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Proposal for a

COUNCIL DECISION

**on the signing, on behalf of the European Union, of the additional Protocol to the
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the
Proceeds from Crime and on the Financing of Terrorism**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and 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 additional Protocol ('the Protocol') to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) ('Warsaw Convention' or 'Convention') on behalf of the European Union.

The Commission also intends to submit a proposal for a Council Decision authorising the Commission to conclude the Protocol on behalf of the European Union as well as a proposal for a Council Decision authorising the Commission to conclude the Warsaw Convention on behalf of the European Union at a later date.

The Protocol is of particular importance because serious and organised crime is a major threat to security within and beyond the EU as well as the functioning of our economy. A major feature of organised crime is that it is profit driven. The revenue obtained through illicit activities is used for other criminal activities or invested to infiltrate the legal economy. This has far-reaching and destabilising consequences for society, the rule of law and trust in public authorities.

Approximately EUR 4.1 billion of criminal assets were frozen on average per year in 2020 and 2021 in EU Member States. This represented an increase compared to earlier years, but the asset recovery rate still remains at only approximately 2% of the estimated yearly proceeds of organised crime¹.

Depriving criminals of their ill-gotten gains is essential for effectively fighting organised crime. Effective asset recovery deters criminal activity by removing its main driver, while protecting the integrity of the financial system and broader economy through reducing the circulation of assets from illicit origin. Moreover, asset recovery allows for the compensation of the victims of crime, supporting social cohesion and justice. In addition, effective application of asset recovery measures, including tracing, freezing, confiscation, asset management and disposal of assets, is proven to be a key tool in uncovering and dismantling the criminal networks operating at an international level.

The Protocol is fully compatible with EU law in general and the relevant Union acquis in particular, specifically the asset recovery and confiscation Directive, as well as the Mutual Recognition Regulation. The Protocol will strengthen the asset recovery systems globally among other Council of Europe members and key international partners that can become Party to the Protocol and will improve judicial cooperation in the area of asset recovery.

Background

The Warsaw Convention, adopted on 16 May 2005, covers multiple aspects of the prevention and the combatting of money laundering and the financing of terrorism. It builds on the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (CETS No. 141) ('Strasbourg Convention'). The EU signed the Warsaw Convention' on 2 April 2009 but has not ratified it yet. As of 18 December 2023, 25 Member States have signed the Convention, 23 of which have ratified it.

¹ Europol (2025), Serious and Organised Crime Threat Assessment 2025 – The changing DNA of serious and organised crime, Publications Office of the EU, p. 26.

Since the adoption of the Warsaw Convention in 2005, the criminality landscape has been evolving rapidly and the international standards and legal framework on asset recovery have also developed further. Studies and consultations, particularly by the Committee of Experts on the Operation of European Conventions on Cooperation in Criminal Matters (PC-OC) and the Convention's Conference of Parties, highlighted the need for a new binding instrument. Key issues identified include improving international cooperation on asset sharing, strengthening the management of seized and confiscated assets, and enabling wider use of non-conviction-based and extended confiscation.

In parallel, developments at EU level, notably new legislation on asset recovery, reinforced the need to address these topics in a broader pan-European context. As a result, the Council of Europe established the Committee of Experts on Criminal Asset Recovery (PC-RAC) in 2023 to negotiate and draft an Additional Protocol to the Convention.

On 13 June 2024, the Council authorised the Commission to participate, on behalf of the European Union, in the negotiations on the Additional Protocol to the Warsaw Convention. The Commission participated in line with the Council Decision and was guided by negotiating directives set out therein. The Commission consulted the Council's special committee for the negotiations regarding the position to take and ensured the Protocol's compatibility with the EU acquis.

The negotiation sessions took place in dedicated meetings of the PC-RAC. There were seven negotiation sessions between May 2024 and December 2025. On 25 November 2025 the Committee on Crime Problems (CDPC) approved the draft Protocol and the accompanying draft explanatory report, for which last changes were required. On 23 April 2026, the Council of Europe Parliamentary Assembly adopted its opinion on the draft Protocol. On 15 May 2026, at their 135th meeting, the Committee of Ministers adopted the Protocol, took note of its explanatory report and agreed to open the Protocol for signature on 14 October 2026.

This Protocol will enter into force on the first day of the month following the expiration of a period of three months after the date on which five signatories, including at least three member States of the Council of Europe, have expressed their consent to be bound by the Protocol, pursuant to its Article 38(1).

The EU can sign the Protocol as signatory to the Warsaw Convention, pursuant to Article 37 of the Protocol.

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

The Protocol directly relates to common EU rules on asset recovery and judicial cooperation in criminal matters. The Protocol contains provisions on confiscation measures, the establishment of asset recovery offices, the rules on their access to information and exchange of information between them, rules on asset management and on judicial cooperation, including the return of assets, the sharing of assets and the use of certificates for freezing and confiscation across borders, as well as safeguards and legal remedies for persons affected by measures set out in the Protocol.

The rules on confiscation, including on extended confiscation and non-conviction-based confiscation are compatible with the EU acquis, namely Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union² and Directive (EU) 2024/1260 of the European Parliament and of the Council of 24 April 2024 on asset recovery

² OJ L 127, 29.4.2014, pp. 39–50.

and confiscation³. Also, the rules on the establishment of asset recovery offices, their access to information as well as the designation of asset management offices and asset management, including asset management planning and pre-confiscation sales are in line with the Directive (EU) 2024/1260. The Protocol also contains rules on the social reuse of assets, a tool to provide information regarding assets to asset recovery offices, asset management offices and other authorities as well as on resources for training for competent authorities regarding asset recovery in compatibility with Directive (EU) 2024/1260.

Directive (EU) 2024/1260 replaced Directive 2014/42/EU, which remains in force as regards cooperation with Ireland, who do not participate in Directive (EU) 2024/1260. Directive 2014/42/EU partly replaced Council Framework Decision 2005/212/JHA on Confiscation of Crime-Related Proceeds, Instrumentalities and Property⁴, which remains in force as regards cooperation with Denmark, who do not participate in neither Directive (EU) 2024/1260 nor Directive 2014/42/EU.

Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders⁵ sets out rules on judicial co-operation between Member States for the purpose of the recognition and execution of freezing and confiscation orders. This includes, inter alia, rules on the transmission, recognition and procedure for the execution of freezing and confiscation orders, the management and disposal of frozen and confiscated property in cross-border cases (including interlocutory sales), restitution of property to victims as well as the disposal of confiscated property or money obtained after the sale of property (including with a view to victim compensation and to regulating the sharing of assets between Member States). Moreover, the Regulation contains rules on the bearing and sharing of costs related to the execution of cross-border freezing orders and on procedural rights of affected persons, including as regards notification obligations and legal remedies. These matters are also broadly regulated in Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders⁶ and Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence⁷, which remain in force as regards cooperation with Ireland and Denmark, who do not participate in Regulation (EU) 2018/1805.

- **Consistency with other Union policies**

The Protocol is consistent with relevant EU rules and policies in the areas which will be covered by it (as described under Section ‘Consistency with existing policy provisions in the policy area’). In the wider context, the Protocol is consistent with EU legal instruments and policies adopted in the area of freedom, security and justice, under Title V of Part Three of the TFEU, which contribute to EU’s fight against financial crime, including crimes affecting the Union’s financial interests, and illicit financial flows, as well as the Union’s commitments under other relevant multilateral agreements. It is also compatible with relevant international agreements, such as the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part⁸, which, inter alia, regulates police and judicial

³ OJ L, 2024/1260, 2.5.2024.

⁴ OJ L 68, 15.3.2005, pp. 49–51.

⁵ OJ L 303, 28.11.2018, pp. 1–38.

⁶ OJ L 328, 24.11.2006, p. 59–78.

⁷ OJ L 196, 2.8.2003, p. 45–55.

⁸ OJ L 149, pp. 10–2539.

cooperation for the purpose of asset recovery between the United Kingdom and EU Member States.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Substantive legal basis

The **substantive legal basis** for a decision under Article 218(6) TFEU depends primarily on the objective and content of the international agreement to be signed. If an 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(6) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

Given that the main objectives and components of parts of the Protocol are to strengthen asset recovery efforts, including by enhancing national rules on freezing and confiscation, asset tracing and asset management, safeguards as well as international cooperation between law enforcement and judicial authorities, the substantive legal bases are Articles 82 (1) and (2), 83(1) and (2), and 87(2) TFEU.

The other parts of the Protocol relating to Anti-Money-Laundering provisions fall under a different substantive legal basis, namely Article 114 TFEU and are therefore part of a separate proposal for a Council Decision.

Given the subject matter of the envisaged agreement, it is appropriate for the Commission to submit the proposal to the Council.

Procedural legal basis

Article 218(5) TFEU provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit a proposal to the Council. The Council shall adopt a decision authorising the signing of the agreement.

The Commission proposes to authorise the signing of the Additional Protocol, subject to its conclusion at a later date.

