



Strasbourg, 24/04/2015
[PC-OC/DOCS2015/PC-OC(2015)03]
<http://www.coe.int/tcj>

PC-OC(2015)03

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS
ON THE OPERATION OF EUROPEAN CONVENTIONS
ON CO-OPERATION IN CRIMINAL MATTERS
(PC-OC)

MUTUAL LEGAL ASSISTANCE IN THE TREATIES OF THE COUNCIL OF EUROPE
NOTE FOR PRACTITIONERS

This note, produced by the Secretariat of the PC-OC, gives an overview of all the Council of Europe treaties that include provisions relating to international co-operation as regards mutual legal assistance.

The first part of this note contains a list of relevant treaties (in ascending chronological order), links to these treaties, references to the provisions on mutual legal assistance and, where appropriate, links to the sites of the monitoring body or the Council of Europe organ working in this field.

The second part presents the texts of the relevant provisions contained in the treaties concerned.

This note is specifically addressed to practitioners in the field of international legal co-operation who wish to have access to all the relevant legal standards on mutual legal assistance developed by the Council of Europe.

Part I. List of Council of Europe treaties that include provisions relating to mutual legal assistance in criminal matters

A. Council of Europe treaties on mutual legal assistance in criminal matters (PC-OC: www.coe.int/tcj)

- [European Convention on Mutual Assistance in Criminal Matters \(ETS No. 030\)](#)
- [Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters \(ETS No. 099\)](#)
- [Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters \(ETS No. 182\)](#)

B. Other Council of Europe treaties containing provisions on mutual legal assistance in criminal matters

<i>Conventions</i>	<i>Articles</i>	<i>Monitoring body</i>
European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (ETS No. 051)	- Article 37	PC-OC www.coe.int/tcj
European Convention on the Suppression of Terrorism (ETS No. 090)	- Article 8	CODEXTER www.coe.int/gmt
European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116)	- Article 12 - Article 13	CDPC www.coe.int/CDPC
Convention on Laundering,	- Article 7 : General principles and measures for international co-operation - Article 8 : Obligation to assist - Article 9 : Execution of assistance - Article 10 : Spontaneous information	PC-OC

<p>Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141)</p>	<ul style="list-style-type: none"> - Article 11: Obligation to take provisional measures - Article 12: Execution of provisional measures - Article 13: Obligation to confiscate - Article 14: Execution of confiscation - Article 15: Confiscated property - Article 16: Right of enforcement and maximum amount of confiscation - Article 17: Imprisonment in default - Article 18: Grounds for refusal - Article 19: Postponement - Article 20: Partial or conditional granting of a request - Article 21: Notification of documents - Article 22: Recognition of foreign decisions - Article 23: Central authority - Article 24: Direct communication - Article 25: Form of request and languages - Article 26: Legalisation - Article 27: Content of request - Article 28: Defective 	<p>www.coe.int/tcj</p>
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	<p>requests</p> <ul style="list-style-type: none"> - <u>Article 29</u>: Plurality of requests - <u>Article 30</u>: Obligation to give reasons - <u>Article 31</u>: Information - <u>Article 32</u>: Restriction of use - <u>Article 33</u>: Confidentiality - <u>Article 34</u>: Costs - <u>Article 35</u>: Damages 	
<p><u>Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances</u> (ETS No. 156)</p>	<ul style="list-style-type: none"> - <u>Article 2</u>: General principles - <u>Article 3</u>: Jurisdiction - <u>Article 4</u>: Assistance to flag States - <u>Article 5</u>: Vessels without nationality - <u>Article 6</u>: Basic rules on authorisation - <u>Article 7</u>: Decision on the request for authorisation - <u>Article 8</u>: Conditions - <u>Article 9</u>: Authorised actions - <u>Article 10</u>: Enforcement measures - <u>Article 11</u>: Execution of action - <u>Article 13</u>: Evidence of offences - <u>Article 14</u>: Exercise of preferential jurisdiction - <u>Article 15</u>: Surrender of 	<p style="text-align: center;">CDPC <u>www.coe.int/CDPC</u></p>

	<p>vessels, cargoes, persons and evidence</p> <ul style="list-style-type: none"> - <u>Article 16</u>: Capital punishment - <u>Article 17</u>: Competent authorities - <u>Article 18</u>: Communication between designated authorities - <u>Article 19</u>: Form of request and languages - <u>Article 20</u>: Authentication and legalisation - <u>Article 21</u>: Content of request - <u>Article 22</u>: Information for owners and masters of vessels - <u>Article 23</u>: Restriction of use - <u>Article 24</u>: Confidentiality 	
<p>Criminal Law Convention on Corruption (ETS No. 173)</p>	<ul style="list-style-type: none"> - <u>Article 25</u>: General principles and measures for international co-operation - <u>Article 26</u>: Mutual assistance - <u>Article 30</u>: Direct communication - <u>Article 37</u>: Reservations 	<p style="text-align: center;">GRECO www.coe.int/greco</p>
	<ul style="list-style-type: none"> - <u>Article 25</u>: General principles relating to mutual assistance - <u>Article 26</u>: Spontaneous Information - <u>Article 27</u>: Procedures pertaining to mutual 	

<p>Convention on Cybercrime (ETS No.185)</p>	<p>assistance requests in the absence of applicable international agreements</p> <ul style="list-style-type: none"> - Article 28: Confidentiality and limitation on use - Article 29: Expedited preservation of stored computer data - Article 30: Expedited disclosure of preserved traffic data - Article 31: Mutual assistance regarding accessing of stored computer data - Article 32: Trans-border access to stored computer data with consent or where publicly available - Article 33: Mutual assistance regarding the real-time collection of traffic data - Article 34: Mutual assistance regarding the interception of content data - Article 35: 24/7 Network 	<p style="text-align: center;">T-CY www.coe.int/TCY</p>
<p>Council of Europe Convention on the Prevention of Terrorism (CETS No. 196)</p>	<ul style="list-style-type: none"> - Article 4: International co-operation on prevention - Article 17: International co-operation in criminal matters - Article 20: Exclusion of the political exception clause - Article 21: Discrimination clause 	<p style="text-align: center;">CODEXTER www.coe.int/gmt</p>

<p>Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197)</p>	<ul style="list-style-type: none"> - Article 32: General principles and measures for international co-operation - Article 33: Measures relating to endangered or missing persons - Article 34: Information 	<p style="text-align: center;">GRETA www.coe.int/trafficking</p>
<p>Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198)</p>	<ul style="list-style-type: none"> - Article 15: General principles and measures for international co-operation - Article 16: Obligation to assist - Article 17: Requests for information on bank accounts - Article 18: Requests for information on banking transactions - Article 19: Requests for the monitoring of banking transactions - Article 20: Spontaneous information - Article 21: Obligation to take provisional measures - Article 22: Execution of provisional measures - Article 23: Obligation to confiscate - Article 24: Execution of confiscation - Article 25: Confiscated property - Article 26: Right of 	<p style="text-align: center;">COP198 www.coe.int/cop198</p>

	<p>enforcement and maximum amount of confiscation</p> <ul style="list-style-type: none"> - <u>Article 27</u>: Imprisonment in default - <u>Article 28</u>: Grounds for refusal - <u>Article 29</u>: Postponement - <u>Article 30</u>: Partial or conditional granting of a request 	
<p>Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201)</p>	<ul style="list-style-type: none"> - <u>Article 38</u>: General principles and measures for international co-operation 	<p>Lanzarote Committee: T-ES www.coe.int/lanzarote/</p>
<p>Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210)</p>	<ul style="list-style-type: none"> - <u>Article 62</u>: General principles 	<p>GREVIO www.coe.int/violence</p>
<p>Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health (CETS No. 211)</p>	<ul style="list-style-type: none"> - <u>Article 21</u>: International co-operation in criminal matters - <u>Article 22</u>: International co-operation on prevention and other administrative measures 	<p>CDPC www.coe.int/CDPC</p>
<p>Council of Europe Convention on the Manipulation of Sports Competitions (CETS No. 215)</p>	<ul style="list-style-type: none"> - <u>Article 26</u>: Measures with a view to international co-operation in criminal matters - <u>Article 27</u>: Other international co-operation measures in respect of prevention - <u>Article 28</u>: International co-operation with international sports organisations 	<p>Enlarged Partial Agreement on Sport EPAS</p>

