



EUROPEAN  
COMMISSION

Brussels, 16.7.2025  
COM(2025) 415 final

2025/0230 (NLE)

Proposal for a

## **COUNCIL DECISION**

**on the signing, on behalf of the European Union, of the United Nations Convention  
against Cybercrime; Strengthening International Cooperation for Combating Certain  
Crimes Committed by Means of Information and Communications Technology Systems  
and for the Sharing of Evidence in Electronic Form of Serious Crimes**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

##### **Objectives of the proposal**

The present proposal aims to obtain from the Council of the European Union ('the Council') the authorisation for the European Commission ('the Commission') to sign the United Nations Convention against Cybercrime ('the Convention') on behalf of the European Union<sup>(1)</sup>.

The Commission will also submit a proposal for a Decision of the Council authorising the Commission to conclude the Convention on behalf of the European Union. Together, these proposals follow up on the Commission's commitment in ProtectEU – the European Internal Security Strategy.<sup>(2)</sup>

Cybercrime continues to be a growing threat to the security of citizens and businesses in the European Union (EU).<sup>(3)</sup> According to the Europol Internet Organised Crime Threat Assessment, in the last 10 years, the threats posed by cybercrime have evolved dynamically in terms of volume, intensity and harm potential.<sup>(4)</sup> Cybercriminals leverage emerging technologies such as Artificial Intelligence (AI) for attack automation, social engineering, and bypassing security measures, making cyber-attacks more scalable and efficient. Economic recession, geopolitical instability and widening global inequality have increased incentives for individuals to engage in financially motivated cybercrime.<sup>(5)</sup> Cyber-enabled offences, such as online fraud and child sexual abuse, continue growing in size and scale. €1.03 trillion are estimated to have been lost globally in 2024 due to online fraud.<sup>(6)</sup> Global reports of child sexual abuse have increased from 1 million in 2010 to almost 36 million in 2023, of which 1.3 million in the EU.<sup>(7)</sup>

Cybercrime is a global and borderless phenomenon and stepping up international cooperation to fight cybercrime has been a priority for countries around the world for over a decade. In particular, the borderless nature of the internet makes cybercrime investigations almost always cross-border in nature, thus requiring close cooperation between authorities in different countries. In recent years, the number of countries with which cooperation is required has been growing, as cybercriminals hide in convenient jurisdictions around the globe to commit their attacks on the EU and its partner countries.

Electronic evidence is increasingly important for criminal investigations, both into online and traditional crimes, like drugs trafficking, which often leave online traces as criminals plan and coordinate their activities online and on applications. As a result, a Commission

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<sup>(1)</sup> The text of the Convention will be annexed to the proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Convention.

<sup>(2)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on ProtectEU: a European Internal Security Strategy; COM/2025/148 final.

<sup>(3)</sup> In 2023, ransomware attacks, child sexual exploitation (CSE) and online fraud remained the most threatening manifestations of cybercrime in the European Union (EU). Some cybercriminals targeting the EU were based within the EU, while others preferred to operate from abroad, concealing their illicit operations and funds in third countries. Internet Organised Crime Threat Assessment (IOCTA) 2024.

<sup>(4)</sup> Internet Organised Crime Threat Assessment (IOCTA) 2024.

<sup>(5)</sup> Serious and Organised Crime Threat Assessment (SOCTA) 2025.

<sup>(6)</sup> Global State of Scams Report 2025 (GASA).

<sup>(7)</sup> National Centre for Missing and Exploited Children, <https://www.missingkids.org/cybertiplinedata>.

survey found that, already in 2018, law enforcement and judicial authorities needed access to electronic evidence in at least 85 % of criminal investigations, including cybercrime.<sup>(8)</sup> Evidence of any criminal offence is increasingly held in electronic form by service providers in foreign jurisdictions. At least 55 % of investigations include a request for cross-border access to evidence.<sup>(9)</sup> An effective criminal justice response requires appropriate measures to obtain such evidence to uphold the rule of law.

Therefore, actions to improve the sharing of electronic evidence for criminal investigations are being undertaken at national, at EU<sup>(10)</sup> and at the international levels.

The Convention is part of these actions. It provides common rules at global level to enhance cooperation on cybercrime and the collection of evidence in electronic form for the purpose of criminal investigations or proceedings, creating a basis for cooperation with many countries with whom neither the EU nor its Member States have agreements in place, while ensuring respect for the EU's laws and values. It is compatible with and complementary to existing EU and international instruments.

## Background

The 2001 Council of Europe Convention on Cybercrime (the 'Budapest Convention')<sup>(11)</sup> is the first international treaty on cybercrime. It facilitates the fight against criminal offences making use of computer networks. The Budapest Convention is open to Member States of the Council of Europe, and non-members upon invitation. To date, it has 80 States Parties, including 26 European Union Member States. The Second Additional Protocol<sup>(12)</sup> to the Budapest Convention, includes updated rules on the exchange of electronic evidence.<sup>(13)</sup>

The European Union and its Member States are also parties to two of the main United Nations criminal justice instruments of almost universal adoption, the United Nations Convention against Organised Crime (UNTOC)<sup>(14)</sup> and the United Nations Convention against Corruption (UNCAC).<sup>(15)</sup>

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<sup>(8)</sup> SWD(2018) 118 final.

<sup>(9)</sup> SWD(2018) 118 final.

<sup>(10)</sup> Regulation (EU) 2023/1543 of the European Parliament and of the Council of 12 July 2023 on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings and for the execution of custodial sentences following criminal proceedings (OJ L 191, 28.7.2023, p. 118–180, ELI: <http://data.europa.eu/eli/reg/2023/1543/oj>) and Directive (EU) 2023/1544 of the European Parliament and of the Council of 12 July 2023 laying down harmonised rules on the designation of designated establishments and the appointment of legal representatives for the purpose of gathering electronic evidence in criminal proceedings, (OJ L 191, 28.7.2023, p. 181–190, ELI: <http://data.europa.eu/eli/dir/2023/1544/oj>).

<sup>(11)</sup> CETS No. 185.

<sup>(12)</sup> CETS No. 224.

<sup>(13)</sup> The Council adopted decisions authorising Member States to sign and ratify the Second Additional Protocol in the interest of the EU: Council Decision (EU) 2022/722 of 5 April 2022 authorising Member States to sign, in the interest of the European Union, the Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence (OJ L 134, 11.5.2022, p. 15–20, ELI: <http://data.europa.eu/eli/dec/2022/722/oj>) and Council Decision (EU) 2023/436 of 14 February 2023 authorising Member States to ratify, in the interest of the European Union, the Second Additional Protocol to the Convention on Cybercrime on enhanced cooperation and disclosure of electronic evidence; (OJ L 63, 28.2.2023, p. 48–53, ELI: <http://data.europa.eu/eli/dec/2023/436/oj>).

<sup>(14)</sup> Doc. A/55/383. The EU signed UNTOC on 12 December 2000 and ratified it on 21 May 2004 and also ratified its protocols on smuggling and trafficking in human beings. See 2004/579/EC: Council Decision of 29 April 2004 on the conclusion, on behalf of the European Community, of the United Nations Convention Against Transnational Organised Crime (OJ L 261, 6.8.2004, p. 69–69, ELI: <http://data.europa.eu/eli/dec/2004/579/oj>).

The provisions of the new Convention are aligned and compatible with these three established and widely adopted international instruments.

The rise of information technology and the rapid development of new telecommunication and computer network systems and the use and abuse of technologies for criminal purposes have also featured on the agenda of the United Nations (UN). On 21 December 2010, the UN General Assembly adopted Resolution 65/230 requesting the Commission on Crime Prevention and Criminal Justice (CCPCJ) to establish an open-ended intergovernmental expert group ('the IEG') to conduct a comprehensive study on the problem of cybercrime.

The UN General Assembly adopted resolution 73/187 of 17 December 2018 on 'Countering the use of information and communications technologies for criminal purposes.' On 27 December 2019, the UN General Assembly adopted a second Resolution, 74/247, on the same topic, establishing an open-ended ad hoc intergovernmental committee of experts ('the AHC') to elaborate a comprehensive international convention on countering the use of information and communications technologies for criminal purposes. The Resolution specified that the AHC was to take into full consideration existing international instruments and efforts at the national, regional and international levels on combating the use of information and communications technologies for criminal purposes, in particular the work and outcomes of the IEG.

On 24 May 2022, the Council authorised the Commission to participate, on behalf of the European Union, in the negotiations on the Convention.<sup>(16)</sup> The Commission participated in line with the Decision of the Council and was guided by the negotiating directives set out therein. The Commission was supported by the European External Action Service (EEAS). The Commission consistently consulted the Council's special committee for the negotiations on the Union position and ensured the Convention's compatibility with relevant EU acquis.

In line with the Framework Agreement on relations between the European Parliament and the European Commission,<sup>(17)</sup> the Commission also kept the European Parliament informed of the negotiations.

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<http://data.europa.eu/eli/dec/2004/579/oj>); 2006/616/EC: Council Decision of 24 July 2006 on the conclusion, on behalf of the European Community, of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of this Protocol fall within the scope of Articles 179 and 181a of the Treaty establishing the European Community (OJ L 262, 22.9.2006, p. 24–33, ELI: <http://data.europa.eu/eli/dec/2006/616/oj>) and 2006/619/EC: Council Decision of 24 July 2006 on the conclusion, on behalf of the European Community, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty establishing the European Community (OJ L 262, 22.9.2006, p. 51–58, ELI: <http://data.europa.eu/eli/dec/2006/619/oj>).

(15) United Nations, Treaty Series, vol. 2349, p. 41; Doc. A/58/422. The EU signed UNCAC on 15 September 2005 and ratified it on 12 November 2008. See 2008/801/EC: Council Decision of 25 September 2008 on the conclusion, on behalf of the European Community, of the United Nations Convention against Corruption (OJ L 287, 29.10.2008, p. 1–110, ELI: <http://data.europa.eu/eli/dec/2008/801/oj>).

(16) Council Decision (EU) 2022/895 of 24 May 2022 authorising the opening of negotiations on behalf of the European Union for a comprehensive international convention on countering the use of information and communications technologies for criminal purposes, (OJ L 155, 8.6.2022, p. 42–48, ELI: <http://data.europa.eu/eli/dec/2022/895/oj>).

(17) Reference L 304/47.

The Commission also informed the European Data Protection Supervisor (EDPS) and the European Data Protection Board (EDPB) during and following the conclusion of the negotiations.

The AHC met eight times in formal sessions between 28 February 2022 and 9 August 2024. It also held informal sessions in between and five intersessional sessions for consultations with a diverse range of stakeholders, including global and regional intergovernmental organizations, non-governmental organizations, civil society organizations, academic institutions and the private sector.

On 8 August 2024 the AHC approved by consensus the draft text of the Convention and the draft UN General Assembly resolution accompanying it. The UN General Assembly adopted both documents by consensus on 24 December 2024.<sup>(18)</sup> The Convention is envisaged to be opened for signature in Hanoi, Vietnam on 25 October 2025, and thereafter at United Nations Headquarters in New York until 31 December 2026.

The Convention will enter into force once 40 States Parties have expressed their consent to be bound by the Convention in accordance with the provisions of Article 65, paragraphs 1 and 2.

In accordance with well-established practice regarding UNTOC and UNCAC, the Convention provides that a regional economic integration organization, such as the European Union can sign and ratify the Convention if at least one of the Member States signs and ratifies it.

### **Reasons for the proposal**

The Convention is in line with the Union's objectives set out in ProtectEU, the 2025 European Internal Security Strategy to tackle crime and facilitate access to digital evidence for all crimes through international instruments such as the Convention. It complements existing EU and international instruments to which the EU and/or its Member States are Parties, such as the Council of Europe Budapest Convention, and thus contributes to the EU's fight against transnational crime.

First, as a UN instrument, the Convention has a wider reach in terms of membership than existing EU and international instruments. In this respect, it is similar to previous UN instruments on cooperation in criminal matters of almost universal adoption, such as UNTOC and UNCAC. It can thus enable enhanced cooperation against cybercrime at a global scale.

Second, the Convention is inspired by the Budapest Convention's criminalisation provisions, which can further enhance cooperation based on a long-standing and tested legal framework. Given its more recent adoption, the Convention also introduces further criminalisation provisions on offences that have seen a drastic increase over the last years: online fraud, the solicitation or grooming to commit a sexual offence against a child, and the non-consensual dissemination of intimate images. These are already criminalised at the EU level but not yet at a global one.

Third, the Convention enables the exchange of electronic evidence between the authorities of its States Parties on forms of serious crimes also on the rise, including offences related to terrorism and transnational organised crime. This limit to serious crimes restricts the use of the mechanism to serious cases only, which helps ensure proportionality. It also prevents overburdening national authorities with requests and reflects the different levels of trust in cooperation that exist at the international level.

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<sup>(18)</sup> Resolution adopted by the General Assembly on 24 December 2024; A/RES/79/243.

Fourth, the Convention supplements existing international instruments, such as the Budapest Convention, by including procedural measures on the protection of victims and witnesses, tools for the recovery of cybercrime proceeds, and international cooperation measures on the transfer of sentenced persons and criminal proceedings, joint investigations and law enforcement cooperation.

Fifth, the Convention includes a chapter on technical assistance and capacity building to help developing countries build their capabilities and enable them to contribute to the global fight against cybercrime.

Sixth, the Convention requires States Parties to the Convention to respect human rights, including criminal procedural rights and safeguards (such as the right to a fair trial, the rights of the defence, judicial or other independent review), and the right to the protection of personal data for every measure under the Convention. In view of its universal vocation and acknowledging existing differences in the level of protection of human rights around the world, the Convention includes provisions to exclude its use to commit human rights violations and provide States Parties with unprecedented grounds to refuse cooperating with other Parties in such cases. More information in this regard is provided in the Sections '*Consistency with existing policy provisions in the policy area*', '*Fundamental rights*' and '*Detailed explanation of the specific provisions of the proposal*' below. These provisions make the Convention the first of its kind with such comprehensive human rights protection and safeguards. Upon its entry into force, the Convention will become a benchmark for future international instruments and will contribute to mainstreaming these human rights safeguards in global cooperation in criminal matters.