Thus, **the procedural legal basis** for the proposed decision to authorise the signing of the envisaged agreement is Article 218(5) TFEU.

Union competence

The nature of international agreements ('EU Only' or 'mixed') is contingent upon the specific subject matter's compatibility with the Union competences.

Article 3(2) of the TFEU provides that the Union has exclusive competence 'for the conclusion of an international agreement (...) in so far as its conclusion may affect common rules or alter their scope.' In particular, the European Court of Justice has clarified that a "finding that there is such a risk [of affectation or alteration of EU rules by international commitments] does not presuppose that the areas covered by the international commitments and those covered by the EU rules coincide fully" but that "the scope of common EU rules may be affected or altered by such commitments also where those commitments fall within an area which is already largely covered by such rules".⁽¹¹⁾ This rationale is based on a Court's opinion stating that "(...) where the test of an area which is already covered to a large extent by Community rules is to be applied, the assessment must be based not only on the scope of the rules in question but also on their nature and content. It is also necessary to take into

account not only the current state of Community law in the area in question but also its future development, insofar as that is foreseeable at the time of that analysis” (see, to that effect, Opinion 2/91, paragraph 25 and 26).^[2]

Whereas the Member States remain competent for some parts of the Additional Protocol, and particularly for provisions on national measures for the freezing seizure, confiscation for criminal offences falling outside the scope of Article 83 TFEU and for national rules on investigative powers and techniques, the EU has competence for a considerable part of the provisions of the Convention and should therefore sign the Convention alongside Member States.

The Treaties, and, in particular, Articles 82, 83 and 87 in Title V of the TFEU, confer upon the EU competence in the field judicial and law enforcement cooperation in criminal matters, which largely covers the matters regulated by the Additional Protocol to Convention No. 198.

The EU **has already adopted legislative measures** in the policy areas covered by the Additional Protocol to Convention No. 198:

- Article 2(2) (definition of financing of terrorism) is covered by Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA⁹;
- Articles 3 to 5 (extended, non-conviction-based and third party confiscation, Article 6 (provisional measures), Article 8 (financial investigations), Article 11 and 12 (establishment of asset recovery offices and their access to information), Articles 13 to 15 (asset management, establishment of asset management offices, pre-confiscation sales), Article 16 (use of frozen and confiscated property), Article 17 (access to information on frozen and confiscated property) as well as Article 29 (international cooperation between asset recovery offices), Article 33 and 34 (security measures, resources and training) are covered by or interlinked Directive (EU) 2024/1260 of the European Parliament and the Council on asset recovery and confiscation¹⁰.
- Article 9(2) (The access to bank account information for law enforcement authorities, including asset recovery offices) is covered by Directive (EU) 2019/1153 of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences¹¹;
- Articles 18 (general principles of cooperation), 24 and 25 (standard forms), 26 (return of property) and 27 (sharing of property) fall within the scope of Regulation (EU) 2018/1805 of the European Parliament and the Council on the mutual recognition of freezing orders and confiscation orders¹²;
- Article 19 concerning the transfer of personal data interlinks with the EU data protection acquis, in particular Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the

⁹ OJ L 88, 31.3.2017, pp. 6–21.

¹⁰ OJ L, 2024/1260, 2.5.2024.

¹¹ OJ L 186, 11.7.2019, p. 122–137.

¹² OJ L 303, 28.11.2018, pp. 1–38.

prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data¹³.

- Articles 20, 21 and 22 on requests for information concerning accounts with and transactions carried out by financial institutions and virtual asset service providers as well as the monitoring thereof fall within the scope of the Directive (EU) 2014/41/EU of the European Parliament and the Council regarding the European Investigation Order in criminal matters¹⁴;
- Article 23 provides a legal basis for the setting up of Joint Investigation Teams (JITs) for the recovery of property liable to confiscation. Under EU law, legal bases for setting up JITs are established in the Convention on Mutual Assistance in Criminal Matters adopted in May 2000 and Council Framework Decision 2002/465/JHA on joint investigation teams
- As regards Articles 31 and 32 (safeguard, remedies and notification obligations), to the extent that measures of judicial cooperation for the purpose of asset freezing and confiscation provided for in the Convention and its Protocol are concerned, they fall within the scope of the abovementioned Regulation (EU) 2018/1805. To the extent that measures of judicial cooperation for the purpose of gathering evidence are concerned, Articles 31 and 32 fall within the scope of Directive 2014/41/EU. To the extent that measures of cooperation between asset recovery offices are concerned, Articles 31 and 32 fall within the scope of Directive (EU) 2024/1260. To the extent that national measures are concerned, Articles 31 and 32 fall within the scope of the abovementioned Directive (EU) 2024/1260. To a large extent, the rights and safeguards enshrined in Articles 31 and 32 are also covered more generally by the EU procedural rights directives for suspects and accused persons in criminal proceedings, in particular Directive 2010/64/EU on the right to interpretation and translation, Directive 2012/13/EU on the right to information, Directive 2013/48 on the right of access to a lawyer, Directive (EU) 2016/343 on the presumption of innocence and the right to be present at trial and Directive (EU) 2016/1919 on legal aid.
- Articles 2 (regarding the definitions of virtual assets and virtual asset service providers), Articles 9 (requirement for the establishment of mechanisms for retrieving bank account information) and Articles 10 and 28 (suspension or withholding of consent for suspicious transactions, accounts and business relationships and connected FIU to FIU cooperation) fall within the scope of Directive (EU) 2024/1640 of the European Parliament and of the Council on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AMLD6) the Regulation (EU) 2023/1114 on markets in crypto assets.

The majority of obligations stemming from the Additional Protocol to the Council of Europe Convention 198 are therefore covered by EU law.

¹³ OJ L 119, 4.5.2016, pp. 89–131.

¹⁴ OJ L 130, 1.5.2014, p. 1-36.

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

Not applicable.

- **Proportionality**

This initiative does not go beyond what is necessary to achieve the policy objectives at stake and therefore, is in accordance with the principle of proportionality, as set out in Article 5(4) TEU. The Union is best placed to act as the Union has already exercised internal competence in this area through the adoption of various legal instruments in the area of judicial and law enforcement cooperation in criminal matters, in particular for the purpose of facilitating criminal asset recovery, including in cross-border cases.

- **Choice of the instrument**

This proposal for a Council decision is submitted in accordance with Article 218(5) TFEU, which envisages the adoption by the Council of a decision authorising the signing of the agreement. There exists no other legal instrument that could be used in order to achieve the objective expressed in this proposal.

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

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

Not applicable.

- **Stakeholder consultations**

The European Commission has not carried out specific stakeholder consultation on this proposal.

The elaboration of the Convention was a collaborative effort of the Council of Europe Committee of Experts on Criminal Asset Recovery, involving the member states of the Council of Europe, as well as observer states, the Financial Action Task Force, UNODC and legal experts.

- **Collection and use of expertise**

The Union's negotiation positions for the Convention have been prepared in consultations with the Council Working Party on Judicial Cooperation in Criminal Matters (COPEN).

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The signature of the Protocol by the European Union sets common minimum standards for the protection of fundamental rights in relation to the measures provided for in the Protocol.

Certain fundamental rights and freedoms enshrined in the Charter of Fundamental Rights of the European Union ('the Charter') are of particular relevance. This includes the right to property (Article 17), the right to a fair trial and an effective remedy (Article 47), the

presumption of innocence and right to defence (Article 48) as well as the right to the protection of personal data (Article 8).

Concerning interferences with the right to property, Article 31, paragraph 1, anchors the Protocol in the principles of necessity and proportionality, which are fundamental to ensuring the lawfulness of interferences with fundamental rights. Paragraphs 3 and 4 additionally establish important safeguards to ensure that no irreparable interference with the right to property occurs without the affected person having had the opportunity to be heard. Limitations to the use of measures of confiscation, in particular extended and non-conviction based confiscation, as well as to the use of new provisional measures introduced by this Protocol (see i.a. reservation options provided for in Articles 3, 4 and 5) have furthermore been directly introduced in the relevant provisions providing for such measures to ensure compliance with the principles of necessity and proportionality. As elaborated in the Explanatory Report to the Convention¹⁵, the recognition of a request may be refused where the measure or measures that could not have been ordered or taken by the competent national authorities in the requested Party, in general or in a similar case, because it/they would be contrary to the fundamental principles of domestic law of that Party. Fundamental principles of domestic law may include, for instance, fair trial standards, the presumption of innocence, as well as the principles of necessity and proportionality. The limitation these principles set can be expressed by Parties, inter alia, by virtue of making use of the reservation options provided for in Articles 3, 4 and 5 of the Protocol.

