments de preuve électronique liés à n'importe quel crime ⇒ notes d'orientation ⇒ Protocols
Niveau d'exécution par les Parties	⇒ Législation en place au moment de la ratification/adhésion ⇒ Évaluations faites par le Comité de la Convention sur la cybercriminalité ⇒ Coopération technique pour le renforcement des capacités

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Qualité x quantité = Impact

- **Législation plus forte et plus uniforme de la**
- **Coopération internationale plus efficace entre les Parties**
- **Meilleures performances de la cybersécurité**
- **Plus d'enquête, de poursuivre et de juger des cas de la cybercriminalité et la preuve électronique**
- **Partenariats de confiance et de coopération public/privé**
- **Catalyseur pour le renforcement des capacités**
- **Contribution aux droits de l'homme et de l'état de droit dans le cyberspace**
- **= « Protégeant, vous et vos droits »**

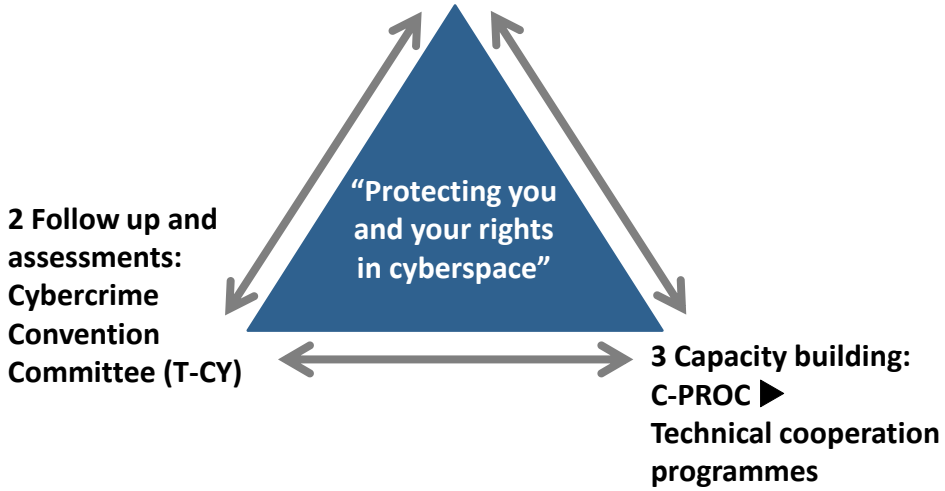
Comment cela a été atteint?

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Fonctionnement de la convention: l'approach du CdE



1 Common standards: Budapest Convention on Cybercrime and relates standards

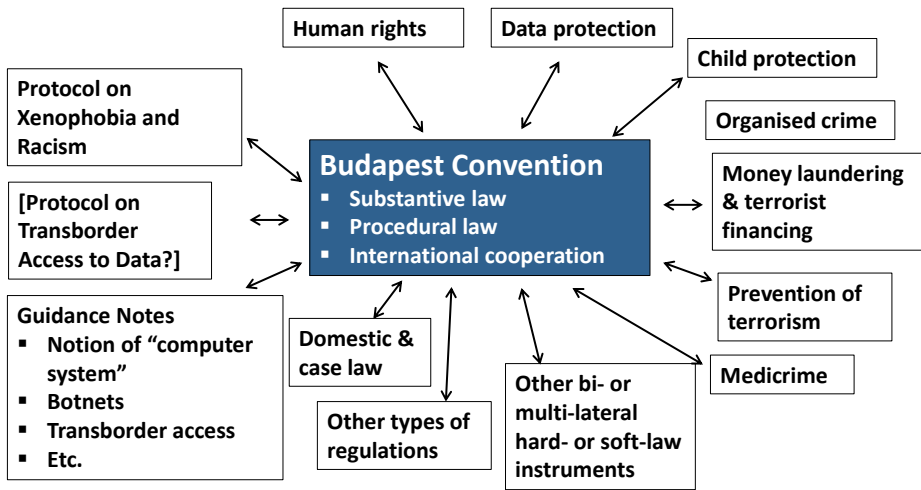


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1 Standards



Budapest Convention and related instruments



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2 Suivi: 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
 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



1st 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



2nd 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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3 Coopération technique pour le renforcement des capacités



Enhance quality of implementation:

- **Cybercrime strategies**
- **Legislation and safeguards**
- **Cybercrime units**
- **Law enforcement training**
- **Judicial training**
- **Financial investigations**
- **Public/private cooperation**
- **International cooperation**

Enhance quantity of Parties:

- **Legislation and policy dialogue to facilitate ratification/accession**

Global and regional projects:

- ▶ **500+ activities with 125+ countries & 130+ organisations and private sector since 2006**
- ▶ **New joint EU/COE project on Global Action on Cybercrime in 2013**
- ▶ **Encouraging other donors to provide assistance to countries in implementing Budapest Convention**

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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)

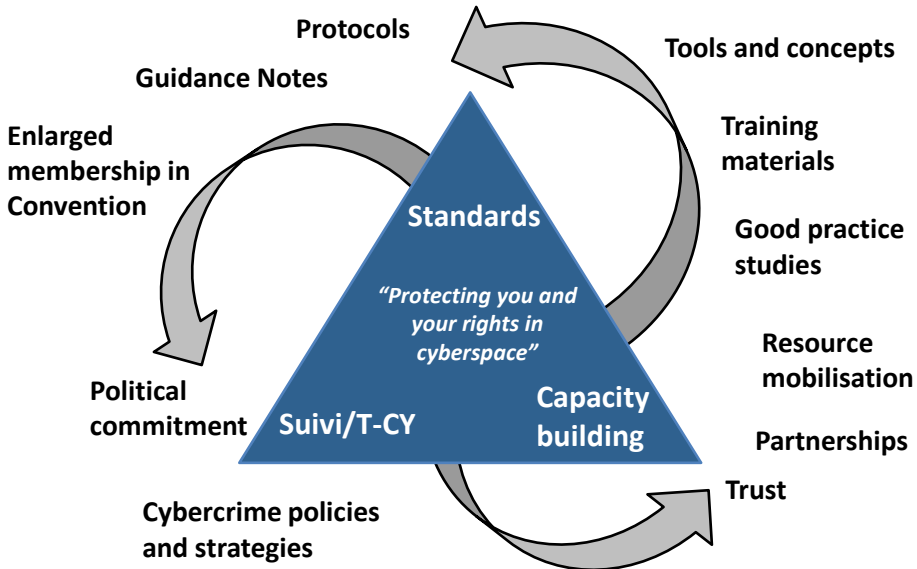


To be managed by:

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

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Un approche/cadre dynamic



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Quel avenir?



Formule: Qualité X Quantité = Impact

- **Evaluations**
- **Notes d'orientation**
- **Protocols**
- **Nombre de pays qui participent**
- **Usage de la Convention**

- **Légitimité: Garanties Etat de droit, droits de l'homme, protection de données**

- **Croissance de la coopération technique**
- **C-PROC offre l'infrastructure**

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