

THE CYBERCRIME CONVENTION COMMITTEE (T-CY)

1st Multilateral Consultation of the Parties

Strasbourg, 20 and 21 March 2006

T-CY mailbox: DG1.cybercrime
T-CY web site: www.coe.int/economiccrime

BRIEF FOREWORD

The T-CY:

- noted the widespread international support for the Convention on Cybercrime [ETS No 185] and indicated that the number of Parties was expected to increase significantly in 2006 and 2007 (see paragraphs 4 to 8 of the report below);
- underlined that the Convention clearly covered not only traditional mainframe or desktop computer systems but also developing forms of technology including modern mobile telephones and personal digital assistants (see paragraphs 9 to 12 below);
- agreed that delegations wishing to raise questions concerning specific provisions of the Convention could send their questions to other delegations for comments (see paragraphs 13 to 16 below);
- recognised the need for States, international organisations, academia and the private sector to continue to work together to fight cybercrime (see paragraphs 17 and 18 below);
- stressed the value of providing technical co-operation and training to requesting States (see paragraphs 19 to 21 and 27 below);
- invited participants to send the Secretariat translations of the Convention (see paragraph 22 below);
- took note of a number of other issues concerning the functioning of the 24/7 network (see paragraphs 23 and 26 below), strengthening co-operation between law enforcement and the private sector (see paragraph 24 below), cyberterrorism (see paragraphs 25 and 28 below), the role of the European Committee on Crime Problems (see paragraphs 29 to 31 below);
- requested States to provide all relevant information before or when becoming Parties to the Convention (see paragraph 26 below);
- made certain proposals concerning the next meeting of the T-CY (see paragraph 32 below).

REPORT

a. Introduction

1. The Cybercrime Convention Committee (T-CY) met in the Palais de l'Europe, Strasbourg on 20 and 21 March 2006. This meeting took place within the framework of Article 46 of the Convention on cybercrime [ETS no 185] (hereinafter "the Convention") which provides that "The Parties shall, as appropriate, consult periodically ..." The meeting was opened by Guy De Vel (Director General of Legal Affairs).
2. The list of participants and the agenda appear in Appendices I and II respectively.
3. Henrik Kaspersen (Netherlands) chaired the meeting and Betty Shave (United States of America) was Vice-Chair.

b. Widespread international support for the Convention

4. The T-CY welcomed the fact that the Convention, which is the only binding international instrument on cybercrime, had received widespread international support and that its provisions were being used by many States in the different regions of the world as a basis for their legislation on cybercrime.
5. It underlined that, in order to fight cybercrime effectively, States in the different regions of the world should be encouraged to become Parties as soon as possible.

c. Future increase in the Parties to the Convention

6. The T-CY noted that the following 12 States were Parties: Albania, Bulgaria, Cyprus, Croatia, Denmark, Estonia, France, Hungary, Lithuania, Romania, Slovenia and "The Former Yugoslav Republic of Macedonia" and that 30 other States had signed the Convention (including South Africa, Canada, United States and Japan).
7. Representatives of all States present, which were not yet Parties, informed the T-CY that their States intended to become Parties as soon as their legislative and other procedures could be completed.
8. Representatives of the following States indicated that they hoped that their States would be able to become Parties either this year or next year (Austria, Germany, Japan, Liechtenstein, Netherlands, Norway, Slovak Republic, Sweden, United States, United Kingdom).

d. Scope of the definition of "computer system"

9. The T-CY considered the scope of the definition of "computer system" in Article 1.a. and agreed that this definition clearly included developing forms of technology that go beyond traditional mainframe or desktop computer systems.

10. Article 1.a. of the Convention defines “computer system” as any “device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data”. The T-CY agreed that this definition includes, for example, modern mobile telephones which are multifunctional and have among their functions the capacity to produce, process and transmit data, such as accessing the Internet, sending e-mail, transmitting attachments such as photographs, and downloading documents.

11. Similarly the T-CY recognised that personal digital assistants, with or without wireless functionality, also produce, process and transmit data.

12. The T-CY underlined that, when these devices perform such functions, they are processing “computer data” as defined by Article 1.b. Furthermore, the T-CY considered that when they perform these functions they create “traffic data” as defined by Article 1.d. Therefore, in processing such data, they are acting as a “computer system” as defined in Article 1.a. The T-CY agreed that this was consistent with the interpretation of “computer system” set forth in the Convention’s Explanatory Report and that the Convention is intended to cover these devices in that capacity.

e. Questions and comments concerning specific provisions of the Convention

13. The T-CY invited any State interested in receiving further information and comments about specific provisions of the Convention to send to the Secretariat any questions they may have on these provisions so that other delegations can send the Secretariat, within one month if possible, any comments they may wish to make.