Article 31, paragraph 2, generally requires Parties to ensure that all persons affected by measures concerning asset tracing, provisional measures for the seizing or freezing of property, measures of confiscation as well as pre-confiscation sales can claim the right to a fair trial and to an effective legal remedy as also required by EU law. In addition, Parties are required to guarantee the rights of defence. This provision builds on and expands the obligations established in Article 8 of the Convention concerning legal remedies, both for persons affected by measures pursuant to the Convention and the Protocol. The more detailed and extensive wording of Article 31 of this Protocol aims to reflect the development of European standards concerning procedural rights and safeguards, including with a view to the right to an effective remedy, in the context of criminal asset recovery since the adoption of the Convention, in particular the rising use of non-conviction-based confiscation measures. The scope of Article 31 is extended to persons affected by measures pursuant to the Convention to ensure that persons affected by such measures also enjoy the same rights and level of protection as persons affected by measures under the Protocol. In addition, as elaborated in the Explanatory Report to the Protocol, co-operation may be refused in accordance with Article 28 of the Convention where a foreign request does not meet the standards set by fundamental principles of domestic law of the requested State, which may include fair trial standards and the presumption of innocence.

The Protocol ensures compliance with EU standards for the protection of personal data by guaranteeing the application of adequate data protection safeguards to the processing of personal data (Articles 9, 12 and 17) as well as providing for appropriate conditions for the exchange of such data with other Parties (Art. 29).

4. BUDGETARY IMPLICATIONS

It is the Commission's view that, from a legal perspective, in principle, no budgetary implications necessarily arise from the signature and conclusion of this Protocol.

¹⁵ See, in particular, paragraphs 140 and 141.

It should be noted that neither this Protocol nor its Mother Convention (CETS 198) contain a clause establishing a requirement for the Union to make a financial contribution to their funding should it become a Party.

However, the Committee of Ministers' has adopted a Resolution CM/Res(2022)6 concerning financial arrangements for the participation of the European Union and non-member States in the follow-up mechanisms of Council of Europe conventions, which provides that where the Union is invited and becomes a Party to a Council of Europe convention not containing a clause on financial participation in its follow-up mechanism after the date of option of the Resolution, it must contribute to the financing of said convention's functioning in keeping with the modalities laid down in the resolution. While the Commission considers that such a unilateral Resolution cannot bind the Union, this has led to discussions before which have resulted in a compromise whereby the Union declared its intention to voluntarily make a financial contribution. Whether a similar arrangement will (have to) be found in the case of the present Convention and Protocol remains to be seen. Should this be the case, a financial statement outlining the particulars of the budgetary implications will be provided alongside the proposal for a decision on the conclusion of the Convention itself, once the legal ambiguities regarding a possible contribution have been resolved.

5. OTHER ELEMENTS

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

The Protocol sets out that the provisions regulating the monitoring of the implementation of the Warsaw Convention (Article 48 of the Convention) apply *mutatis mutandis* to the Protocol. The Conference of the Parties established under the Convention (COP) will perform the functions set out in Article 48 of the Convention for the purposes of this Protocol, meeting in a composition restricted to the Parties to this Protocol, where appropriate.

Rule 19 of the Rules of Procedure of the Convention sets out the rules for the conduct of monitoring activities. However, at the 9th Plenary the COP decided to suspend the procedure under Rule 19 and to apply a transversal thematic monitoring approach in line with the newly adopted Rule 19bis for an initial period of two years with a further stocktaking discussion on the matter at its 11th Plenary in 2019. At its 16th Plenary (2024), the COP decided to renew the suspension of Rule 19 for another five years (i.e. until 2029) and continue with the transversal thematic monitoring under Rule 19bis during that period.

Rule 19bis sets out rules for horizontal monitoring regarding selected articles of the Convention. Each State party will be subject to monitoring in accordance with the rules set out in article 19bis.

A special clause was included in the Rules of Procedure regarding the European Union's involvement in the monitoring of the implementation of the Convention. Rule 19, paragraph 33 provides that new rules for the monitoring of the implementation of the Convention will be set out after ratification of the Convention by the European Community. No specific clause is foreseen in Rule 19bis.

- **Explanatory documents (for directives)**

Not applicable.

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

Article 1 explains the purpose of the Protocol.

Article 2 includes the definitions of financial investigations, virtual assets, virtual asset service providers and the financing of terrorism.

Article 3 provides for extended confiscation.

Article 4 provides for non-conviction-based confiscation.

Article 5 provides for confiscation from third parties.

Article 6 provides for provisional measures and references Article 4 of the Mother Convention as applicable to the Protocol.

Article 7 provides for investigative powers and techniques.

Article 8 provides for financial investigations.

Article 9 provides establishment of a mechanism to enable the identification of any natural and legal person holding bank, payment or security accounts as well as safe-deposit boxes and virtual asset accounts and regulates the access to this information by Financial Intelligence Units and asset recovery offices and other competent authorities.

Article 10 provides for the suspension or withholding of consent for suspicious transactions, accounts and business relationships (not part of this proposal)

Article 11 provides for the establishment of asset recovery offices and their tasks as well as the powers for asset recovery offices to take urgent provisional measures.

Article 12 provides for the access of asset recovery offices to information.

Article 13 provides for the general principles of asset management, including on asset management planning and the set-up of contact points for international cooperation.

Article 14 provides for the designation of asset management offices, their functions and the set-up of contact points for international cooperation.

Article 15 provides for pre-confiscation sales and the obligations to secure the value of the earnings of such sales.

Article 16 provides for the use of frozen, seized and confiscated property.

Article 17 provides for the establishment of a tool to provide information on frozen, seized and confiscated assets.

Article 18 sets out general principles and measures for ensuring efficient and effective international cooperation, including concerning the conduct of domestic investigations prior to recognition of foreign orders and the scope of competent issuing authorities.

Article 19 sets out rules and conditions for the transfer of personal data between Parties.

Article 20 regulates foreign requests for information on accounts held in financial institutions or virtual asset service providers.

Article 21 regulates foreign requests for information on transactions carried out by financial institutions or virtual asset service providers.

Article 22 regulates foreign requests for the monitoring of transactions carried out by financial institutions and virtual asset service providers.

Article 23 provides for the possibility for two or more Parties to establish and operate a Joint Investigation Team for the recovery of property liable to confiscation.

Article 24 provides for the use of standard forms to request the freezing or seizing of property liable to confiscation.

Article 25 provides for the use of standard forms to request the confiscation of property.

Article 26 regulates the return of property to the requesting Party to facilitate its restitution to its prior legitimate owners as well as the compensation of victims of crime.

Article 27 regulates the sharing of confiscated property between the requesting and requested Parties and provides for the possibility to share such property also with other Parties, where appropriate. It also regulates the allocation of the costs of executing requests for cooperation under the Convention that facilitated confiscation.

Article 28 provides for the international cooperation on suspension or withholding of consent for suspicious transactions, accounts and business relationships (not part of this decision)

Article 29 provides for international cooperation between asset recovery offices including the establishment of contact points.

Article 30 provides for the international cooperation regarding the management of property.

Article 31 provides for safeguards and remedies regarding the measures provided for in the Protocol.

Article 32 provides for the notification of decisions on provisional measures and confiscation to affected persons.

Article 33 provides for secure measures to protect data processed by asset recovery office from unauthorised access.

Article 34 requires Parties to provide sufficient resources for asset recovery and asset management offices as well as training for competent authorities involved in asset recovery and related investigations.

Article 35 concerns the monitoring mechanism for the Protocol and the mechanism for the settlement of disputes.

Article 36 regulates the relationship of the Protocol with the Mother Convention.

Article 37 concerns the process of signature and ratification.

Article 38 concerns the entry into force of the Protocol.

Article 39 concerns the accession to the Protocol.

Article 40 sets out the territorial application.

Article 41 regulates the denunciation of the Protocol.

Article 42 explains the relationship of the Protocol to other conventions and agreements.

Article 43 regulates the making and withdrawal of declarations and reservations.

Article 44 regulates notifications to be made by the Secretary General of the Council of Europe to member States of the Council of Europe as well as other concerned States with regards to the Protocol.

The Appendix provides for the addition of cybercrimes to the appendix of the Convention.

- **Signing and the text of the Agreement**

The text of the Agreement is submitted to the Council together with this proposal.

In accordance with the Treaties, it is for the Commission to ensure the signing of the Agreement, subject to its conclusion at a later date.

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of the additional Protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) In Decision (EU) 2024/1764¹⁶, the Council authorised the Commission to participate, on behalf of the Union, in the negotiations on an Additional Protocol ('the Protocol') to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) (the 'Convention') within the Council of Europe.
- (2) The Protocol was adopted by the Committee of Ministers of the Council of Europe on 15 May 2026 and is envisaged to be opened for signature on 14 October 2026.
- (3) The Protocol complies with the objective of the Union referred to in Article 67(3) of the Treaty on the Functioning of the European Union to ensure a high level of security through measures to prevent and combat crime, including measures for coordination and cooperation between police and judicial authorities and the approximation of criminal laws.
- (4) The Protocol contains, inter alia, provisions on its purpose and scope, on confiscation measures, on provisional measures for the seizure and freezing of property, on investigative techniques and tools, on the establishment of asset recovery offices, on the access of those offices to information and on the exchange of information between them, on access of competent authorities to bank account information, on asset management, including the designation of asset management offices, on judicial cooperation regarding the recognition and execution of freezing and confiscation decisions, asset sharing and returns, and on procedural rights and safeguards for all affected persons.
- (5) The Protocol has the potential to significantly strengthen asset recovery frameworks and related cooperation among Parties to the Council of Europe and other key international partners that may become Parties to it.