Council of Europe Convention against Trafficking in Human Organs (CETS No. 216)	- Article 17 : International co-operation	CDPC www.coe.int/CDPC

Part II. Provisions relating to mutual legal assistance in criminal matters contained in Council of Europe treaties

A. [European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders](#) (ETS No. 051), *Art.37*

• **Article 37**

1. This Convention shall not affect the undertakings given in any other existing or future international Convention, whether bilateral or multilateral, between two or more of the Contracting Parties, on extradition or any other form of mutual assistance in criminal matters.
2. The Contracting Parties may not conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, except in order to supplement its provisions or facilitate application of the principles embodied in it.
3. Should two or more Contracting Parties, however, have already established their relations in this matter on the basis of uniform legislation, or instituted a special system of their own, or should they in future do so, they shall be entitled to regulate those relations accordingly, notwithstanding the terms of this Convention.
Contracting Parties ceasing to apply the terms of this Convention to their mutual relations in this matter shall notify the Secretary General of the Council of Europe to that effect.

B. [European Convention on the Suppression of Terrorism](#) (ETS No. 090) – *Art.8*

• **Article 8**

1. Contracting States shall afford one another the widest measure of mutual assistance in criminal matters in connection with proceedings brought in respect of the offences mentioned in Article 1 or 2. The law of the requested State concerning mutual assistance in criminal matters shall apply in all cases. Nevertheless this assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.
2. Nothing in this Convention shall be interpreted as imposing an obligation to afford mutual assistance if the requested State has substantial grounds for believing that the request for mutual assistance in respect of an offence mentioned in Article 1 or 2 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion or that that person's position may be prejudiced for any of these reasons.
3. The provisions of all treaties and arrangements concerning mutual assistance in criminal matters applicable between Contracting States, including the European Convention on Mutual Assistance in Criminal Matters, are modified as between Contracting States to the extent that they are incompatible with this Convention.

C. [European Convention on the Compensation of Victims of Violent Crimes](#) (ETS No.116) – *Art. 12-13*

• **Article 12**

Subject to the application of bilateral or multilateral agreements on mutual assistance concluded between Contracting States, the competent authorities of each Party shall, at the request of the appropriate authorities of any other Party, give the maximum possible assistance in connection with the matters covered by this Convention. To this end, each Contracting State shall designate a central authority to receive, and to take action on, requests for such assistance, and shall inform thereof the Secretary General of the Council of Europe when depositing its instrument of ratification, acceptance, approval or accession.

- **Article 13**

1. The European Committee on Crime Problems (CDPC) of the Council of Europe shall be kept informed regarding the application of the Convention.
 2. To this end, each Party shall transmit to the Secretary General of the Council of Europe any relevant information about its legislative or regulatory provisions concerning the matters covered by the Convention.
- D. [Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime](#) (ETS No. 141), Art 7-35

- **Article 7 – Principes généraux et mesures de coopération internationale**

1. The Parties shall co-operate with each other to the widest extent possible for the purposes of investigations and proceedings aiming at the confiscation of instrumentalities and proceeds.
2. Each Party shall adopt such legislative or other measures as may be necessary to enable it to comply, under the conditions provided for in this chapter, with requests:
 - a. for confiscation of specific items of property representing proceeds or instrumentalities, as well as for confiscation of proceeds consisting in a requirement to pay a sum of money corresponding to the value of proceeds;
 - b. for investigative assistance and provisional measures with a view to either form of confiscation referred to under a above.

- **Article 8 – Obligation to assist**

The Parties shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation. Such assistance shall include any measure providing and securing evidence as to the existence, location or movement, nature, legal status or value of the aforementioned property.

- **Article 9 – Execution of assistance**

The assistance pursuant to Article 8 shall be carried out as permitted by and in accordance with the domestic law of the requested Party and, to the extent not incompatible with such law, in accordance with the procedures specified in the request.

- **Article 10 – Spontaneous information**

Without prejudice to its own investigations or proceedings, a Party may without prior request forward to another Party information on instrumentalities and proceeds, when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings or might lead to a request by that Party under this chapter.

- **Article 11 – Obligation to take provisional measures**

1. At the request of another Party which has instituted criminal proceedings or proceedings for the purpose of confiscation, a Party shall take the necessary provisional measures, such as freezing or seizing, to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation or which might be such as to satisfy the request.
2. A Party which has received a request for confiscation pursuant to Article 13 shall, if so requested, take the measures mentioned in paragraph 1 of this article in respect of any property which is the subject of the request or which might be such as to satisfy the request.

- **Article 12 – Execution of provisional measures**

1. The provisional measures mentioned in Article 11 shall be carried out as permitted by and in accordance with the domestic law of the requested Party and, to the extent not incompatible with such law, in accordance with the procedures specified in the request.
2. Before lifting any provisional measure taken pursuant to this article, the requested Party shall, wherever possible, give the requesting Party an opportunity to present its reasons in favour of continuing the measure.

- **Article 13 – Obligation to confiscate**

1. A Party, which has received a request made by another Party for confiscation concerning instrumentalities or proceeds, situated in its territory, shall:
 - a. enforce a confiscation order made by a court of a requesting Party in relation to such instrumentalities or proceeds; or
 - b. submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, enforce it.
2. For the purposes of applying paragraph 1.b of this article, any Party shall whenever necessary have competence to institute confiscation proceedings under its own law.
3. The provisions of paragraph 1 of this article shall also apply to confiscation consisting in a requirement to pay a sum of money corresponding to the value of proceeds, if property on which the confiscation can be enforced is located in the requested Party. In such cases, when enforcing confiscation pursuant to paragraph 1, the requested Party shall, if payment is not obtained, realise the claim on any property available for that purpose.
4. If a request for confiscation concerns a specific item of property, the Parties may agree that the requested Party may enforce the confiscation in the form of a requirement to pay a sum of money corresponding to the value of the property.

- **Article 14 – Execution of confiscation**

1. The procedures for obtaining and enforcing the confiscation under Article 13 shall be governed by the law of the requested Party.
2. The requested Party shall be bound by the findings as to the facts in so far as they are stated in a conviction or judicial decision of the requesting Party or in so far as such conviction or judicial decision is implicitly based on them.
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, declare that paragraph 2 of this article applies only subject to its constitutional principles and the basic concepts of its legal system.
4. If the confiscation consists in the requirement to pay a sum of money, the competent authority of the requested Party shall convert the amount thereof into the currency of that Party at the rate of exchange ruling at the time when the decision to enforce the confiscation is taken.
5. In the case of Article 13, paragraph 1.a, the requesting Party alone shall have the right to decide on any application for review of the confiscation order.

- **Article 15 – Confiscated property**

Any property confiscated by the requested Party shall be disposed of by that Party in accordance with its domestic law, unless otherwise agreed by the Parties concerned.

- **Article 16 – Right of enforcement and maximum amount of confiscation**

1. A request for confiscation made under Article 13 does not affect the right of the requesting Party to enforce itself the confiscation order.

2. Nothing in this Convention shall be so interpreted as to permit the total value of the confiscation to exceed the amount of the sum of money specified in the confiscation order. If a Party finds that this might occur, the Parties concerned shall enter into consultations to avoid such an effect.

