

CTO Cyber Security Forum 2013

Yaoundé, Cameroon, 25 April 2013

Workshop on the

Budapest Convention on Cybercrime

**⇒ What is the Budapest
Convention?**

⇒ What impact?

⇒ What benefits for Africa?

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www.coe.int/cybercrime

About the Budapest Convention

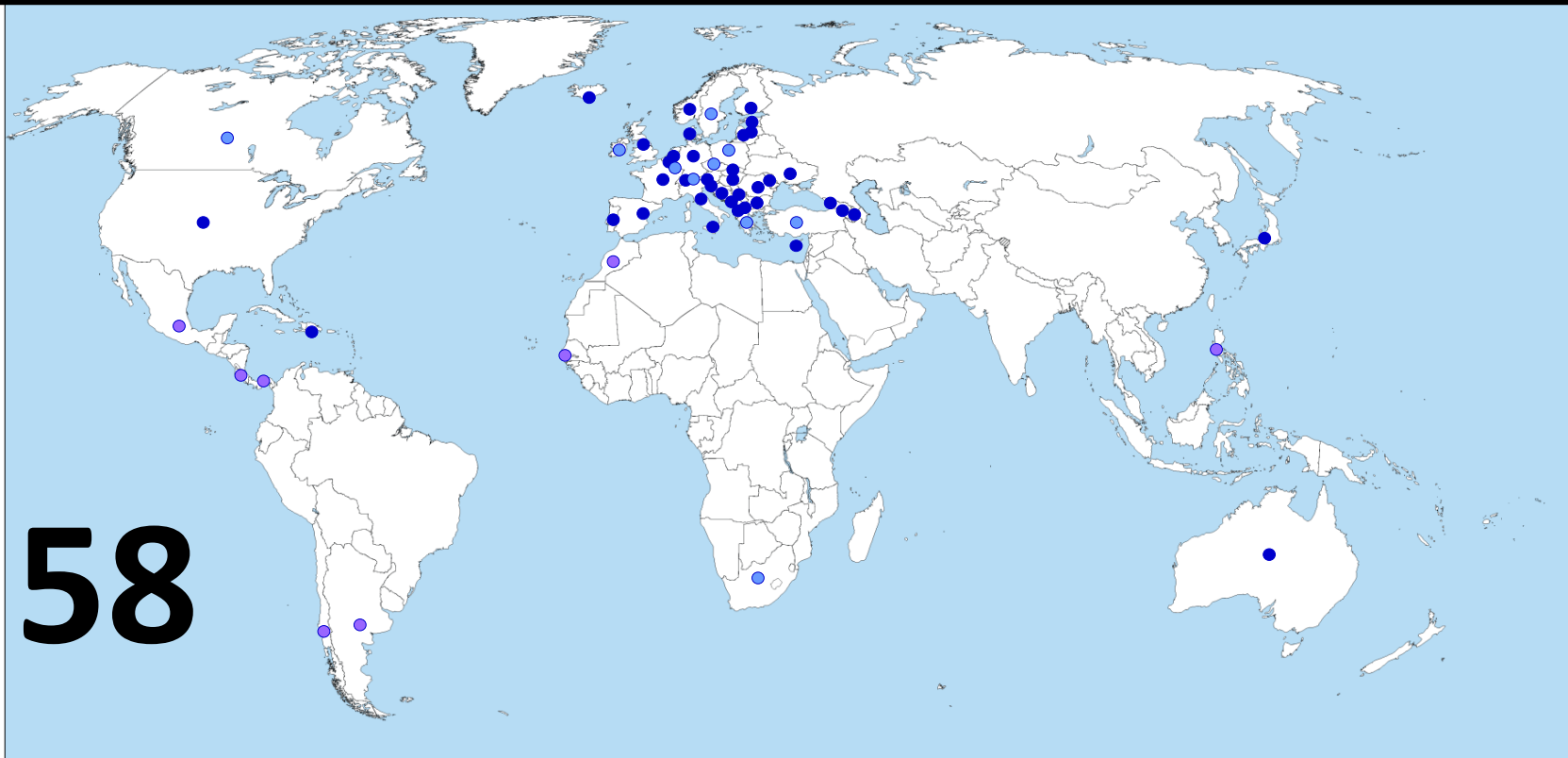
Opened for signature November 2001 in Budapest