¹⁶ Council Decision (EU) 2024/1764 of 13 June 2024 authorising the Commission to participate, on behalf of the European Union, in negotiations on an additional protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, OJ L, 2024/1764, 24.6.2024, ELI: <http://data.europa.eu/eli/dec/2024/1764/oj>).

- (6) The rules laid down in the Protocol overlap to a large extent, and were indeed inspired by, common rules that were established on Union level. Those common rules include, in particular, Regulation (EU) 2018/1805 of the European Parliament and of the Council and Directive (EU) 2024/1260 of the European Parliament and of the Council. The Protocol also overlaps with Council Framework Decision 2005/212/JHA as well as Council Framework Decisions 2003/577/JHA and 2006/783/JHA. Council Framework Decision 2005/212/JHA, however, remains in force only for Denmark and for Ireland, to the extent that it was not replaced by Directive 2014/42/EU of the European Parliament and of the Council. Council Framework Decisions 2003/577/JHA and 2006/783/JHA also remain applicable only in relations with and between Denmark and Ireland.
- (7) The Commission participated in the negotiations on behalf of the Union and ensured with its participation that the Protocol is compatible with Union law.
- (8) Pursuant to Article 37 of the Protocol, it is open for signature by the Union. The Union should become a Party to the Protocol alongside its Member States since both share competences for the matters covered by the Protocol. Matters covered by the Protocol that may affect common rules or alter their scope fall under the exclusive external competence of the Union. It is recalled that the scope of common Union rules may be affected or altered by international commitments also where those commitments fall within an area which is already largely covered by such rules, to the extent that such commitments are capable of undermining the uniform and consistent application of Union rules and the proper functioning of the system which they establish. That is the case for confiscation and provisional measures, asset recovery offices, the access of those asset recovery offices to information and cooperation between them, asset management, resources and training, judicial cooperation for asset recovery, including rules on asset returns and asset sharing, related investigative measures, and legal remedies and procedural safeguards. Certain aspects of the Convention, however, do remain under the competence of the Member States. This Decision is without prejudice to the signature of the Protocol by the Member States, in accordance with their internal procedures.
- (9) [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 its wish [, by letter of ...] 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.]
- (10) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

- (11) 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 Council¹⁷ and delivered an opinion on XX XXXXX 2026.
- (12) Therefore, the Protocol should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Additional Protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism on behalf of the Union is hereby authorised, subject to the conclusion of that Protocol.

Article 2

This Decision shall enter into force on [...].

Done at Brussels,

*For the Council
The President*

¹⁷

Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).



EUROPEAN
COMMISSION

Brussels, 13.7.2026
COM(2026) 366 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

**on the signing, on behalf of the European Union, of the additional Protocol to the
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the
Proceeds from Crime and on the Financing of Terrorism**

ANNEX

Final text of the Proposal

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Additional Protocol to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

Preamble

The member States of the Council of Europe and the other Parties to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198, hereinafter referred to as “the Convention”), opened for signature in Warsaw on 16 May 2005, signatories hereto,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Emphasising that combating crimes generating illicit proceeds, including organised crime, money laundering and the financing of terrorism, both in Europe and globally, while fully respecting human rights, is essential for peace, stability, justice, democracy and the rule of law;

Concerned by the evolving threats posed by money laundering and the financing of terrorism, and mindful of the challenges faced by the Parties in addressing them;

Determined to strengthen and further develop measures for effective asset recovery, including the identification, tracing, freezing, seizure, confiscation and management of assets of criminal origin, and to promote asset sharing and the reuse of confiscated property;

Convinced of the need for robust investigative methods and asset recovery frameworks targeting assets of criminal origin through financial investigations, and for measures to enhance co-operation among a wide range of institutions, including financial intelligence units, asset recovery offices, asset management offices, law enforcement, prosecutorial and judicial authorities, supervisory authorities and the private sector;

Underlining the importance of developing new tools in the field of confiscation, and of ensuring a more systematic application of confiscation measures;

Acknowledging the necessity of reinforcing the international legal framework for co-operation to facilitate the effective application of asset recovery measures across borders;

Recognising the human rights and fundamental freedoms enshrined, in particular, in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and its protocols, and in the International Covenant on Civil and Political Rights;

Bearing in mind Council of Europe treaties on co-operation in criminal matters and other agreements and arrangements between the Parties to the Convention;

Taking into account the relevant treaties of the Council of Europe, in particular the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141), the Convention on the Prevention of Terrorism (CETS No. 196), the Convention on Cybercrime (ETS No. 185), the Criminal Law Convention on Corruption (ETS No. 173), the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108), together with their respective protocols, and taking account of relevant United Nations conventions and their protocols, European Union legislation on asset recovery and anti-money laundering and international standards such as the recommendations adopted by the Financial Action Task Force (FATF);

Recognising the need to supplement and modernise certain aspects of the Convention;

Desiring that this Protocol will contribute to a more effective response to the challenges of asset recovery and to strengthened co-operation between the Parties in this field,

Have agreed as follows:

Chapter I – Common provisions

Article 1 – Purpose

The purpose of this Protocol is to supplement and modernise, between the Parties, the provisions of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

Article 2 – Use of terms

1. For the purposes of this Protocol, the following definitions apply in addition to those set out in the Convention:

a. a “financial investigation” is an investigation into financial affairs related to criminal conduct with a view to any or all of the following:

- i. identifying the extent of criminal networks and/or the scale of criminality;
- ii. identifying and tracing property liable to confiscation;
- iii. collecting information which may be used in criminal proceedings and/or proceedings in relation to identification, tracing, freezing, seizure and confiscation of property;

b. “virtual asset” means a digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology, and that can be used for payment or investment purposes. Virtual assets do not include digital representations of fiat currencies, securities and other financial assets;

c. “virtual asset service provider” means any natural or legal person that, as a business, conducts one or more of the following activities or operations for or on behalf of another natural or legal person:

- i. exchanges between virtual assets and fiat currencies;
- ii. exchanges between one or more forms of virtual assets;
- iii. transfers of virtual assets;
- iv. safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and

v. participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

2. For the purposes of the Convention and this Protocol, the term “financing of terrorism” means the offences set out in Article 2 of the International Convention for the Suppression of the Financing of Terrorism, with reference to:

- a. the acts set out in Article 2, paragraph 1, sub-paragraphs *a* or *b*, of the International Convention for the Suppression of the Financing of Terrorism;
- b. the offences defined by the Council of Europe Convention on the Prevention of Terrorism and its amending protocol; and
- c. the offences defined by the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 217).

Chapter II – Measures to be taken at national level

Section 1 – Confiscation measures

Article 3 – Extended confiscation

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate, wholly or in part, the property of a person convicted of money laundering, the financing of terrorism or of one of the categories of offences in the appendix to the Convention, where the court is satisfied that such property is derived from or obtained, directly or indirectly, from criminal conduct.

2. Provided that paragraph 1 of this article applies to money laundering and the financing of terrorism, each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, reserve its right to apply paragraph 1 of this article:

- a. only insofar as the offence for which a person is convicted is liable to generate, directly or indirectly, a major economic advantage;
- b. only insofar as the offence is punishable by deprivation of liberty or a detention order for a maximum of at least four years; and/or
- c. only to a list of specified offences.

3. In determining whether the property in question is derived from criminal conduct, all circumstances relevant to the case shall be taken into account, including the disproportion between the value of the property and the lawful income of the convicted person.

Article 4 – Non-conviction-based confiscation

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it, in accordance with the fundamental principles of its domestic law, to confiscate property without a criminal conviction where a court is satisfied that such property is derived from or obtained, directly or indirectly, from criminal conduct.

2. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, reserve its right to apply paragraph 1 of this article:

- a. where other confiscation measures may not be applied;
- b. where the property to be confiscated has been identified during an investigation related to a criminal offence;

- c. where the property to be confiscated has been frozen or seized during an investigation related to a criminal offence;
- d. where the court is satisfied that the property to be confiscated is derived or obtained from criminal conduct committed within the framework of a criminal organisation, and that this conduct is liable to generate, directly or indirectly, a major economic advantage;
- e. where the offence is punishable by deprivation of liberty or a detention order for a maximum of at least four years; and/or
- f. where the criminal investigation has been initiated in relation to a list of specified offences.

