

**United Nations Intergovernmental Expert Group on Cybercrime**

**Vienna, 3-5 April 2018**

**Panel on legislation and legal frameworks**

**Legislation and legal frameworks on cybercrime and**

**electronic evidence:**

**Some comments on developments**

**2013 – 2018**

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## **Lessons learnt since 2013:**

# **Existing international instruments offer an effective basis for international cooperation on cybercrime and electronic evidence**

- **UNTOC and its Protocols ► mechanisms for international legal cooperation to combat transnational crime, including cybercrime**
- **The Budapest Convention on Cybercrime ► Guideline for developing comprehensive domestic legislation and framework for international cooperation**
- **Gaps to be resolved through domestic legislation**
- **Lack of criminal justice capacities often cause for delays in adopting and applying legislation**

## **Good progress 2013 - 2018 in terms of legislation with more “harmonisation”/consistency and less fragmentation**

- **Nearly half of UN Member States now have substantive criminal law provisions largely in place**
- **Domestic substantive legislation more consistent with international standards such as the Budapest Convention**
- **Regarding procedural powers more efforts are necessary**
- **Powers to be delimited by conditions and safeguards**
- **Main problem ► many States do not have the necessary criminal justice capacity to apply legislation in practice**
- **Further reforms and capacity building needed**

# Some 90% of UN Member States have undertaken or commenced reforms of legislation on cybercrime and electronic evidence in recent years

## ► Guidance and support required now rather than in future

|              | States     | Reforms underway or in recent years* |            |                 |            |
|--------------|------------|--------------------------------------|------------|-----------------|------------|
|              |            | By January 2013                      |            | By January 2018 |            |
| All Africa   | 54         | 25                                   | 46%        | 45              | 83%        |
| All Americas | 35         | 25                                   | 71%        | 31              | 89%        |
| All Asia     | 42         | 34                                   | 81%        | 37              | 88%        |
| All Europe   | 48         | 47                                   | 98%        | 48              | 100%       |
| All Oceania  | 14         | 12                                   | 86%        | 12              | 86%        |
| <b>All</b>   | <b>193</b> | <b>143</b>                           | <b>74%</b> | <b>173</b>      | <b>90%</b> |

\* Data based on cursory review of the state of cybercrime legislation prepared by the Cybercrime Programme Office of the Council of Europe in Romania

# The Budapest Convention has guided or inspired legislation in a majority of UN Member States

**By January 2018:**

- **71 States (37% UN Members) were Parties, Signatories or had been invited to accede**
- **More than 70% of UN Members seemed to have used this treaty as a guideline or source of inspiration**
- ▶ **Budapest Convention serves as the global guideline for domestic legislation**

## **Budapest Convention is functioning in practice and remains up to date because it is backed up by the Cybercrime Convention Committee (T-CY) and capacity building activities**

- **By January 2018, 71 States were members or observers in the Cybercrime Convention Committee (T-CY)**
  - **T-CY assessments to improve the quality of implementation and share good practices**
  - **Guidance Notes (botnets, SPAM, ID Theft, CIIP attacks, malware, terrorism) show how the Convention can be used to address new phenomena and thus remain up to date**
  - **Work on a new Protocol on enhanced international cooperation to address the problem of evidence in foreign, multiple or unknown jurisdictions (in the “cloud”)**
  - **Dedicated Cybercrime Programme Office of the Council of Europe (C-PROC) in Romania for worldwide capacity building activities to support implementation of Convention and follow up to T-CY recommendations**
- ▶ **A dynamic framework for cooperation**

# Conclusions

- **Good progress since 2013 and increased consistency in terms of substantive criminal legislation on cybercrime worldwide where Budapest Convention was used as a guideline**
- **More reforms required regarding specific procedural powers and safeguards**
- **Positive momentum of reforms worldwide ► to be supported**
- **Increasing capacity building programmes and initiatives since 2013 ► to be expanded and sustained**
- **Budapest Convention + Cybercrime Convention Committee + capacity building ► Framework functioning in practice**
- **Budapest Convention remains up-to-date ► technology-neutral ► Guidance Notes**
- **Work on an additional Protocol underway**
- **Participating experts to share experience on legislation, legal frameworks and capacity building**