- **Article 17 – Imprisonment in default**

The requested Party shall not impose imprisonment in default or any other measure restricting the liberty of a person as a result of a request under Article 13, if the requesting Party has so specified in the request.

- **Article 18 – Grounds for refusal**

1. Co-operation under this chapter may be refused if:
 - a. the action sought would be contrary to the fundamental principles of the legal system of the requested Party; or
 - b. the execution of the request is likely to prejudice the sovereignty, security, *ordre public* or other essential interests of the requested Party; or
 - c. in the opinion of the requested Party, the importance of the case to which the request relates does not justify the taking of the action sought; or
 - d. the offence to which the request relates is a political or fiscal offence; or
 - e. the requested Party considers that compliance with the action sought would be contrary to the principle of *ne bis in idem*; or
 - f. the offence to which the request relates would not be an offence under the law of the requested Party if committed within its jurisdiction. However, this ground for refusal applies to co-operation under Section 2 only in so far as the assistance sought involves coercive action.
2. Co-operation under Section 2, in so far as the assistance sought involves coercive action, and under Section 3 of this chapter, may also be refused if the measures sought could not be taken under the domestic law of the requested Party for the purposes of investigations or proceedings, had it been a similar domestic case.
3. Where the law of the requested Party so requires, co-operation under Section 2, in so far as the assistance sought involves coercive action, and under Section 3 of this chapter may also be refused if the measures sought or any other measures having similar effects would not be permitted under the law of the requesting Party, or, as regards the competent authorities of the requesting Party, if the request is not authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.
4. Co-operation under Section 4 of this chapter may also be refused if:
 - a. under the law of the requested Party confiscation is not provided for in respect of the type of offence to which the request relates; or
 - b. without prejudice to the obligation pursuant to Article 13, paragraph 3, it would be contrary to the principles of the domestic laws of the requested Party concerning the limits of confiscation in respect of the relationship between an offence and:
 - i. an economic advantage that might be qualified as its proceeds; or
 - ii. property that might be qualified as its instrumentalities; or
 - c. under the law of the requested Party confiscation may no longer be imposed or enforced because of the lapse of time; or
 - d. the request does not relate to a previous conviction, or a decision of a judicial nature or a statement in such a decision that an offence or several offences have been committed, on the basis of which the confiscation has been ordered or is sought; or
 - e. confiscation is either not enforceable in the requesting Party, or it is still subject to ordinary means of appeal; or
 - f. the request relates to a confiscation order resulting from a decision rendered *in absentia* of the person against whom the order was issued and, in the opinion of the requested Party, the proceedings conducted by the requesting Party leading to such decision did

not satisfy the minimum rights of defence recognised as due to everyone against whom a criminal charge is made.

5. For the purpose of paragraph 4.f of this article a decision is not considered to have been rendered *in absentia* if:
 - a. it has been confirmed or pronounced after opposition by the person concerned; or
 - b. it has been rendered on appeal, provided that the appeal was lodged by the person concerned.
6. When considering, for the purposes of paragraph 4.f of this article if the minimum rights of defence have been satisfied, the requested Party shall take into account the fact that the person concerned has deliberately sought to evade justice or the fact that that person, having had the possibility of lodging a legal remedy against the decision made *in absentia*, elected not to do so. The same will apply when the person concerned, having been duly served with the summons to appear, elected not to do so nor to ask for adjournment.
7. A Party shall not invoke bank secrecy as a ground to refuse any co-operation under this chapter. Where its domestic law so requires, a Party may require that a request for co-operation which would involve the lifting of bank secrecy be authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.
8. Without prejudice to the ground for refusal provided for in paragraph 1.a of this article:
 - a. the fact that the person under investigation or subjected to a confiscation order by the authorities of the requesting Party is a legal person shall not be invoked by the requested Party as an obstacle to affording any co-operation under this chapter;
 - b. the fact that the natural person against whom an order of confiscation of proceeds has been issued has subsequently died or the fact that a legal person against whom an order of confiscation of proceeds has been issued has subsequently been dissolved shall not be invoked as an obstacle to render assistance in accordance with Article 13, paragraph 1.a.

- **Article 19 – Postponement**

The requested Party may postpone action on a request if such action would prejudice investigations or proceedings by its authorities.

- **Article 20 – Partial or conditional granting of a request**

Before refusing or postponing co-operation under this chapter, the requested Party shall, where appropriate after having consulted the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

- **Article 21 – Notification of documents**

1. The Parties shall afford each other the widest measure of mutual assistance in the serving of judicial documents to persons affected by provisional measures and confiscation.
2. Nothing in this article is intended to interfere with:
 - a. the possibility of sending judicial documents, by postal channels, directly to persons abroad;
 - b. the possibility for judicial officers, officials or other competent authorities of the Party of origin to effect service of judicial documents directly through the consular authorities of that Party or through judicial officers, officials or other competent authorities of the Party of destination,

unless the Party of destination makes a declaration to the contrary to the Secretary General of the Council of Europe at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.

3. When serving judicial documents to persons abroad affected by provisional measures or confiscation orders issued in the sending Party, this Party shall indicate what legal remedies are available under its law to such persons.

- **Article 22 – Recognition of foreign decisions**

1. When dealing with a request for co-operation under Sections 3 and 4, the requested Party shall recognise any judicial decision taken in the requesting Party regarding rights claimed by third parties.
2. Recognition may be refused if:
 - a. third parties did not have adequate opportunity to assert their rights; or
 - b. the decision is incompatible with a decision already taken in the requested Party on the same matter; or
 - c. it is incompatible with the *ordre public* of the requested Party; or
 - d. the decision was taken contrary to provisions on exclusive jurisdiction provided for by the law of the requested Party.

- **Article 23 – Central authority**

1. The Parties shall designate a central authority or, if necessary, authorities, which shall be responsible for sending and answering requests made under this chapter, the execution of such requests or the transmission of them to the authorities competent for their execution.
2. Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of paragraph 1 of this article.

- **Article 24 – Direct communication**

1. The central authorities shall communicate directly with one another.
2. In the event of urgency, requests or communications under this chapter may be sent directly by the judicial authorities, including public prosecutors, of the requesting Party to such authorities of the requested Party. In such cases a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.
3. Any request or communication under paragraphs 1 and 2 of this article may be made through the International Criminal Police Organisation (Interpol).
4. Where a request is made pursuant to paragraph 2 of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.
5. Requests or communications under Section 2 of this chapter, which do not involve coercive action, may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.

- **Article 25 – Form of request and languages**

1. All requests under this chapter shall be made in writing. Modern means of telecommunications, such as telefax, may be used.
2. Subject to the provisions of paragraph 3 of this article, translations of the requests or supporting documents shall not be required.
3. At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, any Party may communicate to the Secretary General of the Council of Europe a declaration that it reserves the right to require that requests made to it and documents supporting such requests be accompanied by a translation into its own language or into one of the official languages of the Council of Europe or into such one of these languages as it shall indicate. It may

on that occasion declare its readiness to accept translations in any other language as it may specify. The other Parties may apply the reciprocity rule.

- **Article 26 – Legalisation**

Documents transmitted in application of this chapter shall be exempt from all legalisation formalities.