3. Each Party may, additionally to paragraphs 1 and 2, adopt such legislative and other measures as may be necessary to enable it to confiscate, without a criminal conviction, proceeds, instrumentalities or property of equivalent value where both of the following conditions are met:

- a. criminal investigations or proceedings have been initiated and the relevant criminal proceedings could have led to a criminal conviction but the proceedings could not be continued due to death, incapacity to stand trial due to illness, absconding or in situations where the statute of limitations for the underlying crime is below fifteen years and has expired;
- b. where the proceeds, instrumentalities or property of equivalent value are derived from, or directly or indirectly linked to, the criminal offences in relation to which the investigations or proceedings have been initiated, at least where the offences are liable to generate major economic advantages.

Article 5 – Confiscation from third parties

1. Each Party shall adopt such legislative and other measures as may be necessary to enable it to freeze, seize and confiscate proceeds or property the value of which corresponds to such proceeds owned or held by third parties, without prejudice to the rights of bona fide third parties.

2. Parties may extend the obligation provided in paragraph 1 of this article to instrumentalities.

3. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, reserve its right to apply this article only where the proceeds or property the value of which corresponds to such proceeds have been transferred, directly or indirectly, by a suspected or accused person to third parties, or acquired by third parties from a suspected or accused person, where the third party knew or ought to have known that the purpose of the transfer or acquisition was to avoid confiscation.

Section 2 – Investigative and provisional measures

Article 6 – Provisional measures

1. The provisions of Article 4 of the Convention shall apply to any property liable to confiscation pursuant to this Protocol.

2. Each Party shall adopt such legislative and other measures as may be necessary to enable it to take, on an urgent basis, and, where appropriate, *ex parte* or without prior notice, subject to its constitutional principles and the basic concepts of its legal system, provisional measures to prevent the dissipation of assets liable to confiscation under the Convention and this Protocol.

Parties shall limit the temporary validity of these urgent provisional measures where they do not constitute freezing or seizure measures that take the form of an order.

Article 7 – Investigative powers and techniques

1. Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities, in accordance with the applicable provisions of domestic procedural law, to order that records kept by financial institutions and virtual asset service providers, including any records kept pursuant to their customer due diligence obligations as defined in Article 13, paragraph 2, sub-paragraphs *a.i* and *iii*, of the Convention, be made available or be seized in order to carry out the provisional and confiscation measures provided for in the Convention and this Protocol. A Party shall not decline to act under the provisions of this article on grounds of bank or financial secrecy.

2. Without prejudice to paragraph 1 of this article, each Party shall adopt such legislative and other measures as may be necessary to enable it to:

a. determine whether a natural or legal person is a holder or beneficial owner of one or more accounts, of whatever nature, in any financial institution or virtual asset service provider located in its territory and, if so, to obtain all details of the identified accounts;

b. obtain the particulars of specified accounts held in financial institutions or virtual asset service providers and of operations of financial institutions and virtual asset service providers which have been carried out during a specified period through one or more specified accounts, including the particulars of any sending or recipient account;

c. monitor, during a specified period, the operations of financial institutions and virtual asset service providers that are being carried out through one or more identified accounts; and

d. ensure that financial institutions and virtual asset service providers do not disclose to the customer concerned or to other third persons that information has been sought or obtained in accordance with paragraph 2, sub-paragraphs *a*, *b* or *c*, of this article, or that an investigation is being carried out.

Article 8 – Financial investigations

1. Each Party shall adopt such legislative or other measures as may be necessary to ensure that the competent authorities responsible for investigating and/or, where appropriate, prosecuting money laundering, the financing of terrorism or any of the categories of offences in the appendix to the Convention, are able to carry out proactive financial investigations at least in all cases related to the financing of terrorism and in respect of offences liable to generate a major economic advantage.

2. Each Party shall adopt such legislative or other measures as may be necessary to ensure that the financial investigations referred to in paragraph 1 of this article may be conducted either independently, alongside or within the framework of a criminal investigation.

3. Each Party shall adopt such legislative or other measures as may be necessary to ensure that the financial investigations referred to in Article 2, paragraph 1, sub-paragraph *a*, of this Protocol may be conducted at all stages of the criminal proceedings by the respective competent authorities, including after a final conviction or following confiscation pursuant to the Convention and this Protocol.

4. Each Party may take such legislative or other measures to establish multidisciplinary groups specialised in financial investigations.

Article 9 – Information on bank accounts, payment accounts, securities accounts, safe-deposit boxes and virtual asset accounts

1. Each Party shall adopt such legislative and other measures as may be necessary to establish a central, automated mechanism or other similarly effective and timely mechanisms, enabling the identification of any natural or legal person holding bank accounts, payment accounts, securities accounts and safe-deposit boxes kept by financial institutions, and virtual asset accounts kept by virtual asset service providers, together with the beneficial owners of such accounts and any person authorised to act on behalf of an account holder.

2. Each Party shall ensure that the financial intelligence unit and, for the purpose of the prevention, detection, investigation or prosecution of serious criminal offences, or supporting an investigation concerning a serious criminal offence, including the identification, tracing, freezing and seizure of property related to such offences, the asset recovery office and other designated competent authorities are entitled to have access to the central, automated mechanism or other similarly effective and timely mechanisms, and to the information contained therein, as may be necessary for the exercise of their functions.

3. Parties shall adopt such measures as may be necessary to comply with the applicable data protection legislation and to establish safeguards governing the processing of the information necessary to achieve the purpose of this article.

Section 3 – Financial intelligence unit

Article 10 – Suspension or withholding of consent for suspicious transactions, accounts and business relationships

1. Each Party shall adopt such legislative and other measures as may be necessary to permit urgent action to be taken by a financial intelligence unit when there is a suspicion that a transaction, an account, such as a bank, securities, payment or virtual asset account or a business relationship is related to money laundering, the financing of terrorism or any of the categories of offences in the appendix to the Convention, to suspend the use of that account, the business relationship or the transaction or to withhold consent for the transaction to go ahead.

2. The suspension or withholding of consent pursuant to paragraph 1 of this article shall be imposed by the financial intelligence unit in order to preserve the funds, perform its analyses, assess whether the suspicion is confirmed and, if so, to disseminate the results of the analyses to the competent authorities to allow for the adoption and enforcement of appropriate measures.

3. Each Party shall ensure that the maximum duration of any suspension or withholding of consent pursuant to paragraph 1 of this article is subject to the relevant provisions of domestic law and is limited to what is strictly necessary to achieve the objectives laid down in paragraph 2 of this article.

4. Each Party shall adopt such legislative and other measures as may be necessary to provide for specific safeguards, as appropriate, to protect the fundamental rights of the persons affected by the suspension or withholding of consent ordered by the financial intelligence unit pursuant to paragraph 1 of this article.

5. Each Party shall adopt such legislative and other measures as may be necessary to ensure that the financial intelligence unit is empowered to lift the suspension or withholding of consent at any time if it concludes that the suspension or withholding of consent is no longer necessary to fulfil the objectives set out in paragraph 2 of this article.

6. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the

Council of Europe, reserve its right not to apply this article to the suspension of accounts and business relationships.

Section 4 – Asset recovery office

Article 11 – Asset recovery office

1. Each Party shall adopt such legislative or other measures as may be necessary to establish or designate one or more authorities as an asset recovery office with responsibility to:

identify and trace property liable to confiscation in support of other competent authorities; and co-operate with the asset recovery offices of other Parties.

2. For the purposes of paragraph 1 of this article, each Party shall ensure that the asset recovery office can effectively exchange information with the competent national authorities in accordance with its domestic law.

3. Each Party shall adopt such legislative and other measures as may be necessary to enable one of its asset recovery offices, without prejudice to the powers of other competent authorities, to take urgent provisional measures, in accordance with Article 6, paragraph 2, of this Protocol, in cross-border cases in order to preserve property identified and traced when there is an imminent risk of its disappearance. The duration of such measures shall not exceed seven working days.

4. Each Party shall adopt such legislative and other measures as may be necessary to ensure that an asset recovery office does not maintain urgent provisional measures longer than necessary to fulfil the objectives set out in paragraph 3 of this article.

Article 12 – Access to information by asset recovery offices

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that the asset recovery office has timely access to the information that it requires to properly undertake its functions, subject to the principles of necessity and proportionality, and without prejudice to domestic procedural safeguards.

2. For the purposes of paragraph 1 of this article, and without prejudice to Articles 9 and 17 of this Protocol, each Party shall ensure that the asset recovery office has at least:

a. immediate and direct access to information on real estate, national citizenship and the national population, commercial and business entities, vehicles, aircraft, watercraft and beneficial ownership, provided that the information is stored in centralised or interconnected registers or databases held by public authorities;

b. immediate and direct access, or access upon request, to information on mortgages and loans, information contained in national currency and currency exchange databases, information on border crossings, customs data, including cross-border physical transfers of cash and bearer negotiable instruments, information on the financial statements of companies, and information on wire transfers, account balances and transfers of virtual assets;

c. immediate and direct access, or access upon request, to fiscal information, social security information and information held by the authorities competent for preventing, detecting, investigating or prosecuting criminal offences, under the conditions established by domestic law.