- **Consistency with existing policy provisions in the policy area**

The fight against cybercrime is a priority for the European Union as recognised by the Council in its 2024 Strategic guidelines for legislative and operational planning within the area of freedom, security and justice<sup>(19)</sup> and by the Commission's 2025 ProtectEU - European Internal Security Strategy which announces EU action to tackle online crime and to facilitate access to digital evidence for all crimes, including through international instruments for information and evidence exchange, such as the timely signature and conclusion of the Convention.

The Commission recognises the need to further advance and strengthen the capacities of law enforcement and judicial authorities in this field, to develop national cybercrime legislation, where not sufficiently provided. It also acknowledges the need to promote international cooperation in the fight against cybercrime and supports a range of capacity building programmes in a number of countries worldwide, including for developing countries.<sup>(20)</sup> The Commission has supported the work of the IEG, the UN Commission on Crime Prevention and Criminal Justice, the United Nations Office on Drugs and Crime (UNODC), the Committee of the Budapest Convention on Cybercrime and other bodies.

The provisions of the Convention are consistent with EU rules and policies in the areas of judicial cooperation in criminal matters, police cooperation and data protection as well as with relevant bilateral and multilateral agreements to which the European Union is already a Party.

## **Reservations and notifications**

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<sup>(19)</sup> Strategic guidelines for legislative and operational planning within the area of freedom, security and justice, 28 November 2024, para. 19.

<sup>(20)</sup> See for instance the Global Action on Cybercrime Enhanced (GLACY-e), via <https://www.coe.int/en/web/cybercrime/glacy-e>.



The Convention does not have a provision dedicated to reservations. However, it explicitly provides for reservations in some provisions (Article 11 paragraph 3; Article 23 paragraph 3(a); Article 23 paragraph 3 chausette; Article 42 paragraph 5; Article 63 paragraphs 3 and 4) and implicitly allows other reservations as long as those are in accordance with Article 19 paragraph (c) of the Vienna Convention on the Law of Treaties<sup>(21)</sup> and customary international law and hence are not incompatible with the object and purpose of the Convention. Therefore, the Convention allows for significant flexibility regarding reservations. Member States should take a uniform approach to reservations and notifications, as set out in Annex I to this Decision. Reservations and notifications should be compatible with Union and public international law and do not defeat the object and purpose of the Convention. The human rights conditions and safeguards recognised and provided for in this Convention are part of its object and purpose and therefore not open to reservations.

- **Consistency with other Union policies**

The Convention is consistent with relevant European Union rules and policies in the areas which will be covered by it (international cooperation and mutual legal assistance between public authorities of Member States and Member States and third countries as described under Section '*Consistency with existing policy provisions in the policy area*') and with relevant bilateral and multilateral agreements to which the European Union is already a Party. Other Union policy areas remain unaffected.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is made under Article 218(5) of the Treaty on the Functioning of the European Union (TFEU). Article 218 of the TFEU lays down the procedure for the negotiation and conclusion of agreements between the European Union and third countries or international organisations. In particular, paragraph 5 thereof provides for the Council, on a proposal from the Commission as the negotiator, to adopt a decision authorising the signing of an agreement on behalf of the European Union.

The substantive legal basis for a decision under Article 218(5) TFEU depends primarily on the objective and content of the envisaged international agreement in respect of which a position is taken on the Union's behalf. If the envisaged international agreement pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(5) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

With regard to an envisaged international agreement that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the other, the substantive legal basis of a decision under Article 218(5) TFEU will have to include, exceptionally, the various corresponding legal bases.

As regards matters on the facilitation of the cooperation between judicial or equivalent authorities in relation to proceedings in criminal matters and the enforcement of decisions, the substantive legal basis is Article 82(1) TFEU. As regards the definition of criminal offences in the area of cybercrime, the substantive legal basis is Article 83(1) TFEU. As regards measures concerning law enforcement cooperation, the substantive legal basis is Article 87(2) of the

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<sup>(21)</sup> United Nations, Treaty Series, vol. 1155, p. 331

TFEU. As regards the protection of personal data, the substantive legal basis is Article 16 TFEU.

- **Union competence**

The subject matter of the Convention is the fight against cybercrime by way of, *inter alia*, criminalizing certain serious harmful types of conduct and establishing international cooperation to that end, including with regard to electronic evidence. This falls within shared competence between the Union and the Member States in accordance with Article 4(2)(j) TFEU.

Certain provisions of the Convention, notably the provision on data protection, fall within areas covered to a large extent by common rules that could be affected, or whose scope could be altered, by the Convention. Therefore, as regards such areas and in line with Article 3(2) TFEU, the Union has exclusive external competence for the signature of the Convention.

The signing of the Convention by the European Commission, in the interest of the Union, may thus take place on the basis of Articles 16, 82(1), (83)(1), 87(1) and 218(5) TFEU.

- **Subsidiarity (for non-exclusive competence)**

Acting at the EU level serves to promote a harmonious application of the provisions of the Convention in EU Member States and ensures its compatibility with existing and future EU instruments. Furthermore, EU action in this area enhances the combined leverage and impact of the EU and its Member States in the mechanisms of implementation of the Convention, such as its Conference of States Parties (Article 57), as well as in the future negotiation of Protocols (Article 62) thereto.

- **Proportionality**

The Union's objectives with regard to this proposal as set out in Section '*Reasons for the proposal*' above can only be achieved by entering into a binding international agreement providing for the necessary cooperation measures while ensuring appropriate protection of fundamental rights. The Convention achieves this objective. The provisions of the Convention are limited to what is necessary to achieve its main objectives and do not encroach on existing EU instruments or international instruments to which the EU is a Party to.

- **Choice of the instrument**

Article 218(5) TFEU provides that the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, depending on the subject matter of the agreement envisaged, shall submit proposals to the Council, which shall adopt a decision authorising the signing of an international agreement. Given the subject matter of the Convention, it is appropriate for the Commission to submit a proposal to that effect.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not Applicable

- **Stakeholder consultations**

The Commission published a call for evidence for this initiative on its website on 14 January 2022, which was available for comments for four weeks. The individual responses to the call for evidence were published on the consultation website. These considerations have been



taken into account in the preparation of the Commission's proposal for entering into negotiations on the Convention.

To ensure greater transparency of the process, General Assembly Resolution 75/282 setting out the organisational matters concerning the AHC ensured the involvement of representatives of interested global and regional intergovernmental organizations, including representatives of United Nations bodies, specialised agencies and funds, as well as representatives of functional commissions of the Economic and Social Council in the substantive sessions as observers. Furthermore, this Resolution enabled non-governmental organisations (including global and regional intergovernmental organizations, non-governmental organizations, civil society organizations, academic institutions and the private sector) to register and attend the sessions of the AHC, where they were regularly given the opportunity to present their views during the plenary sessions on the chapters being discussed. Pursuant to this Resolution five intersessional consultation sessions with stakeholders were held. Stakeholders were also able to submit written materials, which were published on the website of the AHC.

The Commission, in its role as negotiator, also regularly engaged with diverse stakeholders throughout the negotiations and considered their contributions.

- **Collection and use of expertise**

During the negotiations, the Commission, as the Union representative, consulted the Council's special committee for the negotiations in line with the Decision of the Council of 22 May 2022 authorising the Commission to participate in the negotiations on behalf of the Union. As UN Members, EU Member States were able to attend in all negotiation sessions. The Commission consulted their representatives on its formulation of the Union's position throughout the negotiations. The Commission also regularly consulted stakeholders (see Section '*Stakeholder consultations*' above).

- **Impact assessment**

Relevant impacts are presented in this explanatory memorandum.

- **Regulatory fitness and simplification**

The Convention may have implications for certain public authorities and categories of service providers. Due to more international cooperation on the sharing of electronic evidence to combat cybercrime and cyber-enabled offences, there could be an increase of the number of requests for electronic evidence that EU Member States' central authorities for mutual legal assistance may receive from their counterparts in other States Parties to the Convention and then relay, subject to all applicable national rules and procedures, to service providers established in their State. At the same time, the legal framework for international cooperation on cybercrime that the Convention establishes at a global scale, as well as the safeguards and conditions it contains, will provide service providers with more legal certainty as regards the requests for access to data they may face pursuant to cooperation between states on criminal matters.

- **Fundamental rights**

The Convention provides safeguards allowing EU Member States to comply with human rights obligations under international, EU and national law. These safeguards also prevent the abuse of this UN instrument by States Parties to commit or legitimise human rights violations.

The provisions of the Convention cover procedural and international cooperation measures in criminal matters, such as extradition, mutual legal assistance and the exchange of electronic evidence, that would interfere with fundamental rights, such as the rights to liberty and to

being protected from inhuman and degrading treatment, and the rights to privacy and to the protection of personal data. The Convention follows a rights-based approach and provides for both horizontal and context specific robust human rights conditions and safeguards that are in line with existing international instruments on human rights and on cooperation in criminal matters. The Convention also caters to those human rights risks that are inherent to the fight against cybercrime and the nature of the internet. As regards the human rights obligations of its States Parties, the Convention repeatedly refers to “international human rights law”. This wide expression covers both international instruments and customary international law on human rights, and thus ensures the widest possible application of international human rights obligations to all future Parties to the Convention, regardless of their adherence to specific international human rights instruments.

Article 6 provides an overarching requirement for States Parties to respect their obligations under international human rights law when implementing the Convention. It also excludes any of its Parties from interpreting the Convention as permitting them to use this legal instrument to suppress human rights or fundamental freedoms. To underscore this obligation in the digital context in which this Convention operates, Article 6 paragraph 2 also includes a non-exhaustive list of those human rights and fundamental freedoms that are more prone to be affected by potential abuses in the digital sphere, including the freedoms of expression, conscience, opinion, religion or belief, peaceful assembly and association. This horizontal provision, due to its placement and nature, applies to the whole Convention and forms part of the object and purpose of the Convention.

Article 21, paragraph 4, is also a horizontal provision concerning the harmonisation of the prosecution, adjudication and sanction of the Convention’s offences. It requires States Parties to ensure that any person prosecuted for offences established in accordance with this Convention enjoys all rights and guarantees in conformity with domestic law and consistent with the applicable international obligations of the State Party, including the right to a fair trial and the rights of the defence.

Article 24 also provides for horizontal conditions and safeguards concerning the powers and procedural measures provided by the Convention both at domestic and international levels. It requires States Parties to ensure that, when exercising their procedural powers, those are subject to conditions and safeguards which provide for the protection of human rights, in accordance with their obligations under international human rights law, and which shall incorporate the principle of proportionality. Such conditions and safeguards applicable to the powers and procedures the Convention provides for shall include, among others, judicial or other independent review, the right to an effective remedy (which encompasses several measures for persons whose human rights have been violated), grounds justifying the application, and the limitation of the scope and the duration of the powers and procedures.

Article 36 provides, for the first time in a UN criminal justice instrument, a provision dedicated to the protection of personal data. It applies to any transfer of personal data pursuant to the Convention. Such transfers can only take place in accordance with the domestic law and international law obligations of a transferring State Party. States Parties can refuse to transfer personal data if the data cannot be provided in compliance with their applicable data protection laws before any personal data can be provided to another State Party. To achieve compliance with its national law on the protection of personal data and be able to respond to a request for international cooperation, a State Party can impose appropriate conditions on the requesting State. States Parties are required to ensure that personal data received by them in accordance with this Convention, either as part of a request for international cooperation or in response to a request, is subject to effective and appropriate safeguards in their respective legal frameworks. States Parties may only transfer the personal

data received to a third country or an international organisation with the prior authorization of the original transferring State Party, which may require that the authorization be provided in written form.

The Convention provides for comprehensive safeguards in relation to extradition and mutual legal assistance. States Parties have the ability to refuse extradition or mutual legal assistance requests in the absence of dual criminality, (Article 37 paragraph 1 and Article 40 paragraph 8).

The Convention contains further grounds to refuse cooperation, which are in line with existing international instruments. Article 37 paragraphs 8 and 15, Article 40 paragraphs 8, 21 and 22 enable States Parties to refuse requests for international cooperation in a wide range of cases, for example if a request for mutual legal assistance is not made in conformity with the provisions of Article 40; if the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests (which is often internationally interpreted to cover also human rights considerations); if the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence; if it would be contrary to the legal system of the requested State Party relating to mutual legal assistance; and if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion, nationality, ethnic origin or political opinions, or that compliance with the request would cause prejudice to that person's position for any one of these reasons. The application of this last safeguard to mutual legal assistance measures, such as the exchange of electronic evidence, is rare in most international instruments on cooperation in criminal matters. It constitutes an important additional guarantee to prevent the targeting of individuals, private sector organisations, media or civil society organisations and their assets. This safeguard, the other grounds for refusal, and the dual criminality requirement enable States Parties to refuse international cooperation on cases that they deem politically motivated.

The human rights conditions and safeguards recognised and provided for in this Convention are part of its object and purpose and inextricably linked to the powers and procedures it provides. As such, these conditions and safeguards cannot be subject to reservations.

The Convention also provides for a periodic review mechanism of the implementation of the Convention by its Conference of States Parties (Article 57 paragraph 5 (f)). This review should cover all the provisions of the Convention, including its conditions and safeguards, in line with other existing international instruments and mechanisms in the same area.

#### **4. BUDGETARY IMPLICATIONS**

There are no budgetary implications for the Union budget. EU Member States may have one-off costs for the implementation of the Convention and there could be a moderate increase in costs for authorities of the Member States due to the expected rise in the number of requests for international cooperation.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

There is no implementation plan as, following its signature and ratification, Member States will be required to implement the Convention.

