



**COUNCIL OF
THE EUROPEAN UNION**

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From: General Secretariat
To: Permanent Representatives Committee/Council
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Subject: Draft Council Conclusions on the establishment of a European Cybercrime Centre

1. Following the publication of the Commission Communication "Tackling Crime in our Digital Age: Establishing a European Cybercrime Centre" (doc. 8543/12 ENFOPOL 94 TELECOM 72) the Presidency prepared the draft Council Conclusions on the establishment of a European Cybercrime Centre.
2. The draft was discussed at the LEWP meeting on 13 April 2012, at the CATS meeting on 24 May 2012 and agreed following the discussion at the JHA Counsellors meeting of 29 May 2012.
3. On this basis, COREPER is requested to invite the Council to approve the draft Council Conclusions on the establishment of a European Cybercrime Centre as set out in annex.

Draft Council Conclusions
on the establishment of a European Cybercrime Centre

THE COUNCIL OF THE EUROPEAN UNION

HAVING REGARD to the fact that the Internet has become an integral and indispensable part of modern society and a driver of economic growth in the European Union offering numerous opportunities to citizens and businesses;

MINDFUL of the increasing threats to Union citizens and businesses posed by cybercrime;

AWARE that the European Union, because of its advanced Internet infrastructure, its high number of Internet users and its increasingly Internet-based economies and payment systems, is particularly targeted by cybercrime;

CONSCIOUS that cybercrime is inherently transnational in nature and often affects a large number of victims and involves suspects in many different parts of the world;

AWARE that large-scale cross-border anti-cybercrime operations cannot be successfully conducted by national police forces alone, but require law enforcement authorities to adopt a coordinated and collaborative approach together with public and private stakeholders;

RECALLING the Council of Europe Convention on Cybercrime of 23 November 2001 that calls for the fostering of international cooperation and pursuit of a common criminal policy aimed at the protection of society against cybercrime;

RECALLING that the European Council in the Stockholm Programme invited the Commission, inter alia, to take measures to enhance/improve public-private partnerships in the field of fighting cybercrime, invited Europol to step up strategic analysis on cybercrime and invited Member States to improve judicial cooperation in cybercrime cases;

RECALLING that the Council has made the fight against cybercrime and the criminal misuse of the Internet by organised crime groups one of the European Union's priorities in the fight against organised crime between 2011 and 2013¹ within the framework of the EU Policy Cycle for organised and serious international crime;

NOTING that one of the strategic goals² related to this Union's crime priority is the establishment of the European Cybercrime Centre as a focal point in the fight against cybercrime in the Union, contributing to faster reactions in the event of cyber attacks;

RECALLING the Council conclusions on a Concerted Work Strategy and Practical Measures Against Cybercrime³, inviting Member States and the Commission to introduce measures based on case studies, particularly taking into account technological developments, so as to prepare tools for operational use in the short and medium term;

BUILDING UPON the Council conclusions on an Action Plan to implement the concerted strategy to combat cybercrime adopted on 26 April 2010⁴, in which the Council invites the Commission to draw up a feasibility study on the possibility of creating a Cybercrime Centre to perform a number of tasks in the fight against cybercrime;

NOTING the outcomes of the Cybercrime Conference held in Budapest on 12-13 April 2011;

¹ 11050/11 JAI 396 COSI 46 ENFOPOL 184 CRIMORG 81 ENFOCUSTOM 52 PESC 718 RELEX 603.

² 15850/11 JAI 758 COSI 84 ENFOPOL 371 CRIMORG 191 ENFOCUSTOM 128 CORDROGUE 67 PESC 1321 RELEX 1081 COAFR 296 COWEB 236 TRANS 283 UD 275 FRONT 138 GENVAL 111.

³ 15569/08 ENFOPOL 224 CRIMORG 190.

⁴ 5957/2/10 CRIMORG 22 ENFOPOL 32.

NOTING that Article 4 of the Council Decision of 6 April 2009 establishing the European Police Office (Europol)⁵ has, in conjunction with the Annex to that Decision, conferred on that agency the competence to cover computer crime;

CONSIDERING also that the Europol Organised Crime Threat Assessment (OCTA) 2011 identifies cybercrime as a criminal phenomenon which requires high levels of intelligence coordination and analysis in the framework of law enforcement cooperation in order to gain accurate insight and provide targeted responses;

CONSCIOUS that although the Union has developed various initiatives to tackle cybercrime, several obstacles still remain at European level to the effective investigation of cybercrime and prosecution of offenders;

HEREBY

WELCOMES the Commission's Communication "Tackling Crime in our Digital Age: Establishing a European Cybercrime Centre"⁶, proposing to set up a European Cybercrime Centre which will support Member States and European Union's institutions in building operational and analytical capacity for investigations and cooperation with international partners;

SUPPORTS the proposal of the Commission to locate the European Cybercrime Centre at Europol;

STRESSES the need to ensure that the European Cybercrime Centre forms part of the existing Europol structure to facilitate cross-working with other crime areas;

UNDERLINES the need for Member States to involve and make optimum use of the European Cybercrime Centre in cross-border cybercrime operations and, where appropriate, investigations as well as in raising awareness, capacity building and crime prevention;

⁵ OJ L 121, 15.5.2009, p. 37.

⁶ 8543/12 ENFOPOL 94 TELECOM 72.

AGREES that the European Cybercrime Centre should, in particular, focus on cybercrime committed by organised crime groups, cybercrime which causes serious harm to the victims, and cybercrime affecting critical infrastructure and information systems in the Union while ensuring the necessary flexibility to prevent and react to the emergence of new cybercrime threats;

CONFIRMS that the European Cybercrime Centre should serve as the European cybercrime information focal point, that it should pool cybercrime expertise to support Member States in capacity building and that it should provide support to cybercrime investigations in Member States;

RECOGNISES that, in taking this forward, Member States will be able to rely on their own national legal frameworks and crime reporting mechanisms;

EMPHASISES the importance of ensuring that the European Cybercrime Centre cooperates closely with other relevant agencies and actors such as Eurojust, CEPOL, Interpol, ENISA, the wider computer emergency response team (CERT) community and not least the private sector, to broaden in practice the information picture and exchange of best practices on cybercrime in Europe;

EMPHASISES also the need to ensure that the European Cybercrime Centre cooperates closely with the existing Union's fora dealing with cybercrime, and that the Centre supports the activities and makes use of the expertise within these fora;

STRESSES that the governance structure within Europol for the European Cybercrime Centre should allow input in the strategic direction of the centre by the main stakeholders, such as Eurojust, CEPOL, Member States as represented by the European Union Cybercrime Taskforce, ENISA and the Commission, whilst not creating an undue administrative burden;

CALLS UPON THE COMMISSION, in consultation with Europol, to further elaborate the scope of the specific tasks of the European Cybercrime Centre together with more detailed costings in order to estimate the resources that would be required to make the Centre operational in 2013, drawing on the feasibility study and the work carried out by the European Cybercrime Centre implementation team. On this basis the Commission shall report to the Council at the Law Enforcement Working Party and, if appropriate, other relevant Council fora, in order to enable the Council to follow up on and support the progress in the setting up and work of the European Cybercrime Centre;

ACKNOWLEDGES that the establishment of the European Cybercrime Centre should be taken into consideration when revising the Europol legal basis and in the allocation of resources to Europol, subject to the decisions of the budgetary authorities and without prejudice to the Multiannual Financial Framework.