14. These questions and comments, in English or French, will be sent by e-mail to delegations.

15. A number of delegations indicated that they had sent or would send questions for comments (for example the Russian Federation raised a question concerning Article 32 of the Convention).

16. States were invited to inform the Secretariat of the names and contact details of persons to whom the questions could be sent for comments.

f. Co-operation between States, international organisations, academia and the private sector

17. The T-CY underlined the need for States, International Organisations, academia and the private sector to continue to work together in the fight against cybercrime.

18. The T-CY invited those States which are members of other regional intergovernmental organisations or institutions:

- to co-operate closely with these organisations in order to fight cybercrime and promote the Convention or its provisions in their member States,
- to inform the T-CY about the work concerning cybercrime being carried out in these organisations.

g. The value of technical co-operation

19. The T-CY highlighted the value of providing technical co-operation to requesting States, in particular concerning legislative drafting and assistance (to incorporate the provisions of the Convention into national law, to become Parties to the Convention and to implement its provisions), investigative capacity building and computer forensics.

20. The participants recognised that extensive technical co-operation had already been provided by States, intergovernmental bodies and the private sector and had successfully provided significant assistance to receiving States.

21. Public and private sector donors should be encouraged to make additional resources available to support the broadest possible accession and implementation of the Convention.

h. Translations of the Convention

22. The T-CY invited participants to send to the Secretariat translations of the Convention so that these translations could be included on the website and provide assistance to persons and States requiring such translations.

i. Exchange of views

23. The T-CY held an exchange of views on:

- the functioning of the 24/7 network,
- the proposed Council of Europe project on cybercrime and other on-going activities of technical co-operation,
- activities taking place concerning cybercrime.

j. Strengthening co-operation between law enforcement and the private sector (examples of how the private sector has blocked child pornographic sites)

24. The T-CY took note of the Secretariat memorandum on this subject which, due to time constraints, was not discussed. The T-CY invited participants to send the Secretariat any comments they may have on this document.

k. Cyberterrorism

25. The delegation of the Russian Federation distributed, at the end of the meeting, a paper on cyberterrorism in which, due to time constraints, was not discussed.

This delegation invited participants to send the Secretariat any comments they may have on the paper.

l. Information to be provided by States when becoming Parties to the Convention

26. The T-CY requested States to provide before or when becoming Parties to the Convention all relevant information required under the provisions of the Convention and in particular concerning the point of contact for the 24/7 network under Article 35.

m. Training

27. The T-CY recognised the importance of training (e. g. police, prosecutors, judges and lawmakers) to fight cybercrime and noted that training for persons from different States was available from certain bodies (e.g. the Council of Europe, the European Union, Interpol, the Organisation of American States (OAS)) and certain States (e. g. Canada, France, Japan, Norway, United Kingdom and the United States of America) and that Interpol was compiling information concerning the available training.

n. Moscow Conference

28. The T-CY welcomed the holding, within the framework of the Russian Federation G8-Presidency, of the International Cybercrime and Cyberterrorism Practical Conference which will be held in Moscow on 19 and 20 April 2006.

o. European Committee on crime problems (CDPC)

29. The T-CY took note of the interest of the CDPC in the implementation of the Convention and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems [ETS No 189]. The representative of the CDPC informed the T-CY that the issue of cybercrime would be on the agenda of the next meeting of the CDPC in April 2006.

30. The participants noted that paragraphs 2 and 3 of Article 46 concern the role of the CDPC. In order to ensure that all Parties have the possibility to participate when the CDPC discusses significant matters concerning the Convention, the T-CY recommended the CDPC to ensure that all Parties be invited to participate in such discussions of the CDPC.

31. The T-CY noted that the CDPC would in 2007 conduct a review of all the Convention's provisions (see paragraph 3 of Article 46) and encouraged the CDPC to ensure that its activities take account of cybercrime issues in its work (e.g. prosecutors, police, the Committee of experts in the operation of European Conventions in the penal field (PC-OC)).

p. Next meeting of the T-CY

32. The T-CY agreed to hold its next meeting in 2007, if possible before the CDPC meeting, and to invite:

- a) the Parties to the Convention;
- b) all States which have signed the Convention;
- c) other Council of Europe member and observer States;
- d) representatives from the Parliamentary Assembly of the Council of Europe, the European Committee on Crime Problems (CDPC) and the Steering Committee of the Media and New Communication Services (CDMC);
- e) the following bodies: the European Network and Information Security Agency (ENISA), the European Union (European Commission and Council of the European Union), the International Telecommunication Union (ITU), Interpol, the Organisation for Security and co-operation in Europe (OSCE), the United Nations Office on Drugs and Crime (UNODC).