With regard to monitoring, the Commission will take part in the meetings of the Conference of the States Parties, where the European Union will be recognised as a Party to the Convention and can exercise voting rights with a number of votes equal to the number of Member States that are Parties to the Convention concerning the adoption of amendments and supplementary protocols to the Convention. The Commission will regularly inform the European Parliament of the outcomes of the review and monitoring of the Convention's implementation conducted by the Conference of States Parties.

- **Detailed explanation of the specific provisions of the proposal**

The aim of the Convention is to enhance international cooperation on criminal offences established in the Convention and the collection of electronic evidence of crimes defined in the Convention and of other serious crimes for the purpose of specific criminal investigations or proceedings. In this regard, the Convention also aims to promote technical assistance and capacity-building, in particular for the benefit of developing countries.

*General provisions (Chapter I (Art. 1-6))*

Chapter I sets out the general scope and purpose of the Convention as well as definitions used therein. For the most part, these provisions are standard formulations and are inspired by the Budapest Convention and the two existing UN criminal justice instruments (UNTOC and UNCAC).

Article 2 provides definitions of terms, which are consistent with those of the Budapest Convention, its Second Additional Protocol and the two existing UN criminal justice instruments (UNTOC and UNCAC). Compared to these instruments there is only one new definition added by the Convention on 'content data' which is inspired by the UNODC Model Law on Mutual Assistance in Criminal Matters<sup>(22)</sup> and by the definition provided in the e-Evidence Regulation.<sup>(23)</sup>

Article 3 determines the scope of application of the Convention as encompassing the prevention, investigation and prosecution of the criminal offences established in accordance with the Convention, as well as the recovery of proceeds of these offences. The scope of the Convention also extends to the collection and sharing of electronic evidence in the framework of specific criminal investigations or proceedings pursuant to Articles 23 and 35 (see further details below under Sections '*Procedural measures and law enforcement (Chapter IV (Art. 23-34))*' and '*International cooperation (Chapter V (Art. 35-52))*').

Article 4 provides that offences which are established in other applicable UN conventions and protocols (and to which States Parties are a party to), should be punishable irrespective whether that they have been committed offline or online. The second paragraph restricts the scope of this article, by emphasizing that this provision does not provide a legal basis for creating any new or additional offences beyond the ones set out in applicable UN conventions and protocols.

Article 5 is a standard provision on the respect for the principle of sovereignty, replicating the language of the corresponding provisions of UNTOC and UNCAC.

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<sup>(22)</sup> UNODC Model Law on Mutual Assistance in Criminal Matters (2007), as amended with provisions on electronic evidence and the use of special investigative techniques (2022); E/CN.15/2022/CRP.6.

<sup>(23)</sup> See Regulation (EU) 2023/1543 on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings and for the execution of custodial sentences following criminal proceedings Art. 3(12).

Article 6 is an unprecedented provision compared to the two United Nations criminal justice instruments and the Budapest Convention. It sets out a clear delineation of the object and purpose of the Convention and functions as an important safeguard against its inappropriate use. The first paragraph provides as an overarching high-level objective that all measures taken to implement the Convention must be guided by the international human rights obligations undertaken by each State Party. The second paragraph builds on this objective by reaffirming that the Convention must not be interpreted for the purpose of violating any human rights, whether economic, social and cultural or civil and political rights. This provision includes a non-exhaustive list of rights considered to be particularly susceptible to violations by measures aimed at countering cybercrime such as freedoms of expression, conscience, opinion, religion or belief, peaceful assembly and association. Therefore, the scope of the Convention is limited also by this provision, preventing future attempts by States Parties to apply the Convention's international cooperation measures too extensively.

#### *Criminalization (Chapter II (Art. 7-21))*

Articles 7-17 set out the harmonisation of the criminalisation of conduct and elements of cyber-dependent and certain cyber-enabled crimes. The cyber-dependent crimes (articles 7-11) are inspired by the crimes set out in the Budapest Convention. The cyber-enabled crimes (articles 12-16) are also inspired by the Budapest Convention and among others, harmonise the offence of information and communication technology system-related fraud (including scams as a type of fraud); the offences related to online child sexual abuse material; as well as the offences of solicitation for the purpose of committing a sexual offence against a child and the non-consensual dissemination of intimate images. All the offences set out in the Convention require two essential elements: intent and that the offence is committed without right. The notion 'without right' is a context-specific requirement for criminal liability that enables States Parties flexibility in application, in accordance with their domestic law and their international obligations. In this regard, the condition 'without right' is meant to ensure that for example conduct of law enforcement authorities when investigating offences or conduct for security, scientific, medical, artistic, or other legitimate, justified or authorised purposes are excluded from the scope of the criminalisation. In this regard, Article 14 paragraph 4 provides for an explicit exemption from criminalisation of conduct by children for self-generated material depicting them or the consensual production, transmission, or possession of material described in paragraph 2 (a) to (c) of Article 14, where the underlying conduct depicted is legal as determined by domestic law, and where such material is maintained exclusively for the private and consensual use of the persons involved.

Article 17 requires the criminalisation of laundering the proceeds of crimes and is inspired by corresponding provisions in UNTOC and UNCAC. According to the Interpretative notes on specific articles of the Convention, which are annexed to the resolution adopting the Convention, a conduct shall only be deemed an offence under Article 17 when the underlying criminal conduct associated with the more complex crime of laundering of the proceeds is an offence established in accordance with articles 7 to 16 of the Convention.

Article 18 replicates the corresponding provisions of UNTOC and UNCAC on establishing minimum rules on the liability of legal persons for the offences set out in accordance with this Convention (i.e. offences set out in Articles 7-17). Such liability is attached to legal persons' participation in one of the criminal offences codified in Articles 7-17, subject to the same requirements applicable to natural persons of committing them 'intentionally and without right', and to each State Party's legal principles (paragraphs 1 and 2).

Articles 19 and 20 echo the corresponding provisions of UNTOC and UNCAC by providing for minimum rules on establishing the offences of participation, attempt and preparation and



statute of limitation periods in accordance with States Parties' domestic laws and as necessary for offences set out in the Convention. Although the online transmission and controlling of data that might be relevant for an offence rely on the assistance of service providers, a service provider that does not have the criminal intent is not meant to incur liability under Article 19. Thus, there shall be no duty on a service provider to actively monitor content to avoid criminal liability under this provision.

Article 21 is also inspired by UNTOC and UNCAC, it provides for minimum rules on the prosecution, adjudication and sanctions concerning the offences established in accordance with the Convention. Paragraph 4 requires States Parties to ensure that any person prosecuted for offences established in accordance with the Convention enjoys all rights and guarantees consistent with the international obligations of the States Parties, including the right to a fair trial and the rights of the defence.

#### *Jurisdiction (Chapter III (Art. 22))*

Article 22 also reflects the corresponding provisions of UNTOC, UNCAC and the Budapest Convention, and it regulates the establishment of mandatory and optional forms of jurisdiction as necessary over the offences established in accordance with the Convention.

#### *Procedural measures and law enforcement (Chapter IV (Art. 23-34))*

Article 23 determines the scope of domestic powers and procedural measures that enable international cooperation: it applies to specific criminal investigations or proceedings concerning criminal offences established in accordance with the Convention; other criminal offences committed by means of an information and communications technology system as well as to the collection of evidence in electronic form of any criminal offence. According to the Interpretative notes on specific articles of the Convention which is annexed to the resolution adopting the Convention: 'The term "criminal investigations" covers situations where there are reasonable grounds to believe, on the basis of factual circumstances, that a criminal offence (including an offence set out in Article 19 of the Convention) has been committed or is being committed, including when such an investigation is aimed at stopping or impeding the commission of the offence in question.' Thus, the Convention does not provide a basis for international cooperation regarding preventative purposes and data can only be exchanged if it relates to a specific criminal investigation.

Article 24 reproduces, with a few changes, the corresponding language of Article 15 of the Budapest Convention. It provides for over-arching conditions and safeguards to ensure that the powers and procedures set out in Chapter IV are subject to an appropriate level of protection for fundamental rights, including the application of the principle of proportionality. Such conditions and safeguards shall include, inter alia, judicial or other independent review, the right to an effective remedy, grounds justifying application, and limitation of the scope and the duration of such power or procedure. Furthermore, the conditions and safeguards established in accordance with this article shall apply at the domestic level to the powers and procedures set forth in Chapter IV, both for the purpose of domestic criminal investigations and proceedings and for the purpose of rendering international cooperation by the requested State Party pursuant to Chapter V.

Articles 25-30 are inspired by the corresponding domestic powers and procedural measures of the Budapest Convention. These are: expedited preservation of stored electronic data; expedited preservation and partial disclosure of traffic data; production order; search and seizure of stored electronic data; real-time collection of traffic data and interception of content data.

Article 31 reflects Article 31 of UNCAC. It requires States Parties to adopt measures to enable the freezing, seizure and confiscation of the proceeds of crime.

Article 32 is inspired by UNTOC and UNCAC and provides the possibility for States Parties to establish criminal records for the purpose of using such information in criminal proceedings relating to an offence established in accordance with the Convention.

Article 33 is inspired by UNTOC and requires States Parties to take appropriate measures in accordance with their domestic laws, to provide adequate protection to witnesses.

Article 34 is inspired by UNTOC and require States Parties, in accordance with their domestic laws, to take appropriate measures to provide adequate assistance to victims, particularly to victims of offences established in articles 14-16 of the Convention. When applying its paragraphs 2-4, Article 34 also requires States Parties to take into account the age, gender and the particular circumstances and needs of victims, including the particular circumstances and needs of children. Paragraph 6 encourages States Parties to take effective steps to ensure compliance with requests to remove or render inaccessible the content described in articles 14 and 16 of this Convention to the extent consistent with their domestic legal frameworks.

#### *International cooperation (Chapter V (Art. 35-52))*

Article 35 sets out the general principles and scope of international cooperation which requires States Parties to cooperate with each other for the purpose of investigating and prosecuting and the collecting and sharing of electronic evidence of criminal offences established in accordance with the Convention as well as the collecting and sharing of electronic evidence of any serious crime punishable by a maximum deprivation of liberty of at least four years or a more serious penalty. Therefore, the scope of international cooperation is limited to crimes established in accordance with the Convention and serious crimes with a clear penalty threshold.

Article 36 provides an explicit provision on the protection of personal data. This provision regulates the rules for transferring personal data in the framework of international cooperation. Transfer can only take place in accordance with the domestic law and international law obligations of a transferring States Party. States Parties can refuse to transfer personal data if the data cannot be provided in compliance with their applicable laws concerning the protection of personal data. For the EU, this means that important data protection principles, including purpose limitation, data minimisation, proportionality and necessity must be applied, in accordance with the Charter of Fundamental Rights of the European Union, before any personal data can be provided to another State Party. States Parties can also seek to impose appropriate conditions to achieve compliance in order to respond to a request for personal data. States Parties are required to ensure that personal data received by them in accordance with this Convention is subject to effective and appropriate safeguards in their respective legal frameworks. States Parties may only transfer the personal data received to a third country or an international organisation with the prior authorization of the original transferring State Party, which may require that the authorization be provided in written form.

Article 37 is inspired by UNCAC and the Budapest Convention and provides detailed rules on extradition. Pursuant to paragraph 8, the Convention allows for refusal of extradition based on conditions set out in the requested State Party's national law. Paragraph 15 establishes a further ground to refuse a request for extradition if it has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion, nationality, ethnic origin or political opinions, or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

Articles 38 and 39 are inspired by UNTOC and UNCAC and establish the possibility for transferring sentenced persons and criminal proceedings.

Article 40 echoes provisions of UNTOC, UNCAC and the Budapest Convention and sets out detailed provisions on the principles and procedures relating to mutual legal assistance. Paragraph 17 requires requests for mutual legal assistance to be executed in accordance with the domestic law of the requested State Party. Paragraph 19 prohibits a requesting State Party from transmitting or using information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Paragraphs 8, 21 and 22 provide for comprehensive grounds to refuse requests for mutual legal assistance as described in the Section on '*Fundamental rights*'.

Article 41 is inspired by Article 35 of the Budapest Convention and requires State Parties to set up 24/7 networks to provide assistance for specific investigations prosecutions or judicial proceedings concerning offences established in accordance with the Convention or the collection of electronic evidence.

Articles 42-46 echo Articles 29-33 of the Budapest Convention and set out the details of specific types of international cooperation measures for mutual legal assistance. Such measures are: expedited preservation of stored electronic data; expedited disclosure of preserved traffic data; accessing stored electronic data; real-time collection of traffic data and interception of content data. With regard to the most intrusive measures of real-time collection of traffic data and interception of content data, States Parties have a more limited obligation to "endeavour" to provide such assistance. This obligation constitutes in essence a 'best-efforts obligation' and is thus less constraining on States Parties than the obligations for other mutual legal assistance measures, which require cooperating with other States Parties unless the applicable conditions are not met or one of the applicable grounds for refusal is exercised. Furthermore, assistance for interception of content data can only be requested for serious criminal offences to the extent permitted under treaties applicable to States Parties or under their domestic laws.

Articles 47 and 48 are inspired by UNTOC and UNCAC and encourages States Parties to cooperate to enhance the law enforcement action to combat offences established in accordance with the Convention and to establish joint investigative bodies for the same purpose.

Articles 49-52 are inspired by UNTOC and/or UNCAC and provide minimum rules on measures for the confiscation, recovery and return of proceeds or property of the crimes established in accordance with the Convention.