- **Article 27 – Content of request**

1. Any request for co-operation under this chapter shall specify:
 - a. the authority making the request and the authority carrying out the investigations or proceedings;
 - b. the object of and the reason for the request;
 - c. the matters, including the relevant facts (such as date, place and circumstances of the offence) to which the investigations or proceedings relate, except in the case of a request for notification;
 - d. in so far as the co-operation involves coercive action:
 - i. the text of the statutory provisions or, where this is not possible, a statement of the relevant law applicable; and
 - ii. an indication that the measure sought or any other measures having similar effects could be taken in the territory of the requesting Party under its own law;
 - e. where necessary and in so far as possible:
 - i. details of the person or persons concerned, including name, date and place of birth, nationality and location, and, in the case of a legal person, its seat; and
 - ii. the property in relation to which co-operation is sought, its location, its connection with the person or persons concerned, any connection with the offence, as well as any available information about other persons, interests in the property; and
 - f. any particular procedure the requesting Party wishes to be followed.
2. A request for provisional measures under Section 3 in relation to seizure of property on which a confiscation order consisting in the requirement to pay a sum of money may be realised shall also indicate a maximum amount for which recovery is sought in that property.
3. In addition to the indications mentioned in paragraph 1, any request under Section 4 shall contain:
 - a. in the case of Article 13, paragraph 1.a:
 - i. a certified true copy of the confiscation order made by the court in the requesting Party and a statement of the grounds on the basis of which the order was made, if they are not indicated in the order itself;
 - ii. an attestation by the competent authority of the requesting Party that the confiscation order is enforceable and not subject to ordinary means of appeal;
 - iii. information as to the extent to which the enforcement of the order is requested; and
 - iv. information as to the necessity of taking any provisional measures;
 - b. in the case of Article 13, paragraph 1.b, a statement of the facts relied upon by the requesting Party sufficient to enable the requested Party to seek the order under its domestic law;
 - c. when third parties have had the opportunity to claim rights, documents demonstrating that this has been the case.

- **Article 28 – Defective requests**

1. If a request does not comply with the provisions of this chapter or the information supplied is not sufficient to enable the requested Party to deal with the request, that Party may ask the requesting Party to amend the request or to complete it with additional information.
2. The requested Party may set a time-limit for the receipt of such amendments or information.
3. Pending receipt of the requested amendments or information in relation to a request under Section 4 of this chapter, the requested Party may take any of the measures referred to in Sections 2 or 3 of this chapter.

- **Article 29 – Plurality of requests**

1. Where the requested Party receives more than one request under Sections 3 or 4 of this chapter in respect of the same person or property, the plurality of requests shall not prevent that Party from dealing with the requests involving the taking of provisional measures.
2. In the case of plurality of requests under Section 4 of this chapter, the requested Party shall consider consulting the requesting Parties.

- **Article 30 – Obligation to give reasons**

The requested Party shall give reasons for any decision to refuse, postpone or make conditional any co-operation under this chapter.

- **Article 31 – Information**

1. The requested Party shall promptly inform the requesting Party of:
 - a. the action initiated on a request under this chapter;
 - b. the final result of the action carried out on the basis of the request;
 - c. a decision to refuse, postpone or make conditional, in whole or in part, any co-operation under this chapter;
 - d. any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly; and
 - e. in the event of provisional measures taken pursuant to a request under Sections 2 or 3 of this chapter, such provisions of its domestic law as would automatically lead to the lifting of the provisional measure.
2. The requesting Party shall promptly inform the requested Party of:
 - a. any review, decision or any other fact by reason of which the confiscation order ceases to be wholly or partially enforceable; and
 - b. any development, factual or legal, by reason of which any action under this chapter is no longer justified.
3. Where a Party, on the basis of the same confiscation order, requests confiscation in more than one Party, it shall inform all Parties which are affected by an enforcement of the order about the request.

- **Article 32 – Restriction of use**

1. The requested Party may make the execution of a request dependent on the condition that the information or evidence obtained will not, without its prior consent, be used or transmitted by the authorities of the requesting Party for investigations or proceedings other than those specified in the request.
2. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by declaration addressed to the Secretary General of the Council of Europe, declare that, without its prior consent, information or evidence provided by it

under this chapter may not be used or transmitted by the authorities of the requesting Party in investigations or proceedings other than those specified in the request.

- **Article 33 – Confidentiality**

1. The requesting Party may require that the requested Party keep confidential the facts and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.
2. The requesting Party shall, if not contrary to basic principles of its national law and if so requested, keep confidential any evidence and information provided by the requested Party, except to the extent that its disclosure is necessary for the investigations or proceedings described in the request.
3. Subject to the provisions of its domestic law, a Party which has received spontaneous information under Article 10 shall comply with any requirement of confidentiality as required by the Party which supplies the information. If the other Party cannot comply with such requirement, it shall promptly inform the transmitting Party.

- **Article 34 – Costs**

The ordinary costs of complying with a request shall be borne by the requested Party. Where costs of a substantial or extraordinary nature are necessary to comply with a request, the Parties shall consult in order to agree the conditions on which the request is to be executed and how the costs shall be borne.

- **Article 35 – Damages**

1. When legal action on liability for damages resulting from an act or omission in relation to co-operation under this chapter has been initiated by a person, the Parties concerned shall consider consulting each other, where appropriate, to determine how to apportion any sum of damages due.
2. A Party which has become subject of a litigation for damages shall endeavour to inform the other Party of such litigation if that Party might have an interest in the case. »

E. [Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances](#) (ETS No. 156), Art 2-24

- **Article 2 – General principles**

1. The Parties shall co-operate to the fullest extent possible to suppress illicit traffic in narcotic drugs and psychotropic substances by sea, in conformity with the international law of the sea.
2. In the implementation of this Agreement the Parties shall endeavour to ensure that their actions maximise the effectiveness of law enforcement measures against illicit traffic in narcotic drugs and psychotropic substances by sea.
3. Any action taken in pursuance of this Agreement shall take due account of the need not to interfere with or affect the rights and obligations of and the exercise of jurisdiction by coastal States, in accordance with the international law of the sea.
4. Nothing in this Agreement shall be so construed as to infringe the principle of *non bis in idem*, as applied in national law.
5. The Parties recognise the value of gathering and exchanging information concerning vessels, cargo and facts, whenever they consider that such exchange of information could assist a Party in the suppression of illicit traffic in narcotic drugs and psychotropic substances by sea.
6. Nothing in this Agreement affects the immunities of warships and other government vessels operated for non-commercial purposes.

- **Article 3 – Jurisdiction**

1. Each Party shall take such measures as may be necessary to establish its jurisdiction over the relevant offences when the offence is committed on board a vessel flying its flag.
2. For the purposes of applying this Agreement, each Party shall take such measures as may be necessary to establish its jurisdiction over the relevant offences committed on board a vessel flying the flag or displaying the marks of registry or bearing any other indication of nationality of any other Party to this Agreement. Such jurisdiction shall be exercised only in conformity with this Agreement.
3. For the purposes of applying this Agreement, each Party shall take such measures as may be necessary to establish its jurisdiction over the relevant offences committed on board a vessel which is without nationality, or which is assimilated to a vessel without nationality under international law.
4. The flag State has preferential jurisdiction over any relevant offence committed on board its vessel.
5. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later date, by a declaration addressed to the Secretary General of the Council of Europe, inform the other Parties to the agreement of the criteria it intends to apply in respect of the exercise of the jurisdiction established pursuant to paragraph 2 of this article.
6. Any State which does not have in service warships, military aircraft or other government ships or aircraft operated for non-commercial purposes, which would enable it to become an intervening State under this Agreement 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 declare that it will not apply paragraphs 2 and 3 of this Article. A State which has made such a declaration is under the obligation to withdraw it when the circumstances justifying the reservation no longer exist.

- **Article 4 – Assistance to flag States**

1. A Party which has reasonable grounds to suspect that a vessel flying its flag is engaged in or being used for the commission of a relevant offence, may request the assistance of other Parties in suppressing its use for that purpose. The Parties so requested shall render such assistance within the means available to them.
2. In making its request, the flag State may, *inter alia*, authorise the requested Party, subject to any conditions or limitations which may be imposed, to take some or all of the actions specified in this Agreement.
3. When the requested Party agrees to act upon the authorisation of the flag State given to it in accordance with paragraph 2, the provisions of this Agreement in respect of the rights and obligations of the intervening State and the flag State shall, where appropriate and unless otherwise specified, apply to the requested and requesting Party, respectively.