Followed by Cybercrime Convention Committee (T-CY) = Committee of the Parties

As at December 2012:

- **39 parties (35 European, Australia, Dominican Republic, Japan and USA)**
 - **11 signatories (European, Canada, South Africa)**
 - **8 states invited to accede (Argentina, Chile, Costa Rica, Dominican Republic, Mexico, Panama, Philippines, Senegal)**
- = 58 states are parties/are committed to become parties**
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- **Additional invitations to accede are in process**
 - **Many more have used Budapest Convention as a guideline for domestic legislation**

About States participating in Budapest Convention

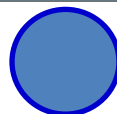


Ratified/acceded: 39



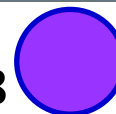
- 35 European
- Australia
- Dominican Republic
- Japan
- USA

Signed: 11



- 9 European
- Canada
- South Africa

Invited to accede: 8



- Argentina
- Chile
- Costa Rica
- Mexico
- Morocco
- Panama
- Philippines
- Senegal

About joining the Budapest Convention

Treaty open for accession by any State (article 37)

Phase 1:

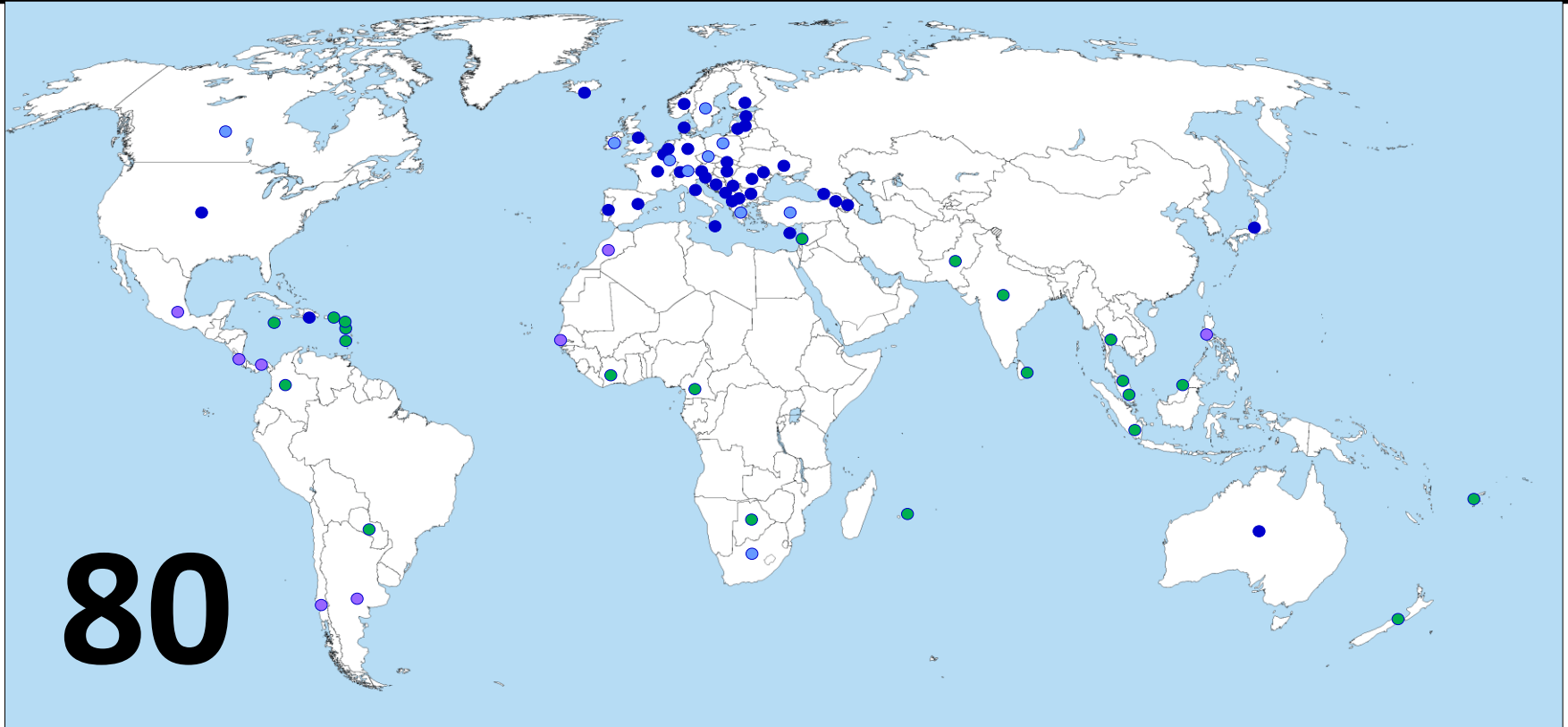
- If a country has legislation in place or advanced stage: Letter from Government to CoE expressing interest in accession
- Consultations (CoE/Parties) in view of decision to invite
- Invitation to accede