#### *Preventive measures (Chapter VI (Art. 53))*

Article 53 encourages States Parties to endeavour, in accordance with fundamental principles of their legal systems, to develop and implement or maintain effective and coordinated policies and best practices to reduce existing or future opportunities for cybercrime through appropriate legislative, administrative or other measures. States Parties should promote the active participation of relevant individuals and entities outside the public sector, such as non-governmental organizations, civil society organizations, academic institutions and private sector entities, as well as the general public, in the relevant aspects of prevention of the offences established in accordance with the Convention. Paragraph 3 provides a non-exhaustive and non-binding list of preventive measures. Subparagraph (e) of paragraph 3 provides an explicit reference to preventive measures recognizing the contributions of the

legitimate activities of security researchers when intended solely to strengthen and improve the security of service providers' products, services and customers.

*Technical assistance and information exchange (Chapter VII (Art. 54-56))*

Articles 54-56 are inspired by UNTOC and/or UNCAC and set out provisions on providing technical assistance, capacity building and exchange of information taking into particular consideration the interests and needs of developing States Parties.

*Mechanism of implementation (Chapter VIII (Art. 57-58))*

Articles 57 and 58 are inspired by UNCAC and set out details on the Conference of the States Parties which will oversee the implementation of the Convention and will have the competence to elaborate and adopt supplementary protocols to the Convention on the basis of Articles 61 and 62 of the Convention. The Secretary-General of the United Nations shall provide the secretary services and convene the Conference of the States Parties not later than one year following the entry into force of the Convention. Thereafter, regular meetings of the Conference shall be held in accordance with the rules of procedure adopted by the Conference.

*Final provisions (Chapter IX (Art. 59-68))*

Chapter IX of the Convention contains the final provisions. Amongst others, Article 60 paragraph 1 ensures that EU Member States that are Party to the Convention can continue to apply Union law in their mutual relations. It also allows the Parties to the Budapest Convention and to other international instruments to continue applying those instruments between themselves.

Article 64 paragraph 1 provides that the Convention shall be open to all States for signature in Hanoi in October 2025 and thereafter at United Nations Headquarters in New York until 31 December 2026. According to paragraph 2, the Convention shall also be open for signature by regional economic integration organizations such as the Union, provided that at least one Member State has signed the Convention in accordance with paragraph 1.

Article 64 paragraph 3 and Article 65 paragraph 1 indicate that the Convention shall enter into force once forty States have expressed their consent to be bound by the Convention by depositing their instruments of ratification, acceptance or approval with the Secretary-General of the United Nations. Regional economic integration organizations such as the Union may deposit their instrument of ratification, acceptance or approval if at least one of their Member States has done likewise. In that instrument of ratification, acceptance or approval, a regional economic integration organization shall declare the extent of its competence with respect to the matters governed by this Convention. According to Article 64 paragraph 4, the Convention is open for accession by regional economic integration organizations such as the Union on the condition that least one Member State is a Party to the Convention. At the time of its accession, the Union shall declare the extent of its competence with respect to matters governed by the Convention.

According to Article 66 paragraph 1, five years from the entry into force of the Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to the Convention for the purpose of considering and deciding on the proposal. Based on paragraph 2, regional economic integration organizations such as the Union, in matters within its competence, shall exercise their right to vote with a number of votes equal to the number of its Member States that are Parties to the Convention. An amendment adopted in accordance with paragraph 1 is subject to ratification, acceptance or approval by States Parties.

Articles 61 and 62 provide rules on protocols supplementary to the Convention. Article 61 paragraph 2 allows regional economic integration organizations such as the Union to become a Party to a protocol only if the organisation is a Party to the Convention. According to paragraph 4, any protocol to the Convention shall be interpreted together with the Convention, taking into account the purpose of that protocol. Article 62 paragraph 1 requires at least sixty States Parties before any supplementary protocol is considered for adoption by the Conference of the States Parties. That article also provides that the Conference of the States Parties shall make every effort to achieve consensus on any supplementary protocol, and only when all efforts have been exhausted, it shall as a last resort require for its adoption at least a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the States Parties. According to paragraph 2 of Article 62, regional economic integration organizations such as the Union, in matters within its competence, shall exercise their right to vote under this article with a number of votes equal to the number of their Member States that are Parties to the Convention.

Based on Article 67 paragraph 2, regional economic integration organizations such as the Union shall cease to be a Party to the Convention when all of their Member States have denounced it.

The resolution adopting the Convention is accompanied by interpretative notes on articles 2, 17, 23 and 35. Although such interpretative notes do not constitute an instrument providing an authoritative interpretation of the Convention, they are intended to guide and assist Parties in its application. The UN AHC's Chair's interpretative notes distributed during the negotiations also address several key aspects of interpretation. The website of the Ad Hoc Committee includes all proposals and revisions of the draft text of the Convention during the negotiations and thus provides useful information on the development of key provisions within the text and can have interpretative value. Furthermore, the Explanatory Report to the Budapest Convention<sup>(24)</sup> can also serve as a helpful, even if informal, information tool for States for many provisions that were inspired by the Budapest Convention, such as most of the Convention's criminalisation and procedural powers provisions.

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<sup>(24)</sup> European Treaty Series - No. 185



Proposal for a

## COUNCIL DECISION

**on the signing, on behalf of the European Union, of the United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16, 82(1), 83(1) and 87(2) in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 24 May 2022, Council Decision (EU) 2022/895 authorised the Commission to participate, on behalf of the European Union, in the negotiations for a United Nations Convention against Cybercrime.
- (2) The text of the United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes ('the Convention') was adopted by the United Nations General Assembly on 24 December 2024 and is envisaged to be opened for signature in Hanoi, Vietnam on 25 October 2025 and thereafter at United Nations Headquarters in New York until 31 December 2026.
- (3) The Convention is in conformity with the security objectives of the European Union as referred to in Article 67(3) of the Treaty on the Functioning of the European Union, namely ensuring a high level of security through measures to prevent and combat crime and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the approximation of criminal laws.
- (4) The provisions of the Convention apply to specific criminal investigations or proceedings concerning criminal offences established in accordance with the Convention and only allow for data exchange for such a purpose.
- (5) The Convention harmonizes a limited set of clearly defined offences while allowing the necessary flexibility for State Parties to avoid overcriminalization of legitimate conduct.
- (6) The Convention establishes only minimum rules on the liability of legal persons for the offences set out therein and does not require establishing such criminal liability in a manner that would be inconsistent with a State Party's legal principles.
- (7) The Convention is also in conformity with the personal data, privacy and fundamental rights protection objectives of the European Union, in line with Article 16 of the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union.

- (8) The Convention provides for robust human rights safeguards and excludes any interpretation that would lead to suppressing human rights or fundamental freedoms, in particular the freedoms of expression, conscience, opinion, religion or belief, peaceful assembly and association. These safeguards also ensure that international cooperation can be refused if such cooperation would be contrary to State Parties' domestic laws or would be necessary to avoid any form of discrimination.
- (9) Concerning the powers and procedural measures both at domestic and international levels, the Convention provides for horizontal conditions and safeguards ensuring the protection of human rights, in accordance with State Parties' obligations under international human rights law, and which shall incorporate the principle of proportionality. Such conditions and safeguards shall include, among others, judicial or other independent review, the right to an effective remedy, grounds justifying application and the limitation of the scope and the duration of the powers and procedures.
- (10) The Convention includes a dedicated provision on the protection of personal data which ensures that important data protection principles, including purpose limitation, data minimisation, proportionality and necessity must be applied, in accordance with the Charter of Fundamental Rights of the European Union, before any personal data can be provided to another State Party.
- (11) With its participation in the negotiations, on behalf of the Union, the Commission ensured compatibility of the Convention with relevant European Union rules.
- (12) A number of reservations and notifications are relevant to ensure compatibility of the Convention with Union law and policies, as well as the uniform application of the Convention amongst Member States in their relations with non-EU State Parties, and the effective application of the Convention.
- (13) The reservations and notifications, on which guidance is given in Annex I to this Decision, are without prejudice to any other reservations or declarations that Member States might wish to make individually where permissible.
- (14) Given that the Convention provides for procedures that improve cross-border access to electronic evidence and a high level of safeguards, becoming a Party to it will promote consistency in the European Union's efforts in combating cybercrime and other forms of crime at global level. It will facilitate cooperation between the EU Member State Parties and the non-EU Member State Parties to the Convention while ensuring a high level of protection of individuals.
- (15) In accordance with its Article 64, the Convention is open for signature by the Union.
- (16) The Union should become a Party to the Convention alongside its Member States, since both have competences in the areas covered by the Convention. This Decision is without prejudice to the signature of the Convention by the Member States, in accordance with their internal procedures.
- (17) The swift signature of the Convention by the European Union will furthermore ensure that the Union has a meaningful voice early in the implementation of this new global framework for the fight against cybercrime.
- (18) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on [...].

- (19) [In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Ireland has notified [, *by letter of ...*,] its wish to take part in the adoption and application of this Decision.”]

OR

[In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.]

- (20) In accordance with Articles 1 and 2 of Protocol No 22 on the position of the Kingdom of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the Kingdom of Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (21) The Convention should be signed, and the attached reservations and notifications should be approved,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The signing of the United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes (the ‘Convention’) is hereby authorised on behalf of the European Union, subject to the conclusion of the said Convention.

The text of the Convention is attached to this Decision (Annex II).

#### *Article 2*

The reservations and notifications set out in Annex I attached to this Decision are hereby approved.

#### *Article 3*

This Decision shall enter into force on the date following that of its adoption.

Done at Brussels,

*For the Council*  
*The President*  
[...]



EUROPEAN  
COMMISSION

Brussels, 16.7.2025  
COM(2025) 415 final

ANNEX 1

**ANNEX**

**to the**

**Proposal for a COUNCIL DECISION**

**on the signing, on behalf of the European Union, of the United Nations Convention  
against Cybercrime; Strengthening International Cooperation for Combating Certain  
Crimes Committed by Means of Information and Communications Technology Systems  
and for the Sharing of Evidence in Electronic Form of Serious Crimes**

## **Annex I**

### **Reservations and notifications**

1. The Union and the Member States shall act in accordance with the below indications when it comes to reservations, declarations, notifications or communications, and other considerations.

### **RESERVATIONS**

2. The United Nations Convention against Cybercrime does not have a dedicated provision on reservations. Rather, it explicitly allows a Party to declare that it avails itself of a reservation provided in some of the articles of the Convention (Article 11 paragraph 3; Article 23 paragraph 3(a); Article 23 paragraph 3(b) chaussette; Article 42 paragraph 5; Article 63 paragraphs 3 and 4).
3. On that basis, the Union and the Member States shall make a reservation based on Article 63 paragraph 3 indicating that they do not consider themselves bound by Article 63 paragraph 2 regarding the settlement of disputes.
4. When Member States consider making their own reservations on issues of national competence, they shall inform the Commission 2 months in advance.
5. The human rights conditions and safeguards recognised and provided for in this Convention, including those in Articles 6; 21 paragraph 4; 24; 36; 37 paragraphs 15, 40 paragraph 22 are part of its object and purpose and therefore Member States shall not formulate reservations on these articles. Any such reservations by non-EU State Parties to the Convention should be objected to as going against the object and purpose of the Convention.

### **NOTIFICATIONS**

6. The Convention requires a Party to make notifications in accordance with Article 40 paragraphs 12(c) and 13; Article 41 paragraph 2; Article 67 paragraph 1.
7. The Convention also requires a Party to communicate to the Secretary-General of the United Nations the name and address of an authority responsible for making or receiving requests for extradition or provisional arrest in accordance with Article 37 paragraph 19.
8. Member States shall communicate to the Secretary-General of the United Nations the name and address of an authority responsible for making or receiving requests for extradition or provisional arrest under Article 37 paragraph 19 and inform the Commission thereof.
9. The Union and the Member States shall notify the Secretary-General of the United Nations of the central authority or authorities having the responsibility and power to receive requests for mutual legal assistance under Article 40 paragraph 12(c) and inform the Commission thereof.
10. The Union and the Member States shall notify the Secretary-General of the United Nations of the language or languages acceptable to Member States under Article 40 paragraph 13 and inform the Commission thereof.



11. Member States shall notify the Secretary-General of the United Nations of the point of contact available 24 hours a day, 7 days a week under Article 41 paragraph 2 and keep an updated register of points of contact and inform the Commission thereof.
12. Member States shall refrain from notifying the Secretary-General of the United Nations of the denunciation of the Convention under Article 67 paragraph 1 unless the Council has adopted a decision that the Union should denounce the Convention.