- **Article 5 – Vessels without nationality**

1. A Party which has reasonable grounds to suspect that a vessel without nationality, or assimilated to a vessel without nationality under international law, is engaged in or being used for the commission of a relevant offence, shall inform such other Parties as appear most closely affected and may request the assistance of any such Party in suppressing its use for that purpose. The Party so requested shall render such assistance within the means available to it.
2. Where a Party, having received information in accordance with paragraph 1, takes action it shall be for that Party to determine what actions are appropriate and to exercise its jurisdiction over any relevant offences which may have been committed by any persons on board the vessel.
3. Any Party which has taken action under this article shall communicate as soon as possible to the Party which has provided information, or made a request for assistance, the results of any action taken in respect of the vessel and any persons on board.

- **Article 6 – Basic rules on authorisation**

Where the intervening State has reasonable grounds to suspect that a vessel, which is flying the flag or displaying the marks of registry of another Party or bears any other indications of nationality of the vessel, is engaged in or being used for the commission of a relevant offence, the intervening State may request the authorisation of the flag State to stop and board the vessel in waters beyond the territorial sea of any Party, and to take some or all of the other actions specified in this Agreement. No such actions may be taken by virtue of this Agreement, without the authorisation of the flag State.

- **Article 7 – Decision on the request for authorisation**

The flag State shall immediately acknowledge receipt of a request for authorisation under Article 6 and shall communicate a decision thereon as soon as possible and, wherever practicable, within four hours of receipt of the request.

- **Article 8 – Conditions**

1. If the flag State grants the request, such authorisation may be made subject to conditions or limitations. Such conditions or limitations may, in particular, provide that the flag State's express authorisation be given before any specified steps are taken by the intervening State.
2. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by declaration addressed to the Secretary General of the Council of Europe declare that, when acting as an intervening State, it may subject its intervention to the condition that persons having its nationality who are surrendered to the flag State under Article 15 and there convicted of a relevant offence, shall have the possibility to be transferred to the intervening State to serve the sentence imposed.

- **Article 9 – Authorised actions**

1. Having received the authorisation of the flag State, and subject to the conditions or limitations, if any, made under Article 8, paragraph 1, the intervening State may take the following actions:
 - a.
 - i. stop and board the vessel;
 - ii. establish effective control of the vessel and over any person thereon;
 - iii. take any action provided for in sub-paragraph ii of this article which is considered necessary to establish whether a relevant offence has been committed and to secure any evidence thereof;
 - iv. require the vessel and any persons thereon to be taken into the territory of the intervening State and detain the vessel there for the purpose of carrying out further investigations;
 - b. and, having established effective control of the vessel:
 - i. search the vessel, anyone on it and anything in it, including its cargo;
 - ii. open or require the opening of any containers, and test or take samples of anything on the vessel;
 - iii. require any person on the vessel to give information concerning himself or anything on the vessel;
 - iv. require the production of documents, books or records relating to the vessel or any persons or objects on it, and make photographs or copies of anything the production of which the competent authorities have the power to require;
 - v. seize, secure and protect any evidence or material discovered on the vessel.
2. Any action taken under paragraph 1 of this article shall be without prejudice to any right existing under the law of the intervening State of suspected persons not to incriminate themselves.

- **Article 10 – Enforcement measures**

1. Where, as a result of action taken under Article 9, the intervening State has evidence that a relevant offence has been committed which would be sufficient under its laws to justify its either arresting the persons concerned or detaining the vessel, or both, it may so proceed.
2. The intervening State shall, without delay, notify the flag State of steps taken under paragraph 1 above.
3. The vessel shall not be detained for a period longer than that which is strictly necessary to complete the investigations into relevant offences. Where there are reasonable grounds to suspect that the owners of the vessel are directly involved in a relevant offence, the vessel and its cargo may be further detained on completion of the investigation. Persons not suspected of any relevant offence and objects not required as evidence shall be released.
4. Notwithstanding the provisions of the preceding paragraph, the intervening State and the flag State may agree with a third State, Party to this Agreement, that the vessel may be taken to the territory of that third State and, once the vessel is in that territory, the third State shall be treated for the purposes of this Agreement as an intervening State.

- **Article 11 – Execution of action**

1. Actions taken under Articles 9 and 10 shall be governed by the law of the intervening State.
2. Actions under Article 9, paragraph 1 a, b and d, shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorised to that effect.
3.
 - a. An official of the intervening State may not be prosecuted in the flag State for any act performed in the exercise of his functions. In such a case, the official shall be liable to prosecution in the intervening State as if the elements constituting the offence had been committed within the jurisdiction of that State.
 - b. In any proceedings instituted in the flag State, offences committed against an official of the intervening State with respect to actions carried out under Articles 9 and 10 shall be treated as if they had been committed against an official of the flag State.
4. The master of a vessel which has been boarded in accordance with this Agreement shall be entitled to communicate with the authorities of the vessel's flag State as well as with the owners or operators of the vessel for the purpose of notifying them that the vessel has been boarded. However, the authorities of the intervening State may prevent or delay any communication with the owners or operators of the vessel if they have reasonable grounds for believing that such communication would obstruct the investigations into a relevant offence.

- **Article 13 – Evidence of offences**

1. To enable the flag State to decide whether to exercise its preferential jurisdiction in accordance with the provisions of Article 14, the intervening State shall without delay transmit to the flag State a summary of the evidence of any offences discovered as a result of action taken pursuant to Article 9. The flag State shall acknowledge receipt of the summary forthwith.
2. If the intervening State discovers evidence which leads it to believe that offences outside the scope of this Agreement may have been committed, or that suspect persons not involved in relevant offences are on board the vessel, it shall notify the flag State. Where appropriate, the Parties involved shall consult.
3. The provisions of this Agreement shall be so construed as to permit the intervening State to take measures, including the detention of persons, other than those aimed at the investigation and prosecution of relevant offences, only when:
 - a. the flag State gives its express consent; or
 - b. such measures are aimed at the investigation and prosecution of an offence committed after the person has been taken into the territory of the intervening State.

- **Article 14 – Exercise of preferential jurisdiction**

1. A flag State wishing to exercise its preferential jurisdiction shall do so in accordance with the provisions of this article.
2. It shall notify the intervening State to this effect as soon as possible and at the latest within fourteen days from the receipt of the summary of evidence pursuant to Article 13. If the flag State fails to do this, it shall be deemed to have waived the exercise of its preferential jurisdiction.
3. Where the flag State has notified the intervening State that it exercises its preferential jurisdiction, the exercise of the jurisdiction of the intervening State shall be suspended, save for the purpose of surrendering persons, vessels, cargoes and evidence in accordance with this Agreement.
4. The flag State shall submit the case forthwith to its competent authorities for the purpose of prosecution.
5. Measures taken by the intervening State against the vessel and persons on board may be deemed to have been taken as part of the procedure of the flag State.

- **Article 15 – Surrender of vessels, cargoes, persons and evidence**

1. Where the flag State has notified the intervening State of its intention to exercise its preferential jurisdiction, and if the flag State so requests, the persons arrested, the vessel, the cargo and the evidence seized shall be surrendered to that State in accordance with the provisions of this Agreement.
2. The request for the surrender of arrested persons shall be supported by, in respect of each person, the original or a certified copy of the warrant of arrest or other order having the same effect, issued by a judicial authority in accordance with the procedure prescribed by the law of the flag State.
3. The Parties shall use their best endeavours to expedite the surrender of persons, vessels, cargoes and evidence.
4. Nothing in this Agreement shall be so construed as to deprive any detained person of his right under the law of the intervening State to have the lawfulness of his detention reviewed by a court of that State, in accordance with procedures established by its national law.
5. Instead of requesting the surrender of the detained persons or of the vessel, the flag State may request their immediate release. Where this request has been made, the intervening State shall release them forthwith.

