

**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](http://www.coe.int/cybercrime)**

# About the Budapest Convention

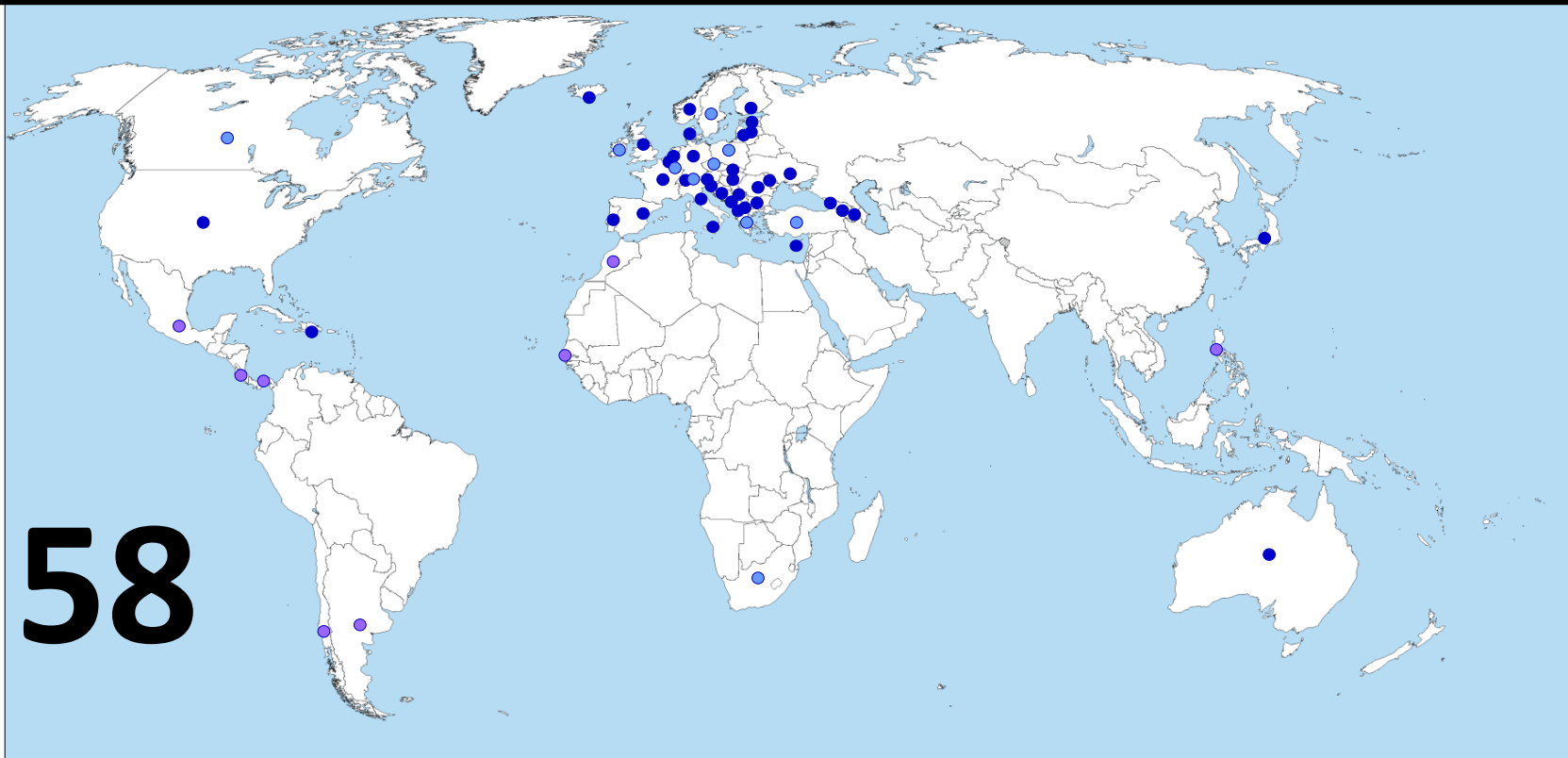
**Opened for signature November 2001 in Budapest**

**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**
- 
- **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



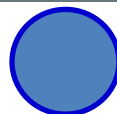
58

Ratified/acceded: 39



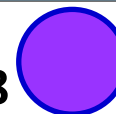
- 35 European
- Australia
- Dominican Republic
- Japan
- USA