EUROPEAN  
COMMISSION

Brussels, 16.7.2025  
COM(2025) 415 final

ANNEX 2

**ANNEX**

**to the**

**Proposal for a COUNCIL DECISION**

**on the signing, on behalf of the European Union, of the United Nations Convention  
against Cybercrime; Strengthening International Cooperation for Combating Certain  
Crimes Committed by Means of Information and Communications Technology Systems  
and for the Sharing of Evidence in Electronic Form of Serious Crimes**

## Annex II

### Final text of the Convention



#### **United Nations Convention against Cybercrime;**

#### **Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes**

##### **Preamble**

*The States Parties to the present Convention,*

*Bearing in mind* the purposes and principles of the Charter of the United Nations,

*Noting* that information and communications technologies, while having enormous potential for the development of societies, create new opportunities for perpetrators, may contribute to the increase in the rate and diversity of criminal activities, and may have an adverse impact on States, enterprises and the well-being of individuals and society as a whole,

*Concerned* that the use of information and communications technology systems can have a considerable impact on the scale, speed and scope of criminal offences, including offences related to terrorism and transnational organized crime, such as trafficking in persons, the smuggling of migrants, the illicit manufacturing of and trafficking in firearms, their parts, components and ammunition, drug trafficking and trafficking in cultural property,

*Convinced* of the need to pursue, as a matter of priority, a global criminal justice policy aimed at the protection of society against cybercrime by, inter alia, adopting appropriate legislation, establishing common offences and procedural powers and fostering international cooperation to prevent and combat such activities more effectively at the national, regional and international levels,

*Determined* to deny safe havens to those who engage in cybercrime by prosecuting these crimes wherever they occur,

*Stressing* the need to enhance coordination and cooperation among States by, inter alia, providing technical assistance and capacity-building, including the transfer of technology on mutually agreed terms, to countries, in particular developing countries, upon their request, to improve national legislation and frameworks and enhance the capacity of national authorities to deal with cybercrime in all its forms, including its prevention, detection, investigation and prosecution, and emphasizing in this context the role that the United Nations plays,

*Recognizing* the increasing number of victims of cybercrime, the importance of obtaining justice for those victims and the necessity to address the needs of persons in vulnerable situations in measures taken to prevent and combat the offences covered by this Convention,

*Determined* to prevent, detect and suppress more effectively international transfers of property obtained as a result of cybercrime and to strengthen international cooperation in the recovery and return of proceeds of the crimes established in accordance with this Convention,

*Bearing in mind* that preventing and combating cybercrime is a responsibility of all States and that they must cooperate with one another, with the support and involvement of relevant international and regional organizations, as well as non-governmental organizations, civil society organizations, academic institutions and private sector entities, if their efforts in this area are to be effective,

*Recognizing* the importance of mainstreaming a gender perspective in all relevant efforts to prevent and combat the offences covered by this Convention, in accordance with domestic law,

*Mindful* of the need to achieve law enforcement objectives and to ensure respect for human rights and fundamental freedoms as enshrined in applicable international and regional instruments,

*Acknowledging* the right to protection against arbitrary or unlawful interference with one's privacy, and the importance of protecting personal data,

*Commending* the work of the United Nations Office on Drugs and Crime and other international and regional organizations in preventing and combating cybercrime,

*Recalling* General Assembly resolutions 74/247 of 27 December 2019 and 75/282 of 26 May 2021,

*Taking into account* the existing international and regional conventions and treaties on cooperation in criminal matters, as well as similar treaties that exist between Member States of the United Nations,

*Have agreed* as follows:

## **Chapter I**

### **General provisions**

#### **Article 1**

##### **Statement of purpose**

The purposes of this Convention are to:

- (a) Promote and strengthen measures to prevent and combat cybercrime more efficiently and effectively;
- (b) Promote, facilitate and strengthen international cooperation in preventing and combating cybercrime; and
- (c) Promote, facilitate and support technical assistance and capacity- building to prevent and combat cybercrime, in particular for the benefit of developing countries.

#### **Article 2**

##### **Use of terms**

For the purposes of this Convention:

- (a) “Information and communications technology system” shall mean any device or group of interconnected or related devices, one or more of which, pursuant to a program, gathers, stores and performs automatic processing of electronic data;
- (b) “Electronic data” shall mean any representation of facts, information or concepts in a form suitable for processing in an information and communications technology system, including a program suitable to cause an information and communications technology system to perform a function;
- (c) “Traffic data” shall mean any electronic data relating to a communication by means of an information and communications technology system, generated by an information and communications technology system that formed a part in the chain of communication, indicating the communication’s origin, destination, route, time, date, size, duration or type of underlying service;
- (d) “Content data” shall mean any electronic data, other than subscriber information or traffic data, relating to the substance of the data transferred by an information and communications technology system, including, but not



limited to, images, text messages, voice messages, audio recordings and video recordings;

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- (e) “Service provider” shall mean any public or private entity that:
  - (i) Provides to users of its service the ability to communicate by means of an information and communications technology system; or
  - (ii) Processes or stores electronic data on behalf of such a communications service or users of such a service;
- (f) “Subscriber information” shall mean any information that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which can be established:
  - (i) The type of communications service used, the technical provisions related thereto and the period of service;
  - (ii) The subscriber’s identity, postal or geographical address, telephone or other access number, billing or payment information, available on the basis of the service agreement or arrangement;
  - (iii) Any other information on the site of the installation of communications equipment, available on the basis of the service agreement or arrangement;
- (g) “Personal data” shall mean any information relating to an identified or identifiable natural person;
- (h) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- (i) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, including virtual assets, and legal documents or instruments evidencing title to, or interest in, such assets;
- (j) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;
- (k) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;
- (l) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

- (m) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 17 of this Convention;
- (n) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence;
- (o) “Emergency” shall mean a situation in which there is a significant and imminent risk to the life or safety of any natural person.

### **Article 3**

#### **Scope of application**

This Convention shall apply, except as otherwise stated herein, to:

- (a) The prevention, investigation and prosecution of the criminal offences established in accordance with this Convention, including the freezing, seizure, confiscation and return of the proceeds from such offences;
- (b) The collecting, obtaining, preserving and sharing of evidence in electronic form for the purpose of criminal investigations or proceedings, as provided for in articles 23 and 35 of this Convention.

### **Article 4**

#### **Offences established in accordance with other United Nations conventions and protocols**

1. In giving effect to other applicable United Nations conventions and protocols to which they are Parties, States Parties shall ensure that criminal offences established in accordance with such conventions and protocols are also considered criminal offences under domestic law when committed through the use of information and communications technology systems.
2. Nothing in this article shall be interpreted as establishing criminal offences in accordance with this Convention.

## **Article 5**

### **Protection of sovereignty**

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

## **Article 6**

### **Respect for human rights**

1. States Parties shall ensure that the implementation of their obligations under this Convention is consistent with their obligations under international human rights law.
2. Nothing in this Convention shall be interpreted as permitting suppression of human rights or fundamental freedoms, including the rights related to the freedoms of expression, conscience, opinion, religion or belief, peaceful assembly and association, in accordance and in a manner consistent with applicable international human rights law.

## **Chapter II**

### **Criminalization**

## **Article 7**

### **Illegal access**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the access to the whole or any part of an information and communications technology system without right.
2. A State Party may require that the offence be committed by infringing security measures, with the intent of obtaining electronic data or other dishonest or criminal intent or in relation to an information and communications technology system that is connected to another information and communications technology system.

## **Article 8**

### **Illegal interception**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the interception, made by technical means, of non-public transmissions of electronic data to, from or within an information and communications technology system, including electromagnetic emissions from an information and communications technology system carrying such electronic data.
2. A State Party may require that the offence be committed with dishonest or criminal intent, or in relation to an information and communications technology system that is connected to another information and communications technology system.

## **Article 9**

### **Interference with electronic data**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the damaging, deletion, deterioration, alteration or suppression of electronic data.
2. A State Party may require that the conduct described in paragraph 1 of this article result in serious harm.

## **Article 10**

### **Interference with an information and communications technology system**

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the serious hindering of the functioning of an information and communications technology system by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing electronic data.

## **Article 11**

### **Misuse of devices**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right:

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- (a) The obtaining, production, sale, procurement for use, import, distribution or otherwise making available of:
  - (i) A device, including a program, designed or adapted primarily for the purpose of committing any of the offences established in accordance with articles 7 to 10 of this Convention; or
  - (ii) A password, access credentials, electronic signature or similar data by which the whole or any part of an information and communications technology system is capable of being accessed;

with the intent that the device, including a program, or the password, access credentials, electronic signature or similar data be used for the purpose of committing any of the offences established in accordance with articles 7 to 10 of this Convention; and

- (b) The possession of an item referred to in paragraph 1 (a) (i) or (ii) of this article, with intent that it be used for the purpose of committing any of the offences established in accordance with articles 7 to 10 of this Convention.
- 2. This article shall not be interpreted as imposing criminal liability where the obtaining, production, sale, procurement for use, import, distribution or otherwise making available, or the possession referred to in paragraph 1 of this article is not for the purpose of committing an offence established in accordance with articles 7 to 10 of this Convention, such as for the authorized testing or protection of an information and communications technology system.
- 3. Each State Party may reserve the right not to apply paragraph 1 of this article, provided that the reservation does not concern the sale, distribution or otherwise making available of the items referred to in paragraph 1 (a) (ii) of this article.

## **Article 12**

### **Information and communications technology system-related forgery**

- 1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the input, alteration, deletion or suppression of electronic data resulting in inauthentic data with the intent that they be considered or acted upon for legal purposes as if they were authentic, regardless of whether or not the data are directly readable and intelligible.
- 2. A State Party may require an intent to defraud, or a similar dishonest or criminal intent, before criminal liability attaches.

## **Article 13**

### **Information and communications technology system-related theft or fraud**

Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally and without right, the causing of a loss of property to another person by means of:

- (a) Any input, alteration, deletion or suppression of electronic data;
- (b) Any interference with the functioning of an information and communications technology system;
- (c) Any deception as to factual circumstances made through an information and communications technology system that causes a person to do or omit to do anything which that person would not otherwise do or omit to do;

with the fraudulent or dishonest intent of procuring for oneself or for another person, without right, a gain in money or other property.

## **Article 14**

### **Offences related to online child sexual abuse or child sexual exploitation material**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:
  - (a) Producing, offering, selling, distributing, transmitting, broadcasting, displaying, publishing or otherwise making available child sexual abuse or child sexual exploitation material through an information and communications technology system;
  - (b) Soliciting, procuring or accessing child sexual abuse or child sexual exploitation material through an information and communications technology system;
  - (c) Possessing or controlling child sexual abuse or child sexual exploitation material stored in an information and communications technology system or another storage medium;
  - (d) Financing the offences established in accordance with subparagraphs (a) to (c) of this paragraph, which States Parties may establish as a separate offence.

2. For the purposes of this article, the term “child sexual abuse or child sexual exploitation material” shall include visual material, and may include written or audio content, that depicts, describes or represents any person under 18 years of age:
  - (a) Engaging in real or simulated sexual activity;
  - (b) In the presence of a person engaging in any sexual activity;
  - (c) Whose sexual parts are displayed for primarily sexual purposes; or
  - (d) Subjected to torture or cruel, inhumane or degrading treatment or punishment and such material is sexual in nature.
3. A State Party may require that the material identified in paragraph 2 of this article be limited to material that:
  - (a) Depicts, describes or represents an existing person; or
  - (b) Visually depicts child sexual abuse or child sexual exploitation.
4. In accordance with their domestic law and consistent with applicable international obligations, States Parties may take steps to exclude the criminalization of:
  - (a) Conduct by children for self-generated material depicting them; or
  - (b) The consensual production, transmission, or possession of material described in paragraph 2 (a) to (c) of this article, where the underlying conduct depicted is legal as determined by domestic law, and where such material is maintained exclusively for the private and consensual use of the persons involved.
5. Nothing in this Convention shall affect any international obligations which are more conducive to the realization of the rights of the child.

## **Article 15**

### **Solicitation or grooming for the purpose of committing a sexual offence against a child**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the act of intentionally communicating, soliciting, grooming, or making any arrangement through an information and communications technology system for the purpose of committing a sexual offence against a child, as defined in domestic law, including for the commission of any of the offences established in accordance with article 14 of this Convention.

2. A State Party may require an act in furtherance of the conduct described in paragraph 1 of this article.
3. A State Party may consider extending criminalization in accordance with paragraph 1 of this article in relation to a person believed to be a child.
4. States Parties may take steps to exclude the criminalization of conduct as described in paragraph 1 of this article when committed by children.

## **Article 16**

### **Non-consensual dissemination of intimate images**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally and without right, the selling, distributing, transmitting, publishing or otherwise making available of an intimate image of a person by means of an information and communications technology system, without the consent of the person depicted in the image.
2. For the purpose of paragraph 1 of this article, “intimate image” shall mean a visual recording of a person over the age of 18 years made by any means, including a photograph or video recording, that is sexual in nature, in which the person’s sexual parts are exposed or the person is engaged in sexual activity, which was private at the time of the recording, and in respect of which the person or persons depicted maintained a reasonable expectation of privacy at the time of the offence.
3. A State Party may extend the definition of intimate images, as appropriate, to depictions of persons who are under the age of 18 years if they are of legal age to engage in sexual activity under domestic law and the image does not depict child abuse or exploitation.
4. For the purposes of this article, a person who is under the age of 18 years and depicted in an intimate image cannot consent to the dissemination of an intimate image that constitutes child sexual abuse or child sexual exploitation material under article 14 of this Convention.
5. A State Party may require the intent to cause harm before criminal liability attaches.
6. States Parties may take other measures concerning matters related to this article, in accordance with their domestic law and consistent with applicable international obligations.

## Article 17

### Laundering of proceeds of crime

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
  - (a)
    - (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of that person's actions;
    - (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;
  - (b) Subject to the basic concepts of its legal system:
    - (i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;
    - (ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.
- (2) For purposes of implementing or applying paragraph 1 of this article:
  - (a) Each State Party shall establish as predicate offences relevant offences established in accordance with articles 7 to 16 of this Convention;
  - (b) In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in that list a comprehensive range of offences established in accordance with articles 7 to 16 of this Convention;
  - (c) For the purposes of subparagraph (b) of this paragraph, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article, had it been committed there;
  - (d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

- (e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence;
- (f) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

## **Article 18**

### **Liability of legal persons**

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.
2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.
3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.
4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

## **Article 19**

### **Participation and attempt**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, when committed intentionally, the participation in any capacity, such as that of an accomplice, assistant or instigator, in an offence established in accordance with this Convention.
2. Each State Party may adopt the necessary legislative and other measures to establish as a criminal offence, in accordance with its domestic law, when committed intentionally, any attempt to commit an offence established in accordance with this Convention.
3. Each State Party may adopt the necessary legislative and other measures to establish as a criminal offence, in accordance with its domestic law, when committed



intentionally, the preparation for an offence established in accordance with this Convention.