- **Article 16 – Capital punishment**

If any offence for which the flag State decides to exercise its preferential jurisdiction in accordance with Article 14 is punishable by death under the law of that State, and if in respect of such an offence the death penalty is not provided by the law of the intervening State or is not normally carried out, the surrender of any person may be refused unless the flag State gives such assurances as the intervening State considers sufficient that the death penalty will not be carried out.

- **Article 17 – Competent authorities**

1. Each Party shall designate an authority, which shall be responsible for sending and answering requests under Articles 6 and 7 of this Agreement. So far as is practicable, each Party shall make arrangements so that this authority may receive and respond to the requests at any hour of any day or night.
2. The Parties shall furthermore designate a central authority which shall be responsible for the notification of the exercise of preferential jurisdiction under Article 14 and for all other communications or notifications under this Agreement.

3. Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this article, together with any other information facilitating communication under this Agreement. Any subsequent change with respect to the name, address or other relevant information concerning such authorities shall likewise be communicated to the Secretary General.

- **Article 18 – Communication between designated authorities**

1. The authorities designated under Article 17 shall communicate directly with one another.
2. Where, for any reason, direct communication is not practicable, Parties may agree to use the communication channels of ICPO-Interpol or of the Customs Co-operation Council.

- **Article 19 – Form of request and languages**

1. All communications under Articles 4 to 16 shall be made in writing. Modern means of telecommunications, such as telefax, may be used.
2. Subject to the provisions of paragraph 3 of this article, translations of the requests, other communications and supporting documents shall not be required.
3. At the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, any Party may communicate to the Secretary General of the Council of Europe a declaration that it reserves the right to require that requests, other communications and supporting documents sent to it, be made in or accompanied by a translation into its own language or into one of the official languages of the Council of Europe or into such one of these languages as it shall indicate. It may on that occasion declare its readiness to accept translations in any other language as it may specify. The other Parties may apply the reciprocity rule.

- **Article 20 – Authentication and legalisation**

Documents transmitted in application of this Agreement shall be exempt from all authentication and legalisation formalities.

- **Article 21 – Content of request**

A request under Article 6 shall specify:

- a. the authority making the request and the authority carrying out the investigations or proceedings;
- b. details of the vessel concerned, including, as far as possible, its name, a description of the vessel, any marks of registry or other signs indicating nationality, as well as its location, together with a request for confirmation that the vessel has the nationality of the requested Party;
- c. details of the suspected offences, together with the grounds for suspicion;
- d. the action it is proposed to take and an assurance that such action would be taken if the vessel concerned had been flying the flag of the intervening State.

- **Article 22 – Information for owners and masters of vessels**

Each Party shall take such measures as may be necessary to inform the owners and masters of vessels flying their flag that States Parties to this Agreement may be granted the authority to board vessels beyond the territorial sea of any Party for the purposes specified in this Agreement and to inform them in particular of the obligation to comply with instructions given by a boarding party from an intervening State exercising that authority.

- **Article 23 – Restriction of use**

The flag State may make the authorisation referred to in Article 6 subject to the condition that the information or evidence obtained will not, without its prior consent, be used or transmitted by the authorities of the intervening State in respect of investigations or proceedings other than those relating to relevant offences.

- **Article 24 – Confidentiality**

The Parties concerned shall, if this is not contrary to the basic principles of their national law, keep confidential any evidence and information provided by another Party in pursuance of this Agreement, except to the extent that its disclosure is necessary for the application of the Agreement or for any investigations or proceedings. »

F. [Criminal Law Convention on Corruption](#) (ETS No. 173), Art.25-26, 30, 37

- **Article 25 – General principles and measures for international co-operation**

1. The Parties shall co-operate with each other, in accordance with the provisions of relevant international instruments on international co-operation in criminal matters, or arrangements agreed on the basis of uniform or reciprocal legislation, and in accordance with their national law, to the widest extent possible for the purposes of investigations and proceedings concerning criminal offences established in accordance with this Convention.
2. Where no international instrument or arrangement referred to in paragraph 1 is in force between Parties, Articles 26 to 31 of this chapter shall apply.
3. Articles 26 to 31 of this chapter shall also apply where they are more favourable than those of the international instruments or arrangements referred to in paragraph 1.

- **Article 26 – Mutual assistance**

1. The Parties shall afford one another the widest measure of mutual assistance by promptly processing requests from authorities that, in conformity with their domestic laws, have the power to investigate or prosecute criminal offences established in accordance with this Convention.
2. Mutual legal assistance under paragraph 1 of this article may be refused if the requested Party believes that compliance with the request would undermine its fundamental interests, national sovereignty, national security or *ordre public*.
3. Parties shall not invoke bank secrecy as a ground to refuse any co-operation under this chapter. Where its domestic law so requires, a Party may require that a request for co-operation which would involve the lifting of bank secrecy be authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.

- **Article 30 – Direct communication**

1. The central authorities shall communicate directly with one another.
2. In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by the judicial authorities, including public prosecutors, of the requesting Party to such authorities of the requested Party. In such cases a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.
3. Any request or communication under paragraphs 1 and 2 of this article may be made through the International Criminal Police Organisation (Interpol).
4. Where a request is made pursuant to paragraph 2 of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.

5. Requests or communications under paragraph 2 of this article, which do not involve coercive action, may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.
6. Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this chapter are to be addressed to its central authority.

- **Article 37 – Reservations**

(...)

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it may refuse mutual legal assistance under Article 26, paragraph 1, if the request concerns an offence which the requested Party considers a political offence.

- G. [Convention on Cybercrime](#) (ETS No. 185), *Art 25-35*

- **Article 25 – General principles relating to mutual assistance**

1. The Parties shall afford one another mutual assistance to the widest extent possible for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence.
2. Each Party shall also adopt such legislative and other measures as may be necessary to carry out the obligations set forth in Articles 27 through 35.
3. Each Party may, in urgent circumstances, make requests for mutual assistance or communications related thereto by expedited means of communication, including fax or e-mail, to the extent that such means provide appropriate levels of security and authentication (including the use of encryption, where necessary), with formal confirmation to follow, where required by the requested Party. The requested Party shall accept and respond to the request by any such expedited means of communication.
4. Except as otherwise specifically provided in articles in this chapter, mutual assistance shall be subject to the conditions provided for by the law of the requested Party or by applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation. The requested Party shall not exercise the right to refuse mutual assistance in relation to the offences referred to in Articles 2 through 11 solely on the ground that the request concerns an offence which it considers a fiscal offence.
5. Where, in accordance with the provisions of this chapter, the requested Party is permitted to make mutual assistance conditional upon the existence of dual criminality, that condition shall be deemed fulfilled, irrespective of whether its laws place the offence within the same category of offence or denominate the offence by the same terminology as the requesting Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under its laws.

- **Article 26 – Spontaneous information**

1. A Party may, within the limits of its domestic law and without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.
2. Prior to providing such information, the providing Party may request that it be kept confidential or only used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.