Phase 2:

- Domestic procedure (e.g. decision by national Parliament)
- Deposit the instrument of accession at the Council of Europe

- ▶ Acceded: Australia, Dominican Republic
- ▶ Invited: Argentina, Chile, Costa Rica, Mexico, Panama, Philippines, Senegal

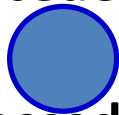
States that could seek accession



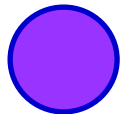
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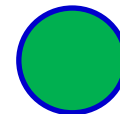


= 58

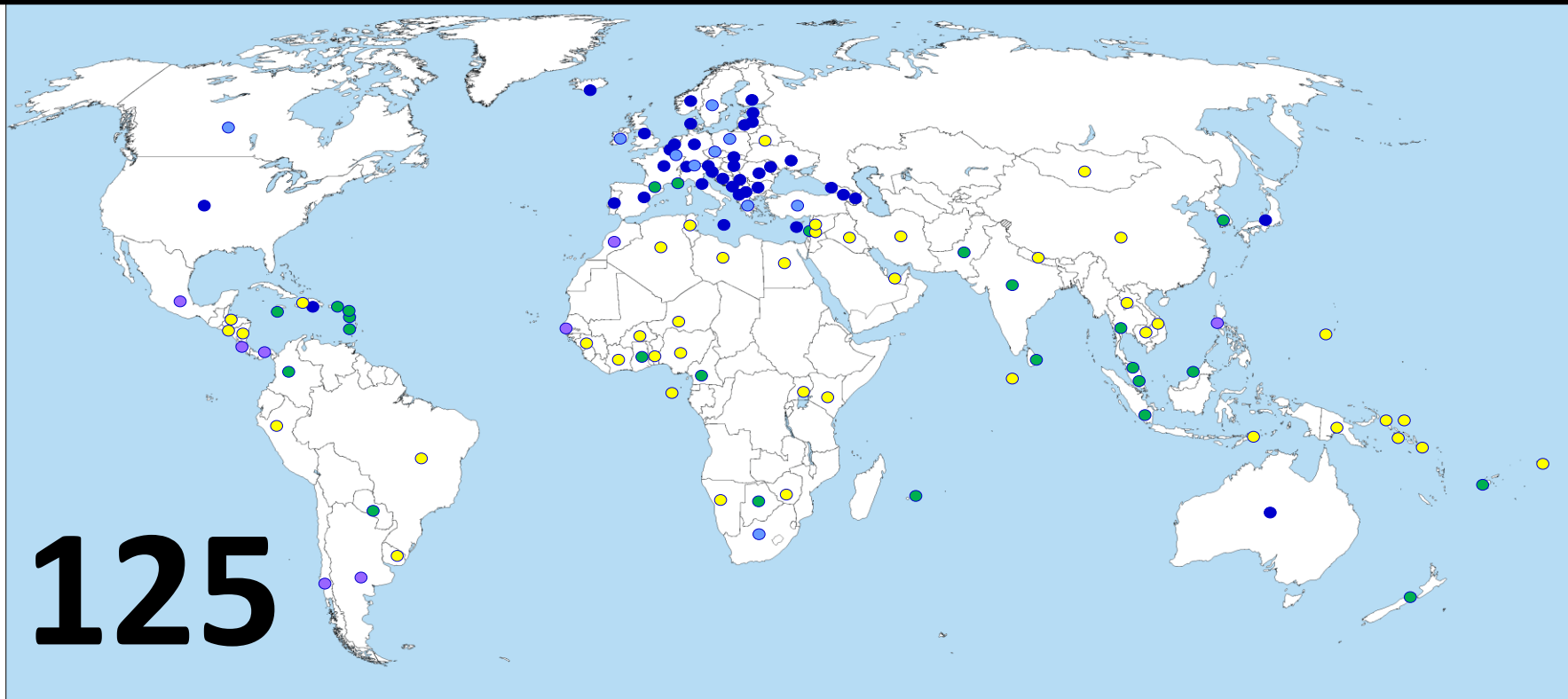
Other States with laws/draft laws
largely in line with Budapest