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## **Article 20**

### **Statute of limitations**

Each State Party shall, where appropriate, considering the gravity of the crime, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

## **Article 21**

### **Prosecution, adjudication and sanctions**

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to effective, proportionate and dissuasive sanctions that take into account the gravity of the offence.
2. Each State Party may adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to establish aggravating circumstances in relation to the offences established in accordance with this Convention, including circumstances that affect critical information infrastructures.
3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised in order to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.
4. Each State Party shall ensure that any person prosecuted for offences established in accordance with this Convention enjoys all rights and guarantees in conformity with domestic law and consistent with the applicable international obligations of the State Party, including the right to a fair trial and the rights of the defence.
5. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.
6. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

7. States Parties shall ensure that appropriate measures are in place under domestic law to protect children who are accused of offences established in accordance with this Convention, consistent with the obligations under the Convention on the Rights of the Child and the applicable Protocols thereto, as well as other applicable international or regional instruments.
8. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

## **Chapter III**

### **Jurisdiction**

#### **Article 22**

##### **Jurisdiction**

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:
  - (a) The offence is committed in the territory of that State Party; or
  - (b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time when the offence is committed.
2. Subject to article 5 of this Convention, a State Party may also establish its jurisdiction over any such offence when:
  - (a) The offence is committed against a national of that State Party; or
  - (b) The offence is committed by a national of that State Party or a stateless person with habitual residence in its territory; or
  - (c) The offence is one of those established in accordance with article 17, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 17, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or
  - (d) The offence is committed against the State Party.

3. For the purposes of article 37, paragraph 11, of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that the person is one of its nationals.
4. Each State Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite the person.
5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.
6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

## **Chapter IV**

### **Procedural measures and law enforcement**

#### **Article 23**

##### **Scope of procedural measures**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish the powers and procedures provided for in this chapter for the purpose of specific criminal investigations or proceedings.
2. Except as provided otherwise in this Convention, each State Party shall apply the powers and procedures referred to in paragraph 1 of this article to:
  - (a) The criminal offences established in accordance with this Convention;
  - (b) Other criminal offences committed by means of an information and communications technology system; and
  - (c) The collection of evidence in electronic form of any criminal offence.

3.
  - (a) Each State Party may reserve the right to apply the measures referred to in article 29 of this Convention only to offences or categories of offences specified in the reservation, provided that the range of such offences or categories of offences is not more restricted than the range of offences to which it applies the measures referred to in article 30 of this Convention. Each State Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in article 29;
  - (b) Where a State Party, owing to limitations in its legislation in force at the time of the adoption of this Convention, is not able to apply the measures referred to in articles 29 and 30 of this Convention to communications being transmitted within an information and communications technology system of a service provider which:
    - (i) Is being operated for the benefit of a closed group of users; and
    - (ii) Does not employ public communications networks and is not connected with another information and communications technology system, whether public or private;

that State Party may reserve the right not to apply these measures to such communications. Each State Party shall consider restricting such a reservation to enable the broadest application of the measures referred to in articles 29 and 30 of this Convention.

## **Article 24**

### **Conditions and safeguards**

1. Each State Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this chapter are subject to conditions and safeguards provided for under its domestic law, which shall provide for the protection of human rights, in accordance with its obligations under international human rights law, and which shall incorporate the principle of proportionality.
2. In accordance with and pursuant to the domestic law of each State Party, such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, include, inter alia, judicial or other independent review, the right to an effective remedy, grounds justifying application, and limitation of the scope and the duration of such power or procedure.
3. To the extent that it is consistent with the public interest, in particular the proper administration of justice, each State Party shall consider the impact of the powers and procedures in this chapter upon the rights, responsibilities and legitimate interests of third parties.

4. The conditions and safeguards established in accordance with this article shall apply at the domestic level to the powers and procedures set forth in this chapter, both for the purpose of domestic criminal investigations and proceedings and for the purpose of rendering international cooperation by the requested State Party.
5. References to judicial or other independent review in paragraph 2 of this article are references to such review at the domestic level.

## **Article 25**

### **Expedited preservation of stored electronic data**

1. Each State Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified electronic data, including traffic data, content data and subscriber information, that have been stored by means of an information and communications technology system, in particular where there are grounds to believe that the electronic data are particularly vulnerable to loss or modification.
2. Where a State Party gives effect to paragraph 1 of this article by means of an order to a person to preserve specified stored electronic data in the person's possession or control, the State Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of those electronic data for a period of time as long as necessary, up to a maximum of 90 days, to enable the competent authorities to seek their disclosure. A State Party may provide for such an order to be subsequently renewed.
3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person who is to preserve the electronic data to keep confidential the undertaking of such procedures for the period of time provided for in its domestic legislation.

## **Article 26**

### **Expedited preservation and partial disclosure of traffic data**

Each State Party shall adopt, in respect of traffic data that are to be preserved under the provisions of article 25 of this Convention, such legislative and other measures as may be necessary to:



- (a) Ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of a communication; and
- (b) Ensure the expeditious disclosure to the State Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic

data to enable the State Party to identify the service providers and the path through which the communication or indicated information was transmitted.

## **Article 27**

### **Production order**

Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:

- (a) A person in its territory to submit specified electronic data in that person's possession or control that are stored in an information and communications technology system or an electronic data storage medium; and
- (b) A service provider offering its services in the territory of the State Party to submit subscriber information relating to such services in that service provider's possession or control.

## **Article 28**

### **Search and seizure of stored electronic data**

1. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access:
  - (a) An information and communications technology system, part of it, and electronic data stored therein; and
  - (b) An electronic data storage medium in which the electronic data sought may be stored;in the territory of that State Party.
2. Each State Party shall adopt such legislative and other measures as may be necessary to ensure that, where its authorities search or similarly access a specific information and communications technology system or part of it, pursuant to paragraph 1 (a) of this article, and have grounds to believe that the electronic data sought are stored in another information and communications technology system or part of it in its territory, and such data are lawfully accessible from or available to the initial system, such authorities shall be able to expeditiously conduct the search to obtain access to that other information and communications technology system.

3. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure electronic data in its territory accessed in accordance with paragraph 1 or 2 of this article. These measures shall include the power to:

- (a) Seize or similarly secure an information and communications technology system or part of it, or an electronic data storage medium;
  - (b) Make and retain copies of those electronic data in electronic form;
  - (c) Maintain the integrity of the relevant stored electronic data;
  - (d) Render inaccessible or remove those electronic data in the accessed information and communications technology system.
4. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the information and communications technology system in question, the information and telecommunications network, or their component parts, or measures applied to protect the electronic data therein, to provide, as is reasonable, the necessary information to enable the undertaking of the measures referred to in paragraphs 1 to 3 of this article.

## **Article 29**

### **Real-time collection of traffic data**

1. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to:
- (a) Collect or record, through the application of technical means in the territory of that State Party; and
  - (b) Compel a service provider, within its existing technical capability:
    - (i) To collect or record, through the application of technical means in the territory of that State Party; or
    - (ii) To cooperate and assist the competent authorities in the collection or recording of;

traffic data, in real time, associated with specified communications in its territory transmitted by means of an information and communications technology system.

2. Where a State Party, owing to the principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1 (a) of this article, it may instead adopt such legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means in that territory.

3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

## **Article 30**

### **Interception of content data**

1. Each State Party shall adopt such legislative and other measures as may be necessary, in relation to a range of serious criminal offences to be determined by domestic law, to empower its competent authorities to:
  - (a) Collect or record, through the application of technical means in the territory of that State Party; and
  - (b) Compel a service provider, within its existing technical capability:
    - (i) To collect or record, through the application of technical means in the territory of that State Party; or
    - (ii) To cooperate and assist the competent authorities in the collection or recording of;

content data, in real time, of specified communications in its territory transmitted by means of an information and communications technology system.

2. Where a State Party, owing to the principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1 (a) of this article, it may instead adopt such legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory, through the application of technical means in that territory.
3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

## **Article 31**

### **Freezing, seizure and confiscation of the proceeds of crime**

1. Each State Party shall adopt, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable the confiscation of:

- (a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;



- (b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.
2. Each State Party shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.
  3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.
  4. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.
  5. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.
  6. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled, shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.
  7. For the purposes of this article and article 50 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.
  8. Each State Party may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings.
  9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.
  10. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with the provisions of the domestic law of a State Party.

## **Article 32**

### **Establishment of criminal record**

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as, and for the purpose that, it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

## **Article 33**

### **Protection of witnesses**

1. Each State Party shall take appropriate measures, in accordance with its domestic law and within its means, to provide effective protection from potential retaliation or intimidation for witnesses who give testimony or, in good faith and on reasonable grounds, provide information concerning offences established in accordance with this Convention or otherwise cooperate with investigative or judicial authorities and, as appropriate, for their relatives and other persons close to them.
2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:
  - (a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;
  - (b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.
3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.
4. The provisions of this article shall also apply to victims insofar as they are witnesses.

## **Article 34**

### **Assistance to and protection of victims**

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences established in accordance with this Convention, in particular in cases of threat of retaliation or intimidation.
2. Each State Party shall, subject to its domestic law, establish appropriate procedures to provide access to compensation and restitution for victims of offences established in accordance with this Convention.
3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.
4. With respect to the offences established in accordance with articles 14 to 16 of this Convention, each State Party shall, subject to its domestic law, take measures to provide assistance to victims of such offences, including for their physical and psychological recovery, in cooperation with relevant international organizations, non-governmental organizations, and other elements of civil society.
5. In applying the provisions of paragraphs 2 to 4 of this article, each State Party shall take into account the age, gender and the particular circumstances and needs of victims, including the particular circumstances and needs of children.
6. Each State Party shall, to the extent consistent with its domestic legal framework, take effective steps to ensure compliance with requests to remove or render inaccessible the content described in articles 14 and 16 of this Convention.

## **Chapter V**

### **International cooperation**

## **Article 35**

### **General principles of international cooperation**

1. States Parties shall cooperate with each other in accordance with the provisions of this Convention, as well as other applicable international instruments on international cooperation in criminal matters, and domestic laws, for the purpose of:

- (a) The investigation and prosecution of, and judicial proceedings in relation to, the criminal offences established in accordance with this Convention, including the freezing, seizure, confiscation and return of the proceeds from such offences;

- (b) The collecting, obtaining, preserving and sharing of evidence in electronic form of criminal offences established in accordance with this Convention;
  - (c) The collecting, obtaining, preserving and sharing of evidence in electronic form of any serious crime, including serious crimes established in accordance with other applicable United Nations conventions and protocols in force at the time of the adoption of this Convention.
- 2. For the purpose of the collecting, obtaining, preserving and sharing of evidence in electronic form of offences as provided for in paragraph 1 (b) and (c) of this article, the relevant paragraphs of article 40, and articles 41 to 46 of this Convention shall apply.
- 3. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.

## **Article 36**

### **Protection of personal data**

- 1.
  - (a) A State Party transferring personal data pursuant to this Convention shall do so in accordance with its domestic law and any obligations the transferring Party may have under applicable international law. States Parties shall not be required to transfer personal data in accordance with this Convention if the data cannot be provided in compliance with their applicable laws concerning the protection of personal data;
  - (b) Where the transfer of personal data would not be compliant with paragraph 1 (a) of this article, States Parties may seek to impose appropriate conditions, in accordance with such applicable laws, to achieve compliance in order to respond to a request for personal data;
  - (c) States Parties are encouraged to establish bilateral or multilateral arrangements to facilitate the transfer of personal data.
- 2. For personal data transferred in accordance with this Convention, States Parties shall ensure that the personal data received are subject to effective and appropriate safeguards in the respective legal frameworks of the States Parties.

3. In order to transfer personal data obtained in accordance with this Convention to a third country or an international organization, a State Party shall notify the original transferring State Party of its intention and request its authorization.

The State Party shall transfer such personal data only with the authorization of the original transferring State Party, which may require that the authorization be provided in written form.

## **Article 37**

### **Extradition**

1. This article shall apply to the criminal offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party. When the extradition is sought for the purpose of serving a final sentence of imprisonment or another form of detention imposed in respect of an extraditable offence, the requested State Party may grant the extradition in accordance with domestic law.
2. Notwithstanding paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the criminal offences established in accordance with this Convention that are not punishable under its own domestic law.
3. If the request for extradition includes several separate criminal offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.
4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.
6. States Parties that make extradition conditional on the existence of a treaty shall:
  - (a) At the time of deposit of their instruments of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether they will take this Convention as the legal basis for cooperation in extradition with other States Parties to this Convention; and



- (b) If they do not take this Convention as the legal basis for cooperation in extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.
7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.
  8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.
  9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.
  10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the requesting State Party, including when the request is transmitted through existing channels of the International Criminal Police Organization, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure the person's presence at extradition proceedings.
  11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that the person is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decisions and conduct their proceedings in the same manner as in the case of any other offence of a comparable nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.
  12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party

shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.
15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion, nationality, ethnic origin or political opinions, or that compliance with the request would cause prejudice to that person's position for any one of these reasons.
16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.
17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.
18. The requested State Party shall inform the requesting State Party of its decision with regard to the extradition. The requested State Party shall inform the requesting State Party of any reason for refusal of extradition unless the requested State Party is prevented from doing so by its domestic law or its international legal obligations.
19. Each State Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary-General of the United Nations the name and address of an authority responsible for making or receiving requests for extradition or provisional arrest. The Secretary-General shall set up and keep updated a register of authorities so designated by the States Parties. Each State Party shall ensure that the details held in the register are correct at all times.
20. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

## **Article 38**

### **Transfer of sentenced persons**

States Parties may, taking into consideration the rights of sentenced persons, consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention, in order that they may complete their sentences there. States Parties may also take into account issues relating to consent, rehabilitation and reintegration.

## **Article 39**

### **Transfer of criminal proceedings**

1. States Parties shall consider the possibility of transferring to one another proceedings for the criminal prosecution of an offence established in accordance with this Convention where such a transfer is deemed to be in the interests of the proper administration of justice, particularly in cases where several jurisdictions are involved, with a view to concentrating the prosecution.
2. If a State Party that makes the transfer of criminal proceedings conditional on the existence of a treaty receives a request for transfer from another State Party with which it has no treaty in this matter, it may consider this Convention as the legal basis for the transfer of criminal proceedings in respect of any offence to which this article applies.