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:

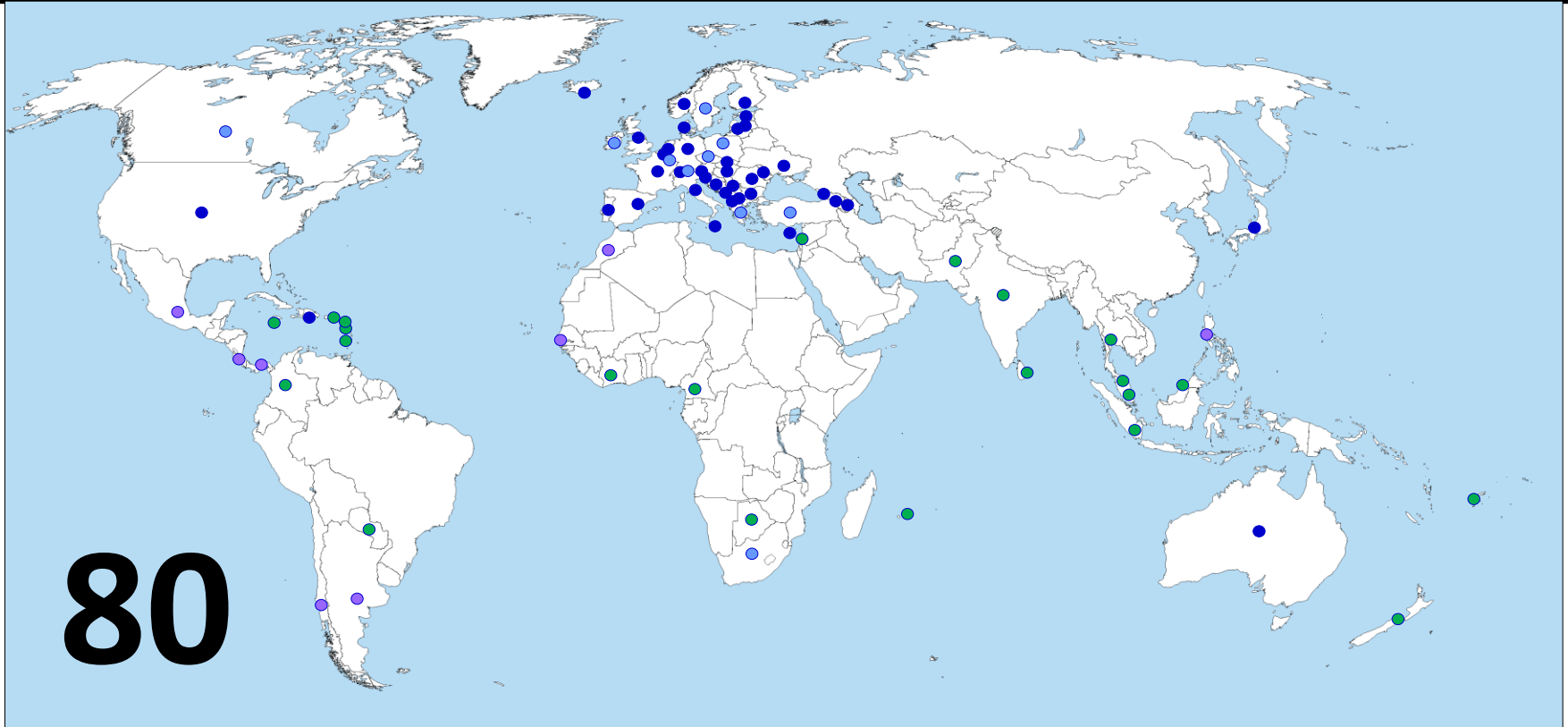
- If a country has legislation in place or advanced stage: Letter from Government to CoE expressing interest in accession
- Consultations (CoE/Parties) in view of decision to invite
- Invitation to accede

### 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

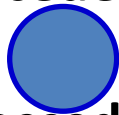
# States that could seek accession



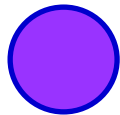
Ratified/acceded: 39



Signed: 11



Invited to accede: 8



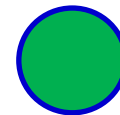
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Other States with laws/draft laws