3. Parties shall put in place such measures as may be necessary to comply with applicable data protection legislation and to establish safeguards governing the processing of the information necessary to achieve the purpose of this article.

4. Where the information specified in paragraph 2 of this article is not held in centralised or interconnected registers or databases, each Party shall ensure that the asset recovery office has access to such information through other mechanisms in a streamlined and standardised manner.

Section 5 – Asset management

Article 13 – General principles of management

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure proper management of property frozen, seized or confiscated pursuant to the Convention and this Protocol until its final disposal.

2. Each Party shall ensure that, where justified by the nature of the property, the authorities competent for the management of frozen or seized property assess the property that might become the object of a confiscation order with a view to minimising its estimated management costs and preserving the value of such property until its final disposal.

Article 14 – Asset management office

1. Each Party shall adopt such legislative and other measures as may be necessary to establish or designate one or more competent authorities to function as an asset management office to ensure the proper management of frozen, seized and confiscated property.

2. The asset management office shall have the following functions:

managing the property or providing support and expertise to other competent authorities for the management of such property;

co-operating and exchanging information with the competent authorities responsible for identifying, tracing, freezing, seizing and confiscating property; and

co-operating with the competent authorities responsible for the management of frozen, seized and confiscated property in other Parties.

3. For the purposes of paragraph 2, sub-paragraph c, of this article, each Party shall designate a maximum of two contact points which shall have the capacity to carry out communications in a timely manner with the contact points of other Parties and shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of its designated contact points.

4. For the purposes of applying paragraph 3 of this article, a Party can designate a third contact point where it is necessary pursuant to its constitutional principles.

Article 15 – Pre-confiscation sale

1. Each Party shall adopt such legislative and other measures as may be necessary to enable the sale of seized and frozen property, before a final decision regarding the seized or frozen property is taken, where:

the property is perishable or rapidly depreciating;

the storage or maintenance costs are unreasonable compared to the market value; or

the management of the property requires special conditions and expertise which are not readily available.

2. Each Party shall adopt such legislative and other measures as may be necessary to ensure that the interests of the affected person are taken into account when issuing an order for the pre-confiscation sale of property and that, with the exception of cases where the affected

person has absconded or cannot be located, the affected person is notified and, except in cases of urgency, given the opportunity to be heard before the sale. The affected person shall have the possibility to request the sale of the property.

3. Earnings from such sales shall be secured and managed pursuant to Article 13 of this Protocol until a final decision is taken regarding the seized or frozen property.

Article 16 – Use of frozen, seized and confiscated property

1. Each Party shall consider adopting such legislative or other measures as may be necessary to allow for the use of confiscated property, and the revenues generated therefrom, under the conditions set out in domestic law, for purposes of social reuse, in the public interest or for other specific aims.

2. Each Party may adopt such legislative or other measures as may be necessary to allow for the use of frozen or seized property, under the conditions set out in domestic law, for purposes of social reuse, in the public interest or for other specific aims.

Article 17 – Information on frozen, seized and confiscated property

1. Each Party shall adopt such legislative and other measures as may be necessary to set up efficient tools or mechanisms enabling the identification, in a timely manner, of frozen, seized or confiscated property and, where appropriate, the actual or estimated value of such property.

2. Each Party shall ensure that asset management offices and, where appropriate, asset recovery offices and other competent authorities are able to obtain, in a timely manner, through the tools and mechanisms referred to in paragraph 1 of this article, the information on frozen, seized and confiscated property necessary for the performance of their tasks.

3. Parties shall put in place such measures as may be necessary to comply with applicable data protection legislation and to establish safeguards governing the processing of the information necessary to achieve the purpose of this article.

Chapter III – International co-operation

Section 1 – Principles of international co-operation

Article 18 – General principles and measures for international co-operation

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that the enforcement of foreign freezing, seizure or confiscation orders is not made conditional on conducting a domestic investigation. This provision shall be without prejudice to the power of the competent authorities in the requested Party to review the foreign order and issue any orders necessary to give it effect with regard to property located in its territory.

2. Parties shall also ensure that a request to take provisional measures is not refused on the sole ground that the domestic order on which it is based was made by an authority other than a judicial authority, where the authority in question is designated as a competent authority by the requesting Party and where the domestic order in question was validated by a judicial authority prior to the transmission of the request.

Article 19 – Transfer of data

1. Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or its Protocol may be used by the Party to which such data has been transferred only:

a. for the purpose of processes or proceedings to which the Convention or its Protocol applies;

- b. for other judicial and administrative proceedings directly related to the proceedings mentioned under paragraph 1, sub-paragraph *a*, of this article;
 - c. to prevent an immediate and serious threat to public security.
2. Such data may, however, be used for any other purpose if prior consent to that effect is given by the Party from which the data have been transferred or the data subject.
3. Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under the Convention or its Protocol where:
- a. such data cannot be provided in compliance with its domestic legislation; and/or
 - b. the Party to which the data should be transferred is not bound by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981, as modernised by the protocol amending that convention (CETS No. 223), done at Strasbourg on 10 October 2018, unless the latter Party undertakes to afford such protection to the data as is required by the former Party.
4. Any Party that transfers personal data obtained as a result of the execution of a request made under the Convention or its Protocol may require the Party to which the data has been transferred to give information on the use made of such data.
5. Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, require that, within the framework of procedures for which it could have refused or limited the transmission or the use of personal data in accordance with the provisions of the Convention or its Protocol, personal data which it transmits to another Party not be used by the latter for the purposes of paragraph 1 of this article unless with its previous consent.

Section 2 – Investigative assistance

Article 20 – Requests for information on accounts held in financial institutions or virtual asset service providers

1. Each Party shall, under the conditions set out in this article, take the measures necessary to determine, in answer to a request sent by another Party, whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts, of whatever nature, in any financial institution or virtual asset service provider located in its territory and, if so, shall provide to the requesting Party the particulars of the identified accounts, including all records held by financial institutions or virtual asset service providers pursuant to their customer due diligence obligations, as defined in Article 13, paragraph 2, sub-paragraphs *a.i* and *iii*, of the Convention.
2. The obligation set out in this article shall apply only to the extent that the information is in the possession of the financial institution or virtual asset service provider keeping the account.
3. In addition to the requirements of Article 37 of the Convention, the requesting Party shall, in its request:
- state why it considers that the requested information is likely to be of substantial value for the purpose of the criminal investigation into the offence;
 - state on what grounds it presumes that the financial institutions or virtual asset service providers in the requested Party hold the account and specify, to the widest extent possible, which financial institutions or virtual asset service providers and/or accounts may be involved; and
 - include any additional information available which may facilitate the execution of the request.

4. The requested Party may make the execution of such a request dependent on the same conditions as it applies in respect of requests for search and seizure.

5. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, reserve its right to apply this article only to money laundering, the financing of terrorism and to the categories of offences in the appendix to the Convention.

Article 21 – Requests for information on transactions carried out by financial institutions and virtual asset service providers

1. On request by another Party, the requested Party shall provide the particulars of specified accounts held by financial institutions and virtual asset service providers, and of operations which have been carried out during a specified period through one or more accounts specified in the request, including the particulars of any sending or recipient account.

2. The obligation set out in this article shall apply only to the extent that the information is in the possession of the financial institution or virtual asset service provider holding the account.

3. In addition to the requirements of Article 37 of the Convention, the requesting Party shall, in its request, indicate why it considers the requested information relevant for the purposes of the criminal investigation into the offence.

4. The requested Party may make the execution of such a request dependent on the same conditions as it applies in respect of requests for search and seizure.

Article 22 – Requests for the monitoring of transactions carried out by financial institutions and virtual asset service providers

1. Each Party shall ensure that, at the request of another Party, it is able to monitor, during a specified period, the operations that are being carried out by financial institutions and virtual asset service providers through one or more accounts specified in the request and communicate the results thereof to the requesting Party.

2. In addition to the requirements of Article 37 of the Convention, the requesting Party shall, in its request, indicate why it considers the requested information relevant for the purposes of the criminal investigation into the offence.

3. The decision to monitor shall be taken in each individual case by the competent authorities of the requested Party, with due regard for the domestic law of that Party.

4. The practical details regarding the monitoring shall be agreed between the competent authorities of the requesting and requested Parties.

Article 23 – Joint investigation teams for the recovery of property liable to confiscation

1. By mutual agreement, the competent authorities of two or more Parties may establish and operate a joint investigation team in their territories for the purpose of the recovery of property liable to confiscation pursuant to the Convention and this Protocol, where enhanced co-ordination is deemed to be particularly useful. Such teams shall be established for a limited period, which may be extended by mutual consent, and their composition shall be determined in the agreement establishing the team. A joint investigation team may, in particular, be set up:

a. where investigations by one Party into property liable to confiscation pursuant to the Convention and this Protocol require difficult and demanding investigations with links to other Parties; or

b. where investigations by a number of Parties pursuant to the Convention and this Protocol require co-ordinated and concerted action in the Parties involved.