Convention:

= at least 22



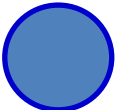
States using Budapest Convention



125

Indicative map only

Ratified/acceded: 39 

Signed: 11 

Invited to accede: 8 
= 58

Other States with laws/draft laws largely
in line with Budapest Convention = 22 

Further States drawing on Budapest
Convention for legislation = 45 

About the scope of Budapest Convention

Criminalising conduct

- **Illegal access**
- **Illegal interception**
- **Data interference**
- **System interference**
- **Misuse of devices**
- **Fraud and forgery**
- **Child pornography**
- **IPR-offences**

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Procedural tools

- **Expedited preservation**
- **Search and seizure**
- **Interception of computer data**

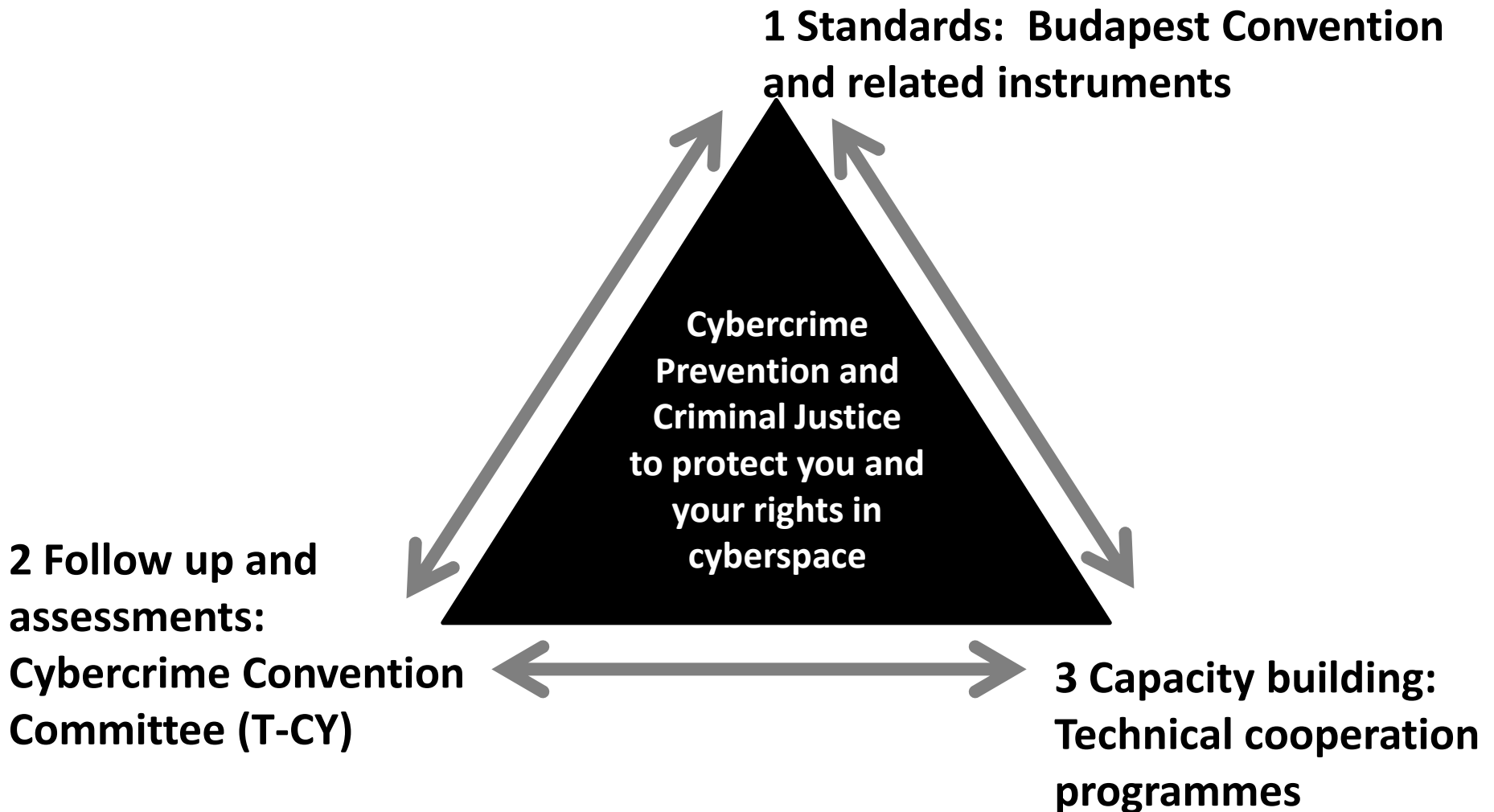
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International cooperation