APPENDIX I

List of participants

PARTICIPATING PARTIES TO THE CONVENTION ON CYBERCRIME / PARTIES PARTICIPANT A LA CONVENTION SUR LA CYBERCRIMINALITE

ALBANIA / ALBANIE

Alion CENOLLI, Director of International Affairs, Ministry of Justice of Albania,
TIRANA, Albania

BULGARIA / BULGARIE

Krassimir BOJANOV, Deputy to the Permanent Representative of Bulgaria to the
Council of Europe, STRASBOURG, France

CROATIA / CROATIE

Jasna DERVIŠ, Deputy to the Permanent representative of Croatia to the Council of
Europe, STRASBOURG, France

DENMARK / DANEMARK

Kristian LAUTA, Trainee, Permanent Representation of Denmark to the Council of
Europe, STRASBOURG, France

ESTONIA / ESTONIE

Evelin LOMAN, Deputy Permanent Representative of Estonia to the Council of Europe,
STRASBOURG

Markko KÜNNAPU, Counsellor, Criminal Policy Department, Ministry of Justice,
TALLINN, Estonia

FRANCE

Frederik ROGGE, Adjoint au Représentant Permanent de la France auprès du Conseil de
l'Europe, STRASBOURG, France

Myriam QUEMENER, Magistrate, Sous-directrice de la justice pénale générale,
Direction des affaires criminelles et des grâces, Ministère de la justice, PARIS, France –
Apologised / Excusée

HUNGARY / HONGRIE

Enikő PETŐHÁZI, Deputy to the Permanent Representative of Hungary to the Council of Europe, STRASBOURG

OTHER PARTICIPANTS / AUTRES PARTICIPANTS

AUSTRIA / AUTRICHE

Susanne KLEIN, Bundesministerium für Inneres - Ministry of the Interior, Abteilung Internationales, Department for International Affairs, VIENNA, Austria

Carmen PRIOR, Judge, Directorate for Penal Legislation, Federal Ministry of Justice, VIENNA, Austria

BOSNIA HERZEGOVINA / BOSNIE-HERZEGOVINE

Aleksandar KOSARAC, Chef du Service pour la co-ordination et el développement des systèmes informatiques, Ministarstvo sigurnosti Bosne I Hercegovine (Ministère de la sécurité de la Bosnie-Herzégovine), SARAJEVO, Bosnie-Herzégovine

CANADA

Gareth SANSOM, Director, Technology and Analysis, Criminal Law Policy Section, Department of Justice, OTTAWA, Ontario, Canada

Eric PETERSSON, Policy Advisor, International Crime and Terrorism Division, Foreign Affairs, OTTAWA, Ontario, Canada

GERMANY / ALLEMAGNE

Malte MERZ, Staatsanwalt, Bundesministerium der Justiz, BERLIN, Germany

JAPAN / JAPON

Yasushi FUKU, Consul (Attorney), Consulate-General of Japan, STRASBOURG, France

LIECHTENSTEIN

Katja GEY, Amt für Auswärtige Angelegenheiten, Office pour les Affaires Etrangères, VADUZ, Liechtenstein

MEXICO / MEXIQUE

Guillermo VALLS, Legal Attaché for the European Union and Switzerland, Mexico's General Attorney Office, MADRID, Spain

MONACO

Pierre BROUTIN, Capitaine-Inspecteur à la Direction de la Sûreté Publique, MONACO

Cindy FILIPPI, Administrateur, Département des Relations Extérieures, MONACO

NETHERLANDS / PAYS-BAS

Henrik W. K. KASPERSEN, Chair of the Committee, Director Computer/Law Institute, AMSTERDAM, The Netherlands

NORWAY / NORVEGE

Magnar AUKRUST, Deputy Director general, Police Department, Ministry of Justice, OSLO, Norway

Inger Marie SUNDE, Senior Adviser, Ministry of Justice, OSLO, Norway

PORTUGAL

Pedro VERDELHO, Prosecutor, Centre for Judicial Studies, LISBOA, Portugal

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Alexander ZMEYEVSKIY, Director, Department on New Challenges and Threats, Ministry of Foreign Affairs, MOSCOW, Russian Federation

Sofia ZAKHAROVA, Third Secretary, Department on New Challenges and Threats, Ministry of Foreign Affairs, MOSCOW, Russian Federation

Yulia GRISHINA, Attachée, Department on New Challenges and Threats, Ministry of Foreign Affairs, MOSCOW, Russian Federation

Valeriy POPOV, Federal Security Service, MOSCOW, Russian Federation;

Alexey POLKOVNIKOV, Federal Security Service, MOSCOW, Russian Federation;

Dmitriy SUBBOTKIN, Administration of the President of the Russian Federation, MOSCOW, Russian Federation