A request for the setting-up of a joint investigation team may be made by any of the Parties concerned. The team shall be established in one of the Parties in which the investigations are expected to be carried out.

2. Requests for the establishment of a joint investigation team shall include:

- a. the authority making the request;
- b. the object of and the reason for the request;
- c. where possible, any other information relevant to the investigation;
- d. where known and appropriate, the name and address of the affected persons;
- e. proposals concerning the composition of the team.

3. A joint investigation team shall operate in the territory of the Parties setting up the team under the following general conditions:

a. the leader of the team shall be a representative of the competent authority in charge of the investigation in the Party in which the team operates. The leader of the team shall act within the limits of his or her competence under domestic law;

b. the team shall carry out its operations in accordance with the law of the Party in which it operates. The members and seconded members of the team shall carry out their tasks under the leadership of the person referred to in paragraph 3, sub-paragraph a, of this article, taking into account the conditions set by their own authorities in the agreement on setting up the team;

c. the Party in which the team operates shall make the necessary organisational arrangements for it to do so.

4. In this article, members of the joint investigation team from the Party in which the team operates are referred to as “members”, while members from Parties other than the Party in which the team operates are referred to as “seconded members”.

5. Seconded members of the joint investigation team shall be entitled to be present when investigative measures are taken in the Party of operation. However, the leader of the team may, for particular reasons, in accordance with the law of the Party where the team operates, decide otherwise.

6. Seconded members of the joint investigation team may, in accordance with the law of the Party where the team operates, be entrusted by the leader of the team with the task of taking certain investigative measures where this has been approved by the competent authorities of the Party of operation and the seconding Party.

7. Where the joint investigation team needs investigative measures to be taken in one of the Parties setting up the team, members seconded to the team by that Party may request their own competent authorities to take those measures. Those measures shall be considered in that Party under the conditions which would apply if they were requested in a national investigation.

8. Where the joint investigation team needs assistance from a Party other than those which have set up the team, or from a third State, the request for assistance may be made by the competent authorities of the State of operation to the competent authorities of the other State concerned, in accordance with the relevant instruments or arrangements.

9. A seconded member of the joint investigation team may, in accordance with his or her domestic law and within the limits of his or her competence, provide the team with information available in the Party which has seconded him or her for the purposes of the investigations conducted by the team.

10. Information lawfully obtained by a member or seconded member while part of a joint investigation team, which is not otherwise available to the competent authorities of the Parties concerned, may be used for the following purposes:

- a. for the purposes for which the team has been set up;
- b. subject to the prior consent of the Party where the information became available, for detecting investigating and prosecuting criminal offences. Such consent may be withheld only in cases where such use would endanger criminal investigations in the Party concerned or in respect of which that Party could refuse mutual assistance pursuant to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30) and its protocols;
- c. for preventing an immediate and serious threat to public security and, without prejudice to paragraph 10, sub-paragraph *b*, if subsequently a criminal investigation is opened;
- d. for other purposes, to the extent that this is agreed between Parties setting up the team.

11. This article shall be without prejudice to any other existing provisions or arrangements on the setting-up or operation of joint investigation teams.

12. To the extent that the laws of the Parties concerned or the provisions of any legal instrument applicable between them permit, arrangements may be agreed for persons other than representatives of the competent authorities of the Parties setting up the joint investigation team to take part in the activities of the team. The rights conferred upon the members or seconded members of the team by virtue of this article shall not apply to these persons unless the agreement expressly states otherwise.

Section 3 – Standard forms

Article 24 – Standard form for freezing or seizing property

1. Without prejudice to Article 35, paragraph 1, of the Convention, in order to request the freezing or seizing of property within the meaning of Article 21 of the Convention, Parties shall complete the standard form adopted by the Conference of the Parties established under the Convention pursuant to Article 35 of this Protocol, shall sign it and shall certify its content as being accurate and correct.

2. The requesting Party shall provide the requested Party with a translation of the standard form in an official language of the requested Party or in any other language that the requested Party will accept. The declarations made by Parties in accordance with Article 35, paragraph 3, of the Convention shall apply, *mutatis mutandis*, for this purpose. A translation of the decision, on which the form is based, shall be provided only upon request by the competent authorities of the requested Party if consultation of that decision is necessary.

3. A request for the freezing or seizing of property made in accordance with paragraph 1 of this article may be refused if the standard form is incomplete or manifestly incorrect and has not been completed or corrected following consultations between the requested and requesting Parties, in accordance with Article 38 of the Convention.

4. This article will be applicable from the day the Conference of the Parties adopts the standard forms referred to in paragraph 1 of this article.

Article 25 – Standard form for the confiscation of property

1. Without prejudice to Article 35, paragraph 1, of the Convention, in order to request the confiscation of property within the meaning of Article 23 of the Convention, Parties shall complete the standard form adopted by the Conference of the Parties established under the Convention pursuant to Article 35 of this Protocol, shall sign it and shall certify its content as being accurate and correct.

2. The requesting Party shall provide the requested Party with a translation of the standard form in an official language of the requested Party or in any other language that the requested Party will accept. The declarations made by Parties in accordance with Article 35, paragraph 3, of the Convention shall apply, *mutatis mutandis*, for this purpose. A translation of the decision, on which the form is based, shall be provided only upon request by the competent authorities of the requested Party if consultation of that decision is necessary.

3. A request for the confiscation of property made in accordance with paragraph 1 of this article may be refused if the standard form is incomplete or manifestly incorrect and has not been completed or corrected following consultations between the requested and requesting Parties, in accordance with Article 38 of the Convention.

4. This article will be applicable from the day the Conference of the Parties adopts the standard forms referred to in paragraph 1 of this article.

Section 4 – Return and sharing of property

Article 26 – Return of property

1. When acting on a request made by another Party in accordance with Articles 23 and 24 of the Convention, Parties shall, if so requested, give priority consideration to returning confiscated property to the requesting Party so that it can give compensation to the victims of the crime or return such property to its legitimate owners.

2. When acting on a request made by another Party in accordance with Articles 21 and 22 of the Convention, Parties shall also, if so requested, give priority consideration to returning frozen or seized property to the requesting Party prior to a final decision on its confiscation, so that it can return such property to its legitimate owners, where the following conditions are met:

- a. the legitimate owner's title to the property is established and not contested;
- b. the property is not required as evidence in criminal proceedings in the requested Party; and
- c. the rights of the affected persons are not prejudiced.

3. When acting on a request made by another Party in accordance with Articles 21 and 22 of the Convention, Parties may also, if so requested, give priority consideration to returning frozen or seized property to the requesting Party prior to a final decision on its confiscation so that it can give compensation to the victims of the crime, where the following conditions are met:

- a. the decision on compensation is final;
- b. the property to be disposed of for the purpose of compensating the victim is not required as evidence in criminal proceedings in the requested Party; and
- c. the rights of the affected persons are not prejudiced.

Article 27 – Sharing of property

1. Without prejudice to Articles 25 and 32 of the Convention, Articles 26 and 31 of this Protocol and the rights of identifiable legitimate owners and victims, where money is obtained as the result of the execution of a confiscation order in accordance with Articles 23 and 24 of

the Convention and the amount obtained exceeds 10 000 euros or the equivalent in convertible currency, it shall be shared equally between the requesting and the requested Party, unless otherwise agreed on a case-by-case basis. For confiscated property other than money, the requesting and requested Parties shall consult on the appropriate arrangements for the disposal of the property in question.

2. When sharing property pursuant to paragraph 1 of this article, the requesting and requested Parties may agree to include in the sharing arrangement other Parties which have contributed to the successful recovery of the property. Parties may furthermore decide to share property confiscated in accordance with a domestic confiscation order with Parties that provided investigative or other assistance in accordance with the Convention or this Protocol, where such assistance contributed to the successful confiscation.

3. Where confiscated property is to be shared between the requesting and requested Parties in accordance with paragraphs 1 and 2 of this article, the requested Party may first deduct costs of a substantial or extraordinary nature which were necessary in order to comply with requests under this Protocol or the Convention and which facilitated the confiscation of the property concerned.

Section 5 – Financial intelligence unit

Article 28 – International co-operation on suspension or withholding of consent for suspicious transactions, accounts and business relationships

1. Each Party shall adopt such legislative and other measures as may be necessary to permit urgent action to be taken by a financial intelligence unit, at the request of a foreign financial intelligence unit, when there is a suspicion that a transaction, an account such as a bank, securities, payment or virtual asset account or a business relationship is related to money laundering, the financing of terrorism or any of the categories of offences in the appendix to the Convention, to suspend the use of that account, the business relationship or the transaction or to withhold consent for the transaction to go ahead.