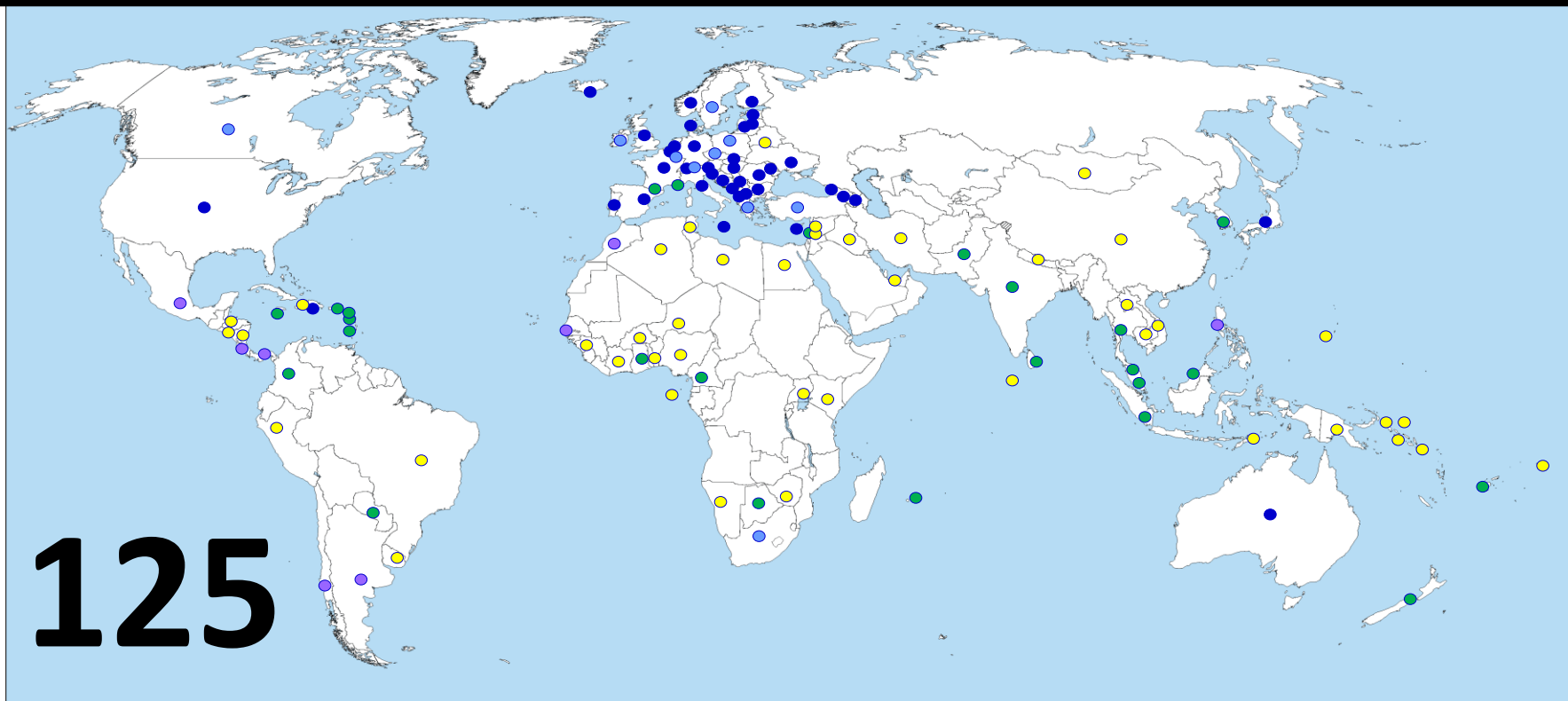
largely in line with Budapest

Convention:

