

# The Council of Europe and Cybersecurity

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# Council of Europe

- 47 Member States
- Build around Rome Treaty 1950
  - Rule of Law
  - Human rights
- International co-operation
  - Numerous areas:
    - From Racism and Data protection to Trafficking in human beings and Terrorism
  - Standing Tradition of Treaty Making: over 200
  - Ample experience International Criminal Law
    - Extradition
    - Mutual Assistance
    - Transfer of Proceedings
    - Recognition of foreign court decisions





# 2001: Cybercrime Convention

- Ambit of global aspiration
  - USA, Canada, Japan, South-Africa
  - Signatories:
    - Includes European Union
    - Includes G7
  - Signatories: 44, of which
  - Ratifications: 23
    - Potentially one of the Best Performing CoE Treaties



# More global aspiration

- Model Law Function
- Accession by Third Parties
  - Wide range of potential Parties
    - **Costa Rica, Mexico, Philippines have been invited to accede**
    - **Legislative amendments (about to be) adopted in many other countries inspired by the Convention (Argentina, Brazil, Caribbean countries, Colombia, Dominican Republic, Egypt, India, Indonesia, Nigeria, Philippines, Sri Lanka etc.)**  
**Accession to the Convention under consideration**
  - Assistance by CoE
  - Requests for Accession
  - Consent of Sitting Parties





# Aims of the Cybercrime Convention

- Harmonisation of substantive criminal law
  - No data havens!
  - Dual criminality
  - Cybercrime in narrow sense
  - Cybercrime in broader sense
- Harmonisation of investigative powers
  - *Capacity* to collect electronic evidence
  - Preservation power
  - Production of data, including traffic data
  - Internet surveillance



# Aims CCC- cont'd

- International co-operation
  - On the basis of the Convention
  - Existing bi- and multilateral instruments
  - Expedited assistance
    - Through: 24/7 contact points (integrated with G8-network)
    - MLA: preliminary measures, modern means of communication





# CCC perfect solution?

- Problem areas
  - Extraterritorial Jurisdiction
    - Art. 22 CCC reasonably in place but....
  - Executive Jurisdiction
    - Art. 32 CCC: extraterritoriality highly controversial, but.....
- Lack of sense Sense of Urgency?
  - Very low rate of solved cases
  - Emphasis on Domestic cases



# Additional measures CoE

- Cybercrime Project
  - Co-ordination
  - Consultation with industry (Codes of Best Practice, co-operation with LEA)
  - Exchange of experience, methods and tools: 24/7, specialised LEA-units
  - Training, legal advice
  - Development of new concepts: TC-CY





# Supporting the CCC

- European Union
- Industry
  - Software
  - Security
- UN
  - Bangkok Summit 2005
  - IGF Rio de Janeiro 2007
- ITU
  - ?



# Concluding Observations

- Need to move forward with full energy:
  - Technology does not wait
  - International co-operation should be improved
- Support from (inter)national bodies and institutions indispensable
- Launching alternative legal instruments is counterproductive, may cause confusion and slows down the process
  - If CCC could be considered as a wheel...
  - CCC should be recognised as the global instrument and achievement
  - CCC is an adequate vehicle for improvement of international co-operation
- ITU: invite State Parties to sign and ratify CCC