## **Article 40**

### **General principles and procedures relating to mutual legal assistance**

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences established in accordance with this Convention, and for the purposes of the collection of evidence in electronic form of offences established in accordance with this Convention, as well as of serious crimes.
2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 18 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:
  - (a) Taking evidence or statements from persons;

- (b) Effecting service of judicial documents;
  - (c) Executing searches and seizures, and freezing;
  - (d) Searching or similarly accessing, seizing or similarly securing, and disclosing electronic data stored by means of an information and communications technology system pursuant to article 44 of this Convention;
  - (e) Collecting traffic data in real time pursuant to article 45 of this Convention;
  - (f) Intercepting content data pursuant to article 46 of this Convention;
  - (g) Examining objects and sites;
  - (h) Providing information, evidence and expert evaluations;
  - (i) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
  - (j) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
  - (k) Facilitating the voluntary appearance of persons in the requesting State
  - (l) Party;
  - (m) Recovering proceeds of crime;
  - (n) Any other type of assistance that is not contrary to the domestic law of the requested State Party.
4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.
5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with

the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.
7. Paragraphs 8 to 31 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty on mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 8 to 31 of this article in lieu thereof. States Parties are strongly encouraged to apply the provisions of those paragraphs if they facilitate cooperation.
8. States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party. Assistance may be refused when requests involve matters of a *de minimis* nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention.
9. A person who is being detained or is serving a sentence in the territory of one State Party and whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences established in accordance with this Convention may be transferred if the following conditions are met:
  - (a) The person freely gives informed consent;
  - (b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.
10. For the purposes of paragraph 9 of this article:
  - (a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;
  - (b) The State Party to which the person is transferred shall, without delay, implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;



- (c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;
  - (d) The person transferred shall receive credit for service of the sentence being served in the State from which the person was transferred for time spent in the custody of the State Party to which the person was transferred.
- 11. Unless the State Party from which a person is to be transferred in accordance with paragraphs 9 and 10 of this article so agrees, that person, regardless of the person's nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to the person's departure from the territory of the State from which the person was transferred.
- 12.
  - (a) Each State Party shall designate a central authority or authorities that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory;
  - (b) Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority;
  - (c) The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention, and shall set up and keep updated a register of central authorities designated by the States Parties. Each State Party shall ensure that the details held in the register are correct at all times;
  - (d) Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.
- 13. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party,

under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of

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ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

14. Where not prohibited by their respective laws, central authorities of States Parties are encouraged to transmit and receive requests for mutual legal assistance, and communications related thereto, as well as evidence, in electronic form under conditions allowing the requested State Party to establish authenticity and ensuring the security of communications.
15. A request for mutual legal assistance shall contain:
  - (a) The identity of the authority making the request;
  - (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
  - (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
  - (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
  - (e) Where possible and appropriate, the identity, location and nationality of any person concerned, as well as the country of origin, description and location of any item or accounts concerned;
  - (f) Where applicable, the time period for which the evidence, information or other assistance is sought; and
  - (g) The purpose for which the evidence, information or other assistance is sought.
16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.
17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.
18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness, victim or expert by the judicial authorities of another State Party, the first State Party

may, at the request of the other, permit the hearing to take place by videoconference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party. If the requested State Party does not have access to the technical means necessary for holding a videoconference, such means may be provided by the requesting State Party, upon mutual agreement.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.
20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.
21. Mutual legal assistance may be refused:
  - (a) If the request is not made in conformity with the provisions of this article;
  - (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;
  - (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
  - (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.
22. Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual legal assistance if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, language, religion, nationality, ethnic

origin or political opinions, or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

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23. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
24. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.
25. Reasons shall be given for any refusal of mutual legal assistance.
26. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.
27. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.
28. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 27 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.
29. Without prejudice to the application of paragraph 11 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of the person's liberty in that territory in respect of acts, omissions or convictions prior to the person's departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of 15 consecutive days or for any period agreed upon by the States Parties from the date on which the person has been officially informed that the presence of the person is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of the person's own free will.
30. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties

shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

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31. The requested State Party:
  - (a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;
  - (b) May, at its discretion, provide to the requesting State Party, in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.
32. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

#### **Article 41**

1. 24/7 network
2. Each State Party shall designate a point of contact available 24 hours a day, 7 days a week, in order to ensure the provision of immediate assistance for the purpose of specific criminal investigations, prosecutions or judicial proceedings concerning offences established in accordance with this Convention, or for the collection, obtaining and preservation of evidence in electronic form for the purposes of paragraph 3 of this article and in relation to the offences established in accordance with this Convention, as well as to serious crime.
3. The Secretary-General of the United Nations shall be notified of such point of contact and keep an updated register of points of contact designated for the purposes of this article and shall annually circulate to the States Parties the updated list of contact points.
4. Such assistance shall include facilitating or, if permitted by the domestic law and practice of the requested State Party, directly carrying out the following measures:
  - (a) The provision of technical advice;
  - (b) The preservation of stored electronic data pursuant to articles 42 and 43 of this Convention, including, as appropriate, information about the location of the service provider, if known to the requested State Party, to assist the requesting State Party in making a request;
  - (c) The collection of evidence and the provision of legal information;



- (d) The locating of suspects; or
  - (e) The provision of electronic data to avert an emergency.
5. A State Party's point of contact shall have the capacity to carry out communications with the point of contact of another State Party on an expedited basis. If the point of contact designated by a State Party is not part of that State Party's authority or authorities responsible for mutual legal assistance or extradition, the point of contact shall ensure that it is able to coordinate with that authority or those authorities on an expedited basis.
  6. Each State Party shall ensure that trained and equipped personnel are available to ensure the operation of the 24/7 network.
  7. States Parties may also use and strengthen existing authorized networks of points of contact, where applicable, and within the limits of their domestic laws, including the 24/7 networks for computer-related crime of the International Criminal Police Organization for prompt police-to-police cooperation and other methods of information exchange cooperation.

## **Article 42**

### **International cooperation for the purpose of expedited preservation of stored electronic data**

1. A State Party may request another State Party to order or otherwise obtain, in accordance with article 25 of this Convention, the expeditious preservation of electronic data stored by means of an information and communications technology system located within the territory of that other State Party, and in respect of which the requesting State Party intends to submit a request for mutual legal assistance in the search or similar access, seizure or similar securing, or disclosure of the electronic data.
2. The requesting State Party may use the 24/7 network provided for in article 41 of this Convention to seek information concerning the location of the electronic data stored by means of an information and communications technology system and, as appropriate, information about the location of the service provider.
3. A request for preservation made under paragraph 1 of this article shall specify:
  - (a) The authority seeking the preservation;
  - (b) The offence that is the subject of a criminal investigation, prosecution or judicial proceeding and a brief summary of the related facts;

- (c) The stored electronic data to be preserved and their relationship to the offence;
  - (d) Any available information identifying the custodian of the stored electronic data or the location of the information and communications technology system;
  - (e) The necessity of the preservation;
  - (f) That the requesting State Party intends to submit a request for mutual legal assistance in the search or similar access, seizure or similar securing, or disclosure of the stored electronic data;
  - (g) As appropriate, the need to keep the request for preservation confidential and not to notify the user.
4. Upon receiving the request from another State Party, the requested State Party shall take all appropriate measures to preserve expeditiously the specified electronic data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition for providing such preservation.
  5. A State Party that requires dual criminality as a condition for responding to a request for mutual legal assistance in the search or similar access, seizure or similar securing, or disclosure of stored electronic data may, in respect of offences other than those established in accordance with this Convention, reserve the right to refuse the request for preservation under this article in cases where it has reasons to believe that, at the time of disclosure, the condition of dual criminality could not be fulfilled.
  6. In addition, a request for preservation may be refused only on the basis of the grounds contained in article 40, paragraph 21 (b) and (c) and paragraph 22, of this Convention.
  7. Where the requested State Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting State Party's investigation, it shall promptly so inform the requesting State Party, which shall then determine whether the request should nevertheless be executed.
  8. Any preservation effected in response to a request made pursuant to paragraph 1 of this article shall be for a period of not less than 60 days, in order to enable the requesting State Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.
  9. Before the expiry of the preservation period in paragraph 8 of this article, the requesting State Party may request an extension of the period of preservation.

## **Article 43**

### **International cooperation for the purpose of expedited disclosure of preserved traffic data**

1. Where, in the course of the execution of a request made pursuant to article 42 of this Convention to preserve traffic data concerning a specific communication, the requested State Party discovers that a service provider in another State Party was involved in the transmission of the communication, the requested State Party shall expeditiously disclose to the requesting State Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.
2. Disclosure of traffic data under paragraph 1 of this article may be refused only on the basis of the grounds contained in article 40, paragraph 21 (b) and (c) and paragraph 22, of this Convention.

## **Article 44**

### **Mutual legal assistance in accessing stored electronic data**

1. A State Party may request another State Party to search or similarly access, seize or similarly secure, and disclose electronic data stored by means of an information and communications technology system located within the territory of the requested State Party, including electronic data that have been preserved pursuant to article 42 of this Convention.
2. The requested State Party shall respond to the request through the application of relevant international instruments and laws referred to in article 35 of this Convention, and in accordance with other relevant provisions of this chapter.
3. The request shall be responded to on an expedited basis where:
  - (a) There are grounds to believe that the relevant data are particularly vulnerable to loss or modification; or
  - (b) The instruments and laws referred to in paragraph 2 of this article otherwise provide for expedited cooperation.

## **Article 45**

### **Mutual legal assistance in the real-time collection of traffic data**

1. States Parties shall endeavour to provide mutual legal assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of an information and communications technology system. Subject to the provisions of paragraph 2 of this article,

such assistance shall be governed by the conditions and procedures provided for under domestic law.

2. Each State Party shall endeavour to provide such assistance at least with respect to criminal offences for which the real-time collection of traffic data would be available in a similar domestic case.
3. A request made in accordance with paragraph 1 of this article shall specify:
  - (a) The name of the requesting authority;
  - (b) A summary of the main facts and the nature of the investigation, prosecution or judicial proceeding to which the request relates;
  - (c) The electronic data in relation to which the collection of the traffic data is required and their relationship to the offence;
  - (d) Any available data that identify the owner or user of the data or the location of the information and communications technology system;
  - (e) Justification for the need to collect the traffic data;
  - (f) The period for which traffic data are to be collected and a corresponding justification of its duration.

## **Article 46**

### **Mutual legal assistance in the interception of content data**

States Parties shall endeavour to provide mutual legal assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of an information and communications technology system, to the extent permitted under treaties applicable to them or under their domestic laws.

## **Article 47**

### **Law enforcement cooperation**

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences established in accordance with this Convention. States Parties shall, in particular, take effective measures:

- (a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services, taking into account existing channels, including those of the International Criminal Police Organization, in order to facilitate the secure and rapid exchange of information

concerning all aspects of the offences established in accordance with this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

- (b) To cooperate with other States Parties in conducting inquiries with respect to offences established in accordance with this Convention concerning:
  - (i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;
  - (ii) The movement of proceeds of crime or property derived from the commission of such offences;
  - (iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;
- (c) To provide, where appropriate, necessary items or data for analytical or investigative purposes;
- (d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit the offences established in accordance with this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities, as well as cybercrime tactics, techniques and procedures;
- (e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;
- (f) To exchange information and coordinate administrative and other measures taken, as appropriate, for the purpose of early identification of the offences established in accordance with this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences established in accordance with this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

## **Article 48 Joint investigations**

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to offences established in accordance with this Convention that are the subject of criminal investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigations are to take place is fully respected.

## **Article 49**

### **Mechanisms for the recovery of property through international cooperation in confiscation**

1. Each State Party, in order to provide mutual legal assistance pursuant to article 50 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:
  - (a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;
  - (b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and
  - (c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.
2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to article 50, paragraph 2, of this Convention, shall, in accordance with its domestic law:
  - (a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for



taking such actions and that the property would eventually be subject to an order of confiscation for the purposes of paragraph 1 (a) of this article;

- (b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for the purposes of paragraph 1 (a) of this article; and
- (c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

## **Article 50**

### **International cooperation for the purposes of confiscation**

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for the confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:
  - (a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or
  - (b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 31, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities situated in the territory of the requested State Party.
2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 40 of this Convention are applicable, *mutatis mutandis*, to this article. In addition to the information specified in article 40, paragraph 15, of this Convention, requests made pursuant to this article shall contain:

- (a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location, and where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;
  - (b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process, and a statement that the confiscation order is final;
  - (c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.
- 4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting State Party.
  - 5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.
  - 6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.
  - 7. Cooperation under this article may also be refused or provisional measures may be lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a *de minimis* value.
  - 8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.
  - 9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

10. States Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article.

## **Article 51**

### **Special cooperation**

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own criminal investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out criminal investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under article 50 of this Convention.

## **Article 52**

### **Return and disposal of confiscated proceeds of crime or property**

1. Proceeds of crime or property confiscated by a State Party pursuant to article 31 or 50 of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.
2. When acting on a request made by another State Party in accordance with article 50 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their prior legitimate owners.
3. When acting on a request made by another State Party in accordance with articles 31 and 50 of this Convention, a State Party may, after due consideration has been given to compensation of victims, give special consideration to concluding agreements or arrangements on:
  - (a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 56, paragraph 2 (c), of this Convention, and to intergovernmental bodies specializing in the fight against cybercrime;

- (b) Sharing with other States Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic law or administrative procedures.