- **Extradition**
- **MLA**
- **Spontaneous information**
- **Expedited preservation**
- **MLA for accessing computer data**
- **MLA for interception**
- **24/7 points of contact**

Harmonisation

Functioning of the Budapest Convention



Budapest Convention as a guideline

- Use as “checklist”
- Compare articles

Articles of the
Convention

Provisions in
domestic law

Art 4 System
interference

?

Art 6 Misuse of
devices

?

Art 9 Child
pornography

?

Art 16
Expedited
preservation

?

See country profiles at

www.coe.int/cybercrime

www.coe.int/cybercrime

Budapest Convention as a guideline

Example: Loi relative à la cyber sécurité et à la cybercriminalité au Cameroun (2010)

Article	Budapest Convention	Law of Cameroon
Art. 1	Definitions	Article 4
Art. 2	Illegal access	Article 68 , 69
Art. 3	Illegal interception	Article 65, 84
Art. 4	Data interference	Article 71
Art. 5	System interference	Articles 66, 67, 70
Art. 6	Misuse of devices	Article 86

Budapest Convention as a guideline

Example: Loi relative à la cyber sécurité et à la cybercriminalité au Cameroun (2010)

Article	Budapest Convention	Law of Cameroon
Art. 7	Computer-related forgery	Article 73
Art. 8	Computer-related fraud	Article 72
Art. 9	Child pornography	Articles 76, 80, 81
Art. 10	IPR offences	
Art. 11	Attempt, aiding, abetting	
Art. 12	Corporate liability	

Budapest Convention as a guideline

Example: Loi relative à la cyber sécurité et à la cybercriminalité au Cameroun (2010)

Article	Budapest Convention	Law of Cameroon
Art. 15	Conditions and safeguards	
Art. 16	Expedited preservation	? (Data retention 10 years)
Art. 17	Expedited preservation and partial disclosure of traffic data	-
Art. 18	Production order	Article 57
Art. 19	Search and seizure	Articles 53-59
Art. 20	Real-time collection traffic data	Article 25
Art. 21	Interception of content data	Articles 49-51
Art. 22	Jurisdiction	

Protecting children: criminal law benchmarks

Lanzarote Convention

- ▶ **Substantive criminal law**
 - Art 18 Sexual abuse
 - Art 19 Child prostitution
 - Art 20 Child pornography
 - Art 21 Child participation in pornographic performances
 - Art 22 Corruption of children
 - Art 23 Solicitation of children for sexual purposes



Budapest Convention

- ▶ **Substantive criminal law**
 - Article 9 Child pornography
- ▶ **Procedural law (scope and specific provisions)**
 - Expedited preservation
 - Search and seizure
 - Interception
 - etc
- ▶ **International cooperation (general and specific provisions)**

Capacity building

Capacity building: Technical cooperation programmes

Focus on:

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

Council of Europe 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**

Effectiveness/Impact of the Budapest Convention

- 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”

The Budapest Convention is in place and functioning.

Obstacles:

1. Limited criminal justice capacities
2. Political disagreements

Benefits for Africa

Benefits

- ✓ Trusted and efficient cooperation with other Parties
- ✓ Participation in the Cybercrime Convention Committee (T-CY)
- ✓ Participation in future standard setting (Guidance Notes, Protocols and other additions to Budapest Convention)
- ✓ Enhanced trust by private sector
- ✓ Technical assistance and capacity building

“Cost”: Commitment to cooperate

Disadvantages?

Contact for follow up

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Convention Committee (T-CY)
Council of Europe
Strasbourg, France**

www.coe.int/cybercrime