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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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

Reservations

1. The Union and its Member States shall act in accordance with the following indications when it comes to reservations as regards the United Nations Convention against Cybercrime; Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes (the ‘Convention’).
2. The Convention does not have a dedicated provision on reservations. Rather, it explicitly allows a State Party to declare that it avails itself of a reservation provided in some of the Articles of the Convention: Article 11(3); Article 23(3), point (a); Article 23(3), point (b), second subparagraph; Article 42(5); Article 63(3) and (4). The Convention also implicitly allows other reservations provided that those reservations are in accordance with Article 19, subparagraph (c), of the Vienna Convention on the Law of Treaties done at Vienna on 23 May 1969 and with customary international law and are not incompatible with the object and purpose of the Convention.
3. The Union and its Member States shall make a reservation based on Article 63(3) indicating that they do not consider themselves bound by Article 63(2) regarding the settlement of disputes concerning matters falling into the competence of the Union or regarding the settlement of disputes between the Member States or between the Union and a Member State.

4. When Member States consider making their own reservations, they shall inform the Commission in advance.
 5. The human rights conditions and safeguards recognised and provided for in the Convention, including those in Article 6, Article 21(4), Article 24, Article 36, Article 37(15), and Article 40(22), are part of the object and purpose of the Convention. Therefore the Union and its Member States shall not formulate reservations on those Articles. Any reservation by non-EU State Parties to the Convention deemed to be incompatible with the object and purpose of the Convention should be objected to by the Union, without prejudice to the possibility for Member States to make the same objection in a coordinated manner.
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