- **Article 27 –Procedures pertaining to mutual assistance requests in the absence of applicable international agreements**

1. Where there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and requested Parties, the provisions of paragraphs 2 through 9 of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.
2.
 - a. Each Party shall designate a central authority or authorities responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.
 - b. The central authorities shall communicate directly with each other;
 - c. Each Party shall, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, communicate to the Secretary General of the Council of Europe the names and addresses of the authorities designated in pursuance of this paragraph;
 - d. The Secretary General of the Council of Europe shall set up and keep updated a register of central authorities designated by the Parties. Each Party shall ensure that the details held on the register are correct at all times.
3. Mutual assistance requests under this article shall be executed in accordance with the procedures specified by the requesting Party, except where incompatible with the law of the requested Party.
4. The requested Party may, in addition to the grounds for refusal established in Article 25, paragraph 4, refuse assistance if:
 - a. the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or
 - b. it considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.
5. The requested Party may postpone action on a request if such action would prejudice criminal investigations or proceedings conducted by its authorities.
6. Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.
7. The requested Party shall promptly inform the requesting Party of the outcome of the execution of a request for assistance. Reasons shall be given for any refusal or postponement of the request. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.
8. The requesting Party may request that the requested Party keep confidential the fact of any request made under this chapter as well as its subject, except to the extent necessary for its execution. If the requested Party cannot comply with the request for confidentiality, it shall promptly inform the requesting Party, which shall then determine whether the request should nevertheless be executed.
9.
 - a. In the event of urgency, requests for mutual assistance or communications related thereto may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party. In any such cases, a copy shall be sent at the same time to the central authority of the requested Party through the central authority of the requesting Party.
 - b. Any request or communication under this paragraph may be made through the International Criminal Police Organisation (Interpol).

- c. Where a request is made pursuant to sub-paragraph a. of this article and the authority is not competent to deal with the request, it shall refer the request to the competent national authority and inform directly the requesting Party that it has done so.
- d. Requests or communications made under this paragraph that do not involve coercive action may be directly transmitted by the competent authorities of the requesting Party to the competent authorities of the requested Party.
- e. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, inform the Secretary General of the Council of Europe that, for reasons of efficiency, requests made under this paragraph are to be addressed to its central authority.

• **Article 28 – Confidentiality and limitation on use**

1. When there is no mutual assistance treaty or arrangement on the basis of uniform or reciprocal legislation in force between the requesting and the requested Parties, the provisions of this article shall apply. The provisions of this article shall not apply where such treaty, arrangement or legislation exists, unless the Parties concerned agree to apply any or all of the remainder of this article in lieu thereof.
2. The requested Party may make the supply of information or material in response to a request dependent on the condition that it is:
 - a. kept confidential where the request for mutual legal assistance could not be complied with in the absence of such condition, or
 - b. not used for investigations or proceedings other than those stated in the request.
3. If the requesting Party cannot comply with a condition referred to in paragraph 2, it shall promptly inform the other Party, which shall then determine whether the information should nevertheless be provided. When the requesting Party accepts the condition, it shall be bound by it.
4. Any Party that supplies information or material subject to a condition referred to in paragraph 2 may require the other Party to explain, in relation to that condition, the use made of such information or material.

• **Article 29 –Expedited preservation of stored computer data**

1. A Party may request another Party to order or otherwise obtain the expeditious preservation of data stored by means of a computer system, located within the territory of that other Party and in respect of which the requesting Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the data.
2. A request for preservation made under paragraph 1 shall specify:
 - a. the authority seeking the preservation;
 - b. the offence that is the subject of a criminal investigation or proceedings and a brief summary of the related facts;
 - c. the stored computer data to be preserved and its relationship to the offence;
 - d. any available information identifying the custodian of the stored computer data or the location of the computer system;
 - e. the necessity of the preservation; and
 - f. that the Party intends to submit a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of the stored computer data.
3. Upon receiving the request from another Party, the requested Party shall take all appropriate measures to preserve expeditiously the specified data in accordance with its domestic law. For the purposes of responding to a request, dual criminality shall not be required as a condition to providing such preservation.
4. A Party that requires dual criminality as a condition for responding to a request for mutual assistance for the search or similar access, seizure or similar securing, or disclosure of stored data may, in respect of offences other than those established in accordance with Articles 2 through 11 of this Convention, reserve the right to refuse the request for preservation under this

article in cases where it has reasons to believe that at the time of disclosure the condition of dual criminality cannot be fulfilled.

5. In addition, a request for preservation may only be refused if:
 - a. the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence, or
 - b. the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.
6. Where the requested Party believes that preservation will not ensure the future availability of the data or will threaten the confidentiality of or otherwise prejudice the requesting Party's investigation, it shall promptly so inform the requesting Party, which shall then determine whether the request should nevertheless be executed.
7. Any preservation effected in response to the request referred to in paragraph 1 shall be for a period not less than sixty days, in order to enable the requesting Party to submit a request for the search or similar access, seizure or similar securing, or disclosure of the data. Following the receipt of such a request, the data shall continue to be preserved pending a decision on that request.

• **Article 30 – Expedited disclosure of preserved traffic data**

1. Where, in the course of the execution of a request made pursuant to Article 29 to preserve traffic data concerning a specific communication, the requested Party discovers that a service provider in another State was involved in the transmission of the communication, the requested Party shall expeditiously disclose to the requesting Party a sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.
2. Disclosure of traffic data under paragraph 1 may only be withheld if:
 - a. the request concerns an offence which the requested Party considers a political offence or an offence connected with a political offence; or
 - b. the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.

• **Article 31 – Mutual assistance regarding accessing of stored computer data**

1. A Party may request another Party to search or similarly access, seize or similarly secure, and disclose data stored by means of a computer system located within the territory of the requested Party, including data that has been preserved pursuant to Article 29.
2. The requested Party shall respond to the request through the application of international instruments, arrangements and laws referred to in Article 23, and in accordance with other relevant provisions of this chapter.
3. The request shall be responded to on an expedited basis where:
 - a. there are grounds to believe that relevant data is particularly vulnerable to loss or modification; or
 - b. the instruments, arrangements and laws referred to in paragraph 2 otherwise provide for expedited co-operation.

• **Article 32 – Trans-border access to stored computer data with consent or where publicly available**

A Party may, without the authorisation of another Party:

- a. access publicly available (open source) stored computer data, regardless of where the data is located geographically; or
- b. access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.

- **Article 33 – Mutual assistance regarding the real-time collection of traffic data**

1. The Parties shall provide mutual assistance to each other in the real-time collection of traffic data associated with specified communications in their territory transmitted by means of a computer system. Subject to the provisions of paragraph 2, this assistance shall be governed by the conditions and procedures provided for under domestic law.
2. Each Party shall provide such assistance at least with respect to criminal offences for which real-time collection of traffic data would be available in a similar domestic case.

- **Article 34 – Mutual assistance regarding the interception of content data**

The Parties shall provide mutual assistance to each other in the real-time collection or recording of content data of specified communications transmitted by means of a computer system to the extent permitted under their applicable treaties and domestic laws.

- **Article 35 – 24/7 Network**

1. Each Party shall designate a point of contact available on a twenty-four hour, seven-day-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigations or proceedings concerning criminal offences related to computer systems and data, or for the collection of evidence in electronic form of a criminal offence. Such assistance shall include facilitating, or, if permitted by its domestic law and practice, directly carrying out the following measures:
 - a. the provision of technical advice;
 - b. the preservation of data pursuant to Articles 29 and 30;
 - c. the collection of evidence, the provision of legal information, and locating of suspects.
2.
 - a. A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.
 - b. If the point of contact designated by a Party is not part of that Party's authority or authorities responsible for international mutual assistance or extradition, the point of contact shall ensure that it is able to co-ordinate with such authority or authorities on an expedited basis.
3. Each Party shall ensure that trained and equipped personnel are available, in order to facilitate the operation of the network.

H. [Council of Europe Convention on the Prevention of Terrorism](#) (CETS No. 196) – *Art.4, 17, 20-21*

- **Article 4 – International co-operation on prevention**

Parties shall, as appropriate and with due regard to their capabilities, assist and support each other with a view to enhancing their capacity to prevent the commission of terrorist offences, including through exchange of information and best practices, as well as through training and other joint efforts of a preventive character.

- **Article 17 – International co-operation in criminal matters**

1. Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in Articles 5 to 7 and 9 of this Convention, including assistance in obtaining evidence in their possession necessary for the proceedings.
2. Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other agreements on mutual legal assistance that may exist between them. In the absence of such

treaties or agreements, Parties shall afford one another assistance in accordance with their domestic law.