= at least 22



# States using Budapest Convention



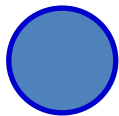
125

Indicative map only

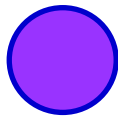
Ratified/acceded: 39



Signed: 11

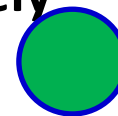


Invited to accede: 8

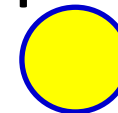


= 58

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**

**+**

## **Procedural tools**

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

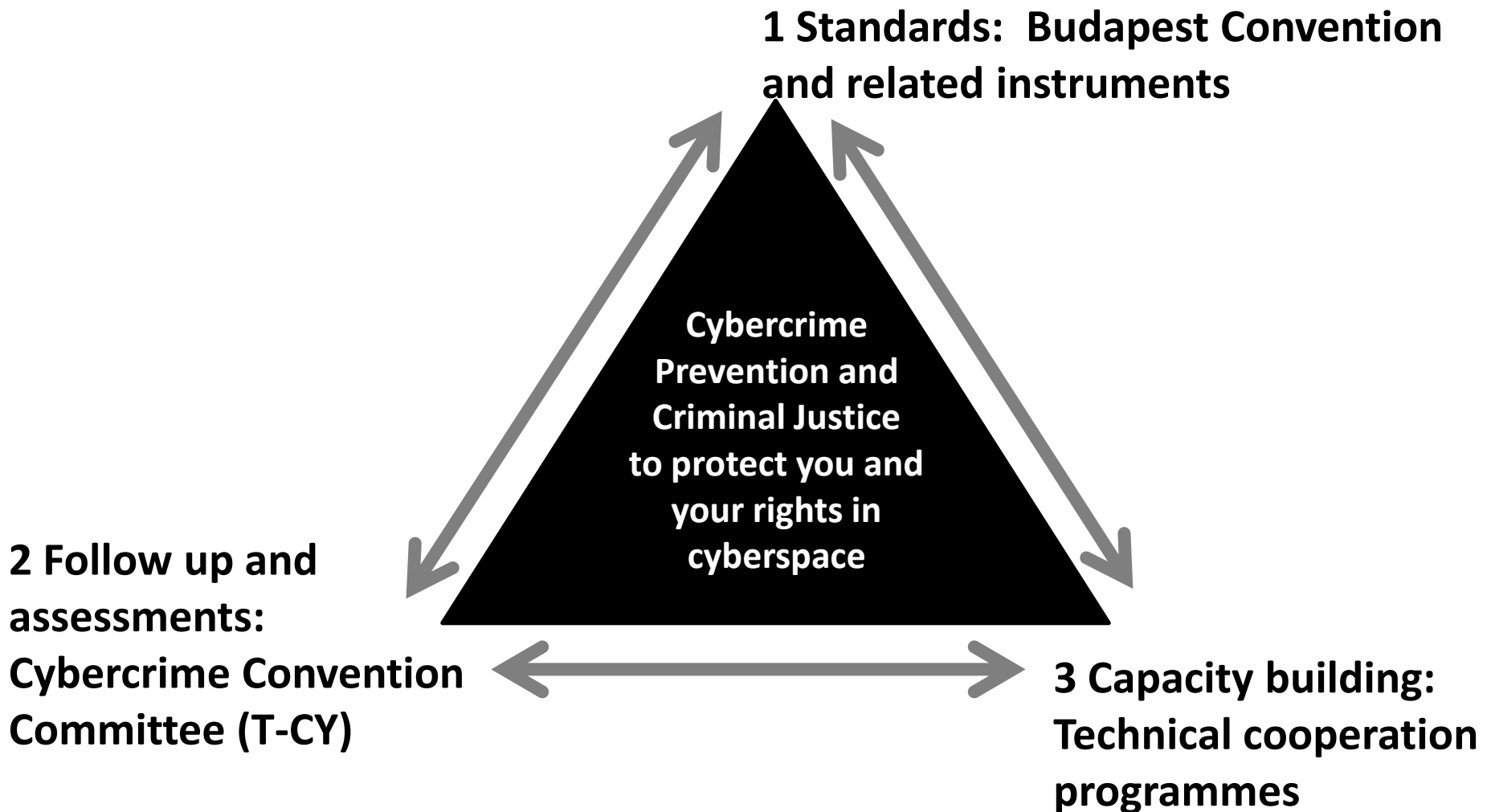
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## **International cooperation**

- **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](http://www.coe.int/cybercrime)

# Budapest Convention as a guideline

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

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

# Budapest Convention as a guideline

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

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

# Budapest Convention as a guideline

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

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

# 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](http://www.coe.int/cybercrime)**