Aslan YUSUFOV, Senior Prosecutor, Legal Department, Office of the Prosecutor General of the Russian Federation, MOSCOW, Russian Federation

SWEDEN / SUEDE

Gunnel LINDBERG, Director, Ministry of Justice, Division of Penal Law, STOCKHOLM, Sweden

SWITZERLAND / SUISSE

Ernst GNAEGI, Head of the International Criminal Law Section, Federal Office of Justice, BERN, Switzerland

TURKEY / TURQUIE

Özger SEZEN, Chief Legal Adviser, Radio and TV Supreme Board, ANKARA, Turkey

Soner BASLI, Expert, Radio and TV Supreme Board, ANKARA, Turkey

UNITED KINGDOM / ROYAUME-UNI

Tim WRIGHT, Computer Crime Team, Specialist Crime 2, Home Office, LONDON, United Kingdom

UNITED STATES OF AMERICA / ETATS-UNIS D'AMÉRIQUE

Betty SHAVE, **Vice-Chair of the Committee**, Assistant Deputy Chief for International Computer Crime, Intellectual property Section, US Department of Justice, WASHINGTON, DC

Howard W. COX, Trial Attorney, Computer Crime & Intellectual Property Section, Department of Justice, WASHINGTON, DC

David BUCHHOLZ, Attorney Adviser, Office of the Legal Adviser, US Department of State, WASHINGTON DC, United States of America

EUROPEAN COMMITTEE ON CRIME PROBLEMS / COMITE EUROPEEN POUR LES PROBLEMES CRIMINELS (CDPC)

Branislav BOHÁČIK, Deputy Chair of the CDPC, Director – Division for Judicial Co-operation in Criminal Matters, Ministry of Justice, BRATISLAVA, Slovak Republic

COMITE DIRECTEUR SUR LES MEDIAS ET LES NOUVEAUX SERVICES DE COMMUNICATION / STEERING COMMITTEE ON THE MEDIA AND NEW COMMUNICATION SERVICES (CDMC)

Lee HIBBARD, Media Division, Directorate General of Human Rights, STRASBOURG, France

INTERNATIONAL TELECOMMUNICATION UNION (ITU) / UNION INTERNATIONALE DES TELECOMMUNICATIONS (UIT)

Robert SHAW, Deputy Head, Strategy and Policy Unit, International Telecommunication Union (ITU), GENEVA, Switzerland

INTERPOL

Bernhard OTUPAL, INTERPOL, IPSG, Financial & High Tech Crime Unit, LYON, France

ORGANISATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE) / ORGANISATION POUR LA SECURITE ET LA COOPERATION EN EUROPE (OSCE)

Nemanja MALISEVIC, Assistant Programme Officer, OSCE Secretariat, Action against Terrorism Unit, VIENNA, Austria

UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC) / OFFICE CONTRE LA DROGUE ET LE CRIME (UNODC)

Gillian MURRAY, Crime Prevention and Criminal Justice Officer, Crime Conventions Sections, United Nations Office on Drugs and Crime, VIENNA, Austria

T-CY – Contacts

Website: www.coe.int/economiccrime

Mailbox: DG1.cybercrime

Telephone number of the T-CY Secretariat: +33 3 90 21 50 35

Guy DE VEL, Director General of Legal Affairs

Margaret KILLERBY, Head of the Department of Crime Problems

Alexander SEGER, Head of the Technical Co-operation Section Unit, Department of Crime Problems

Denis BRIBOSIA, Administrator, Economic Crime Section, Department of Crime Problems

Christophe SPECKBACHER, Administrator, Department of Crime Problems

Karin JOHANSSON, Administrator, Department of Crime Problems

Sophie NESFIELD, Trainee, Department of Crime Problems

Anna SMONIG, Trainee, Private Law Department

Dominique WULFRAN, Assistant, Department of Crime Problems

TECHNICAL CO-OPERATION CONSULTANTS FOR CYBERCRIME /
CONSULTANTS COOPERATION TECHNIQUE POUR LA
CYBERCRIMINALITE

Stein SCHJOLBERG, Chief Judge, MOSS, Norway

Amanda HUBBARD, OSLO, Norway

INTERPRETERS / INTERPRETES

Sally BAILEY

Nicolas GUITTONNEAU

Christopher TYCZKA

APPENDIX II

Agenda

1. Opening of the meeting
2. Election of the Chair and Vice-Chair
3. Signature, ratification and accession of the Convention on cybercrime [ETS No 185]
4. Exchange of views on:
 - questions and comments concerning specific provisions of the Convention
 - co-operation between States, international Organisations, academia and private sector
 - the value of technical co-operation and training
 - other matters
5. Next meeting of the Cybercrime Convention Committee (T-CY)

Documents

See the T-CY website: www.coe.int/economiccrime