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

## **Chapter VI Preventive measures**

### **Article 53 Preventive measures**

1. Each State Party shall endeavour, in accordance with fundamental principles of its legal system, to develop and implement or maintain effective and coordinated policies and best practices to reduce existing or future opportunities for cybercrime through appropriate legislative, administrative or other measures.
2. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of relevant individuals and entities outside the public sector, such as non-governmental organizations, civil society organizations, academic institutions and private sector entities, as well as the general public, in the relevant aspects of prevention of the offences established in accordance with this Convention.
3. Preventive measures may include:
  - (a) Strengthening cooperation between law enforcement agencies or prosecutors and relevant individuals and entities outside the public sector, such as non-governmental organizations, civil society organizations, academic institutions and private sector entities for the purpose of addressing relevant aspects of preventing and combating the offences established in accordance with this Convention;
  - (b) Promoting public awareness regarding the existence, causes and gravity of the threat posed by the offences established in accordance with this Convention through public information activities, public education, media and information literacy programmes and curricula that promote public participation in preventing and combating such offences;
  - (c) Building and making efforts to increase the capacity of domestic criminal justice systems, including training and developing expertise among criminal justice practitioners, as part of national prevention strategies against the offences established in accordance with this Convention;

- (d) Encouraging service providers to take effective measures, where feasible in the light of national circumstances and to the extent permitted by domestic law, to strengthen the security of the service providers' products, services and customers;

- (e) Recognizing the contributions of the legitimate activities of security researchers when intended solely, and to the extent permitted and subject to the conditions prescribed by domestic law, to strengthen and improve the security of service providers' products, services and customers located within the territory of the State Party;
  - (f) Developing, facilitating and promoting programmes and activities in order to discourage those at risk of engaging in cybercrime from becoming offenders and to develop their skills in a lawful manner;
  - (g) Endeavouring to promote the reintegration into society of persons convicted of offences established in accordance with this Convention;
  - (h) Developing strategies and policies, in accordance with domestic law, to prevent and eradicate gender-based violence that occurs through the use of an information and communications technology system, as well as taking into consideration the special circumstances and needs of persons in vulnerable situations in developing preventive measures;
  - (i) Undertaking specific and tailored efforts to keep children safe online, including through education and training on and raising public awareness of child sexual abuse or child sexual exploitation online and through revising domestic legal frameworks and enhancing international cooperation aimed at its prevention, as well as making efforts to ensure the swift removal of child sexual abuse and child sexual exploitation material;
  - (j) Enhancing the transparency of and promoting the contribution of the public to decision-making processes and ensuring that the public has adequate access to information;
  - (k) Respecting, promoting and protecting the freedom to seek, receive and impart public information concerning cybercrime;
  - (l) Developing or strengthening support programmes for victims of the offences established in accordance with this Convention;
  - (m) Preventing and detecting transfers of proceeds of crime and property related to the offences established in accordance with this Convention.
4. Each State Party shall take appropriate measures to ensure that the relevant competent authority or authorities responsible for preventing and combating cybercrime are known and accessible to the public, where appropriate, for the reporting, including anonymously, of any incident that may be considered a criminal offence established in accordance with this Convention.



5. States Parties shall endeavour to periodically evaluate existing relevant national legal frameworks and administrative practices with a view to identifying gaps and vulnerabilities and ensuring their relevance in the face of changing threats posed by the offences established in accordance with this Convention.
6. States Parties may collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. This includes participation in international projects aimed at the prevention of cybercrime.
7. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures to prevent cybercrime.

## **Chapter VII**

### **Technical assistance and information exchange**

#### **Article 54**

##### **Technical assistance and capacity-building**

1. States Parties shall, according to their capacity, consider affording one another the widest measure of technical assistance and capacity-building, including training and other forms of assistance, the mutual exchange of relevant experience and specialized knowledge and the transfer of technology on mutually agreed terms, taking into particular consideration the interests and needs of developing States Parties, with a view to facilitating the prevention, detection, investigation and prosecution of the offences covered by this Convention.
2. States Parties shall, to the extent necessary, initiate, develop, implement or improve specific training programmes for their personnel responsible for the prevention, detection, investigation and prosecution of the offences covered by this Convention.
3. Activities referred to in paragraphs 1 and 2 of this article may deal, to the extent permitted by domestic law, with the following:
  - (a) Methods and techniques used in the prevention, detection, investigation and prosecution of the offences covered by this Convention;
  - (b) Building capacity in the development and planning of strategic policies and legislation to prevent and combat cybercrime;

- (c) Building capacity in the collection, preservation and sharing of evidence, in particular in electronic form, including the maintenance of the chain of custody and forensic analysis;

- (d) Modern law enforcement equipment and the use thereof;
  - (e) Training of competent authorities in the preparation of requests for mutual legal assistance and other means of cooperation that meet the requirements of this Convention, especially for the collection, preservation and sharing of evidence in electronic form;
  - (f) Prevention, detection and monitoring of the movements of proceeds deriving from the commission of the offences covered by this Convention, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities;
  - (g) Appropriate and efficient legal and administrative mechanisms and methods for facilitating the seizure, confiscation and return of proceeds of offences covered by this Convention;
  - (h) Methods used in the protection of victims and witnesses who cooperate with judicial authorities;
  - (i) Training in relevant substantive and procedural law, and law enforcement investigation powers, as well as in national and international regulations and in languages.
4. States Parties shall, subject to their domestic law, endeavour to leverage the expertise of and cooperate closely with other States Parties and relevant international and regional organizations, non-governmental organizations, civil society organizations, academic institutions and private sector entities, with a view to enhancing the effective implementation of this Convention.
5. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 3 of this article, and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern.
6. States Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes and effects of offences covered by this Convention committed in their respective territories, with a view to developing, with the participation of the competent authorities and relevant non-governmental organizations, civil society organizations, academic institutions and private sector entities, strategies and action plans to prevent and combat cybercrime.

7. States Parties shall promote training and technical assistance that facilitates timely extradition and mutual legal assistance. Such training and technical assistance may include language training, assistance with the drafting and handling of mutual

legal assistance requests, and secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

8. States Parties shall strengthen, to the extent necessary, efforts to maximize the effectiveness of technical assistance and capacity-building in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.
9. States Parties shall consider establishing voluntary mechanisms with a view to contributing financially to the efforts of developing countries to implement this Convention through technical assistance programmes and capacity-building projects.
10. Each State Party shall endeavour to make voluntary contributions to the United Nations Office on Drugs and Crime for the purpose of fostering, through the Office, programmes and projects with a view to implementing this Convention through technical assistance and capacity-building.

## **Article 55**

### **Exchange of information**

1. Each State Party shall consider analysing, as appropriate, in consultation with relevant experts, including from non-governmental organizations, civil society organizations, academic institutions and private sector entities, trends in its territory with respect to offences covered by this Convention, as well as the circumstances in which such offences are committed.
2. States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise and information concerning cybercrime, with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as best practices, to prevent and combat such crime.
3. Each State Party shall consider monitoring its policies and practical measures to prevent and combat offences covered by this Convention and making assessments of their effectiveness and efficiency.
4. States Parties shall consider exchanging information on legal, policy and technological developments related to cybercrime and the collection of evidence in electronic form.

## Article 56

### Implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of the offences covered by this Convention on society in general and, in particular, on sustainable development.
2. States Parties are strongly encouraged to make concrete efforts, to the extent possible and in coordination with each other, as well as with international and regional organizations:
  - (a) To enhance their cooperation at various levels with other States Parties, in particular developing countries, with a view to strengthening their capacity to prevent and combat the offences covered by this Convention;
  - (b) To enhance financial and material assistance to support the efforts of other States Parties, in particular developing countries, in effectively preventing and combating the offences covered by this Convention and to help them to implement this Convention;
  - (c) To provide technical assistance to other States Parties, in particular developing countries, in support of meeting their needs regarding the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism;
  - (d) To encourage, as appropriate, non-governmental organizations, civil society organizations, academic institutions and private sector entities, as well as financial institutions, to contribute to the efforts of States Parties, including in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention;
  - (e) To exchange best practices and information with regard to activities undertaken, with a view to improving transparency, avoiding duplication of effort and making best use of any lessons learned.
3. States Parties shall also consider using existing subregional, regional and international programmes, including conferences and seminars, to promote cooperation and technical assistance and to stimulate discussion on problems of mutual concern, including the special problems and needs of developing countries.

4. To the extent possible, States Parties shall ensure that resources and efforts are distributed and directed to support the harmonization of standards, skills, capacity,

expertise and technical capabilities with the aim of establishing common minimum standards among States Parties to eradicate safe havens for the offences covered by this Convention and strengthen the fight against cybercrime.

5. To the extent possible, the measures taken under this article shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international levels.
6. States Parties may conclude bilateral, regional or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection, investigation and prosecution of the offences covered by this Convention.

## **Chapter VIII**

### **Mechanism of implementation**

#### **Article 57**

##### **Conference of the States Parties to the Convention**

1. A Conference of the States Parties to the Convention is hereby established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation.
2. The Secretary-General of the United Nations shall convene the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference shall be held in accordance with the rules of procedure adopted by the Conference.
3. The Conference of the States Parties shall adopt rules of procedure and rules governing the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities. Such rules and related activities shall take into account principles such as effectiveness, inclusivity, transparency, efficiency and national ownership.
4. In establishing its regular meetings, the Conference of the States Parties shall take into account the time and location of the meetings of other relevant international and regional organizations and mechanisms in similar matters, including their subsidiary treaty bodies, consistent with the principles identified in paragraph 3 of this article.



5. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including:
- (a) Facilitating the effective use and implementation of this Convention, the identification of any problems thereof, as well as the activities carried out by States Parties under this Convention, including encouraging the mobilization of voluntary contributions;
  - (b) Facilitating the exchange of information on legal, policy and technological developments pertaining to the offences established in accordance with this Convention and the collection of evidence in electronic form among States Parties and relevant international and regional organizations, as well as non-governmental organizations, civil society organizations, academic institutions and private sector entities, in accordance with domestic law, as well as on patterns and trends in cybercrime and on successful practices for preventing and combating such offences;
  - (c) Cooperating with relevant international and regional organizations, as well as non-governmental organizations, civil society organizations, academic institutions and private sector entities;
  - (d) Making appropriate use of relevant information produced by other international and regional organizations and mechanisms for preventing and combating the offences established in accordance with this Convention, in order to avoid unnecessary duplication of work;
  - (e) Reviewing periodically the implementation of this Convention by its States Parties;
  - (f) Making recommendations to improve this Convention and its implementation as well as considering possible supplementation or amendment of the Convention;
  - (g) Elaborating and adopting supplementary protocols to this Convention on the basis of articles 61 and 62 of this Convention;
  - (h) Taking note of the technical assistance and capacity-building requirements of States Parties regarding the implementation of this Convention and recommending any action it may deem necessary in that respect.
6. Each State Party shall provide the Conference of the States Parties with information on legislative, administrative and other measures, as well as on its programmes, plans and practices, to implement this Convention, as required by the Conference. The

Conference shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from

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States Parties and from competent international and regional organizations. Inputs received from representatives of relevant non-governmental organizations, civil society organizations, academic institutions and private sector entities, duly accredited in accordance with procedures to be decided upon by the Conference, may also be considered.

7. For the purpose of paragraph 5 of this article, the Conference of the States Parties may establish and administer such review mechanisms as it considers necessary.
8. Pursuant to paragraphs 5 to 7 of this article, the Conference of the States Parties shall establish, if it deems necessary, any appropriate mechanisms or subsidiary bodies to assist in the effective implementation of the Convention.

## **Article 58**

### **Secretariat**

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the States Parties to the Convention.
2. The secretariat shall:
  - (a) Assist the Conference of the States Parties in carrying out the activities set forth in this Convention and make arrangements and provide the necessary services for the sessions of the Conference as they pertain to this Convention;
  - (b) Upon request, assist States Parties in providing information to the Conference of the States Parties, as envisaged in this Convention; and
  - (c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

## **Chapter IX**

### **Final provisions**

## **Article 59**

### **Implementation of the Convention**

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating the offences established in accordance with this Convention.

## **Article 60**

### **Effects of the Convention**

1. If two or more States Parties have already concluded an agreement or treaty on the matters dealt with in this Convention or have otherwise established their relations on such matters, or should they in future do so, they shall also be entitled to apply that agreement or treaty or to regulate those relations accordingly.
2. Nothing in this Convention shall affect other rights, restrictions, obligations and responsibilities of a State Party under international law.

## **Article 61**

### **Relation with protocols**

1. This Convention may be supplemented by one or more protocols.
2. In order to become a Party to a protocol, a State or a regional economic integration organization must also be a Party to this Convention.
3. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.
4. Any protocol to this Convention shall be interpreted together with this Convention, taking into account the purpose of that protocol.

## **Article 62**

### **Adoption of supplementary protocols**

1. At least 60 States Parties shall be required before any supplementary protocol is considered for adoption by the Conference of the States Parties. The Conference shall make every effort to achieve consensus on any supplementary protocol. If all efforts at consensus have been exhausted and no agreement has been reached, the supplementary protocol shall, as a last resort, require for its adoption at least a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention.

Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

## **Article 63**

### **Settlement of disputes**

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation or any other peaceful means of their own choice.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation or other peaceful means within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

## **Article 64**

### **Signature, ratification, acceptance, approval and accession**

1. This Convention shall be open to all States for signature in Hanoi in 2025 and thereafter at United Nations Headquarters in New York until 31 December 2026.
2. This Convention shall also be open for signature by regional economic integration organizations, provided that at least one member State of such an organization has signed this Convention in accordance with paragraph 1 of this article.
3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its

instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters

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governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

## **Article 65**

### **Entry into force**

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.
2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date on which this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

## **Article 66**

### **Amendment**

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last



resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention.

Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party 90 days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties that have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

## **Article 67**

### **Denunciation**

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.
3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto.

## **Article 68**

### **Depositary and languages**

1. The Secretary-General of the United Nations is designated depositary of this Convention.
2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

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