2. The suspension shall be in place for such periods and subject to the same conditions as apply in the domestic law of the requested Party in respect of this power.

3. The action referred to in paragraph 1 of this article shall be taken where the requested financial intelligence unit is satisfied, upon justification by the requesting financial intelligence unit, that the use of the account, the business relationship or the transaction going ahead would have been suspended or consent for the transaction to go ahead would have been withheld if the account, business relationship or transaction had raised suspicion at the national level.

4. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, reserve its right not to apply this article to the suspension of accounts and business relationships.

Section 6 – Asset recovery offices

Article 29 – International co-operation between asset recovery offices

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that its asset recovery office exchanges information with the asset recovery offices of other Parties, either spontaneously or upon request, for the purposes of identifying and tracing property liable to confiscation. Requests for information shall state the reasons for the request and include any information available that may facilitate the identification of the property.

2. The exchange of information pursuant to paragraph 1 of this article may be refused if:
- a. the execution of the request is likely to prejudice the sovereignty, security, public order or other essential interest of the requested Party;
 - b. the execution of the request is likely to prejudice investigations or current proceedings, or pose an imminent threat to the life or physical integrity of a person;
 - c. the execution of the request is clearly disproportionate or irrelevant to the purposes for which it was made;
 - d. the offence to which the request relates is a political offence, with the exception of the financing of terrorism; or
 - e. the requested Party considers that compliance with the action sought would be contrary to the principle of *ne bis in idem*.
3. The requested asset recovery office shall consult with the requesting asset recovery office before refusing a request. Any refusal to provide information shall be appropriately explained.
4. Each Party shall adopt such legislative and other measures as may be necessary to ensure that the asset recovery office responds promptly to reasoned requests and, unless prevented from doing so for compelling reasons, within fourteen days for non-urgent requests and within three days for urgent requests concerning databases to which the asset recovery office has direct access. Where the information requested is accessible only indirectly, or where the request would impose a disproportionate burden, the requested asset recovery office may extend the time limit for responding to twenty-one days for non-urgent requests and seven days for urgent requests. Where the requested asset recovery office assesses that it will not be able to comply with the applicable time limits, it shall promptly inform the requesting asset recovery office.
5. For the purposes of facilitating cross-border co-operation between asset recovery offices, each Party shall designate a maximum of two contact points which shall have the capacity to carry out communications in a timely manner with the contact points of other Parties and shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of its designated contact points.
6. For the purposes of applying paragraph 5 of this article, a Party can designate a third contact point where it is necessary pursuant to its constitutional principles.

Section 7 – Asset management

Article 30 – Management of property frozen, seized or confiscated at the request of another Party

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that Article 6 of the Convention and Articles 15 and 17 of this Protocol apply to property frozen, seized or confiscated at the request of another Party.
2. The management of property frozen, seized or confiscated at the request of another Party shall be governed by the law of the requested Party.

Chapter IV – Safeguards, training and resources

Article 31 – Safeguards and remedies

1. Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Protocol are subject to the conditions and

safeguards provided for under its domestic law, which shall ensure adequate protection of human rights and freedoms, and incorporate the principles of necessity and proportionality.

2. Without prejudice to Article 8 of the Convention, each Party shall adopt such legislative and other measures as may be necessary to ensure that the persons affected by provisional measures, including measures provided in Article 6 of this Protocol, pre-confiscation sale orders or confiscation pursuant to the Convention or this Protocol, have the right to an effective legal remedy and to a fair trial in order to protect their rights. Parties shall also guarantee the rights of the defence.

3. Each Party shall ensure that the persons affected by a confiscation measure pursuant to the Convention or this Protocol are summoned to the confiscation proceedings.

4. Each Party shall ensure that a court can suspend the execution of a pre-confiscation sale order if otherwise there would be irreparable harm to the affected person.

Article 32 – Notification of decisions

1. Each Party shall ensure that decisions on provisional measures and confiscation pursuant to the Convention and this Protocol, as well as decisions on the pre-confiscation sale of property, are notified to the persons affected without undue delay. Such decisions shall set out the reasons for the measure and the rights and legal remedies available to the person affected.

2. A Party may allow its competent authorities to postpone notifying the person concerned of decisions on provisional measures for such period of time as is necessary to avoid jeopardising a criminal or financial investigation.

Article 33 – Security measures

1. Each Party shall ensure that asset recovery offices undertake all necessary measures, including security measures, to ensure that information processed under Articles 9, 12, 17 and 29 of this Protocol is not accessed by unauthorised persons.

2. Parties shall take the necessary measures to ensure that communication between asset recovery offices is carried out through secure channels.

Article 34 – Resources and training

1. Each Party shall adopt such legislative or other measures as may be necessary to ensure that asset recovery offices and asset management offices have adequate financial, human and technical resources to carry out their functions effectively.

2. Without prejudice to judicial independence and differences in the organisation of the judiciary, each Party shall ensure that adequate training is available to the competent authorities involved in financial investigations, asset identification, tracing, freezing, seizure, management and confiscation.

Chapter V – Monitoring mechanism and settlement of disputes

Article 35 – Monitoring mechanism and settlement of disputes

1. Article 48 of the Convention shall apply, *mutatis mutandis*, to this Protocol. The Conference of the Parties established under the Convention shall perform the functions set out in Article 48 of the Convention for the purposes of this Protocol, meeting in a composition restricted to the Parties to this Protocol, where appropriate.

2. The Conference of the Parties, meeting in a composition restricted to the Parties to this Protocol, shall adopt standard forms as provided for in Articles 24 and 25 of this Protocol.

3. The Conference of the Parties shall facilitate the exchange of information on significant legal, policy or practical developments pertaining to the areas covered by the Convention and this Protocol.

Chapter VI – Final provisions

Article 36 – Relationship with the Convention

The provisions of the Convention shall apply, *mutatis mutandis*, to the provisions of this Protocol.

Article 37 – Signature and ratification

This Protocol shall be open for signature by signatories to the Convention. It shall be subject to ratification, acceptance or approval. A signatory may not ratify, accept or approve this Protocol unless it has previously or simultaneously expressed its consent to be bound by the provisions of the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 38 – Entry into force

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five signatories, including at least three member States of the Council of Europe, have expressed their consent to be bound by this Protocol, in accordance with the provisions of Article 37.

2. In respect of any signatory which subsequently expresses its consent to be bound by it, this Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 39 – Accession

1. After the entry into force of this Protocol, any Party to the Convention may also accede to this Protocol.

2. In respect of any Party acceding to this Protocol under paragraph 1 of this article, this Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 40 – Territorial application

1. Any State or the European Union may, at the time of signature of this Protocol or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2. Any Party may, at any later time, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, this Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the declaration by the Secretary General.

3. Any declaration made under paragraphs 1 and 2 of this article may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 41 – Denunciation

1. Any Party may, at any time, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.
3. Denunciation of the Convention automatically entails denunciation of this Protocol.

Article 42 – Relationship to other conventions and agreements

1. This Protocol does not affect the rights and undertakings of Parties derived from international multilateral instruments concerning special matters.
2. The Parties to this Protocol may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Protocol, for the purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.
3. If two or more Parties have already concluded an agreement or treaty in respect of a subject which is dealt with in this Protocol, or if they have otherwise established their relations in respect of that subject, they shall be entitled to apply that agreement or treaty or to regulate these relations accordingly, in lieu of this Protocol, if it facilitates international co-operation.
4. Parties which are members of the European Union shall, in their mutual relations, apply European Community and European Union rules insofar as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of this Protocol and without prejudice to its full application with respect to other Parties.

Article 43 – Declarations and reservations

1. Any State or the European Union may, at the time of signature of this Protocol or when depositing its instrument of ratification, acceptance, approval or accession, make one or more of the declarations provided for in Article 19, paragraph 5, and Article 40, paragraphs 1 and 2, of this Protocol.
2. Any State or the European Union may, at the time of signature of this Protocol or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it avails itself of one or more of the reservations provided for in Article 3, paragraph 2; Article 4, paragraphs 2 and 3; Article 5, paragraph 3; Article 10, paragraph 6; Article 20, paragraph 5; and Article 28, paragraph 4, of this Protocol. No other reservation may be made in respect of the provisions of this Protocol.
3. Any Party which has made a reservation under this article may, at any time, wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.
4. A Party which has made a reservation in respect of a provision of this Protocol may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision insofar as it has itself accepted it.

Article 44 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the non-member States which have participated in the elaboration of this Protocol,

the European Union, any signatory, any State Party and any other State which has been invited to accede to the Convention of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. the date of entry into force of this Protocol in accordance with Article 38;
- d. any declaration, reservation or withdrawal of reservation made in accordance with Article 43;
- e. any declaration made in accordance with Article 14, paragraph 3, and Article 29, paragraph 5;
- f. any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at xxx, this xxx day of xxx, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Protocol, to the European Union and to any State invited to accede to the Convention.

Appendix

The following paragraph is added to the appendix to the Convention:

v cybercrime.