3. Parties shall co-operate with each other to the fullest extent possible under relevant law, treaties, agreements and arrangements of the requested Party with respect to criminal investigations or proceedings in relation to the offences for which a legal entity may be held liable in accordance with Article 10 of this Convention in the requesting Party.
4. Each Party may give consideration to establishing additional mechanisms to share with other Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to Article 10.

- **Article 20 – Exclusion of the political exception clause**

1. None of the offences referred to in Articles 5 to 7 and 9 of this Convention, shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence, an offence connected with a political offence, or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

- **Article 21 – Discrimination clause**

1. Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested Party has substantial grounds for believing that the request for extradition for offences set forth in Articles 5 to 7 and 9 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.
- I. [Council of Europe Convention on Action against Trafficking in Human Beings](#) (CETS No. 197), *Art.32-34*

- **Article 32 – General principles and measures for international co-operation**

The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

- preventing and combating trafficking in human beings;
- protecting and providing assistance to victims;
- investigations or proceedings concerning criminal offences established in accordance with this Convention.

- **Article 33 – Measures relating to endangered or missing persons**

1. When a Party, on the basis of the information at its disposal has reasonable grounds to believe that the life, the freedom or the physical integrity of a person referred to in Article 28, paragraph 1, is in immediate danger on the territory of another Party, the Party that has the information shall, in such a case of emergency, transmit it without delay to the latter so as to take the appropriate protection measures.
2. The Parties to this Convention may consider reinforcing their co-operation in the search for missing people, in particular for missing children, if the information available leads them to believe that she/he is a victim of trafficking in human beings. To this end, the Parties may conclude bilateral or multilateral treaties with each other.

- **Article 34 – Information**

1. The requested Party shall promptly inform the requesting Party of the final result of the action taken under this chapter. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.
 2. A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.
 3. Prior to providing such information, the providing Party may request that it be kept confidential or used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.
 4. All information requested concerning Articles 13, 14 and 16, necessary to provide the rights conferred by these articles, shall be transmitted at the request of the Party concerned without delay with due respect to Article 11 of the present Convention.
- J. [Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism](#) (CETS No. 198), *Art. 15-30*

- **Article 15 – General principles and measures for international co-operation**

1. The Parties shall mutually co-operate with each other to the widest extent possible for the purposes of investigations and proceedings aiming at the confiscation of instrumentalities and proceeds.
2. Each Party shall adopt such legislative or other measures as may be necessary to enable it to comply, under the conditions provided for in this chapter, with requests:
 - a. for confiscation of specific items of property representing proceeds or instrumentalities, as well as for confiscation of proceeds consisting in a requirement to pay a sum of money corresponding to the value of proceeds;
 - b. for investigative assistance and provisional measures with a view to either form of confiscation referred to under a above.
3. Investigative assistance and provisional measures sought in paragraph 2.b shall be carried out as permitted by and in accordance with the internal law of the requested Party. Where the request concerning one of these measures specifies formalities or procedures which are necessary under the law of the requesting Party, even if unfamiliar to the requested Party, the latter shall comply with such requests to the extent that the action sought is not contrary to the fundamental principles of its law.
4. Each Party shall adopt such legislative or other measures as may be necessary to ensure that the requests coming from other Parties in order to identify, trace, freeze or seize the proceeds and instrumentalities, receive the same priority as those made in the framework of internal procedures.

- **Article 16 – Obligation to assist**

The Parties shall afford each other, upon request, the widest possible measure of assistance in the identification and tracing of instrumentalities, proceeds and other property liable to confiscation. Such assistance shall include any measure providing and securing evidence as to the existence, location or movement, nature, legal status or value of the aforementioned property.

- **Article 17 – Requests for information on bank accounts**

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 bank located in its territory and, if so, provide the particulars of the identified accounts.
2. The obligation set out in this article shall apply only to the extent that the information is in the possession of the bank keeping the account.
3. In addition to the requirements of Article 37, the requesting party shall, in the request:
 - a. 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;
 - b. state on what grounds it presumes that banks in the requested Party hold the account and specify, to the widest extent possible, which banks and/or accounts may be involved; and
 - c. 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 dependant on the same conditions as it applies in respect of requests for search and seizure.
5. Each State or the European Community 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, declare that this article applies only to the categories of offences specified in the list contained in the appendix to this Convention.
6. Parties may extend this provision to accounts held in non-bank financial institutions. Such extension may be made subject to the principle of reciprocity.

- **Article 18 – Requests for information on banking transactions**

1. On request by another Party, the requested Party shall provide the particulars of specified bank accounts and of banking 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 bank holding the account.
3. In addition to the requirements of Article 37, the requesting Party shall in its request indicate why it considers the requested information relevant for the purpose of the criminal investigation into the offence.
4. The requested Party may make the execution of such a request dependant on the same conditions as it applies in respect of requests for search and seizure.
5. Parties may extend this provision to accounts held in non-bank financial institutions. Such extension may be made subject to the principle of reciprocity.

- **Article 19 – Requests for the monitoring of banking transactions**

1. Each Party shall ensure that, at the request of another Party, it is able to monitor, during a specified period, the banking operations that are being carried out 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, the requesting Party shall in its request indicate why it considers the requested information relevant for the purpose 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 national law of that Party.
4. The practical details regarding the monitoring shall be agreed between the competent authorities of the requesting and requested Parties.
5. Parties may extend this provision to accounts held in non-bank financial institutions.

- **Article 20 – Spontaneous information**

Without prejudice to its own investigations or proceedings, a Party may without prior request forward to another Party information on instrumentalities and proceeds, when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings or might lead to a request by that Party under this chapter.

- **Article 21 – Obligation to take provisional measures**

1. At the request of another Party which has instituted criminal proceedings or proceedings for the purpose of confiscation, a Party shall take the necessary provisional measures, such as freezing or seizing, to prevent any dealing in, transfer or disposal of property which, at a later stage, may be the subject of a request for confiscation or which might be such as to satisfy the request.
2. A Party which has received a request for confiscation pursuant to Article 23 shall, if so requested, take the measures mentioned in paragraph 1 of this article in respect of any property which is the subject of the request or which might be such as to satisfy the request.

- **Article 22 – Execution of provisional measures**

1. After the execution of the provisional measures requested in conformity with paragraph 1 of Article 21, the requesting Party shall provide spontaneously and as soon as possible to the requested Party all information which may question or modify the extent of these measures. The requesting Party shall also provide without delays all complementary information requested by the requested Party and which is necessary for the implementation of and the follow up to the provisional measures.
2. Before lifting any provisional measure taken pursuant to this article, the requested Party shall, wherever possible, give the requesting Party an opportunity to present its reasons in favour of continuing the measure.

- **Article 23 – Obligation to confiscate**

1. A Party, which has received a request made by another Party for confiscation concerning instrumentalities or proceeds, situated in its territory, shall:
 - a. enforce a confiscation order made by a court of a requesting Party in relation to such instrumentalities or proceeds; or
 - b. submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, enforce it.
2. For the purposes of applying paragraph 1.b of this article, any Party shall whenever necessary have competence to institute confiscation proceedings under its own law.
3. The provisions of paragraph 1 of this article shall also apply to confiscation consisting in a requirement to pay a sum of money corresponding to the value of proceeds, if property on which the confiscation can be enforced is located in the requested Party. In such cases, when enforcing confiscation pursuant to paragraph 1, the requested Party shall, if payment is not obtained, realise the claim on any property available for that purpose.
4. If a request for confiscation concerns a specific item of property, the Parties may agree that the requested Party may enforce the confiscation in the form of a requirement to pay a sum of money corresponding to the value of the property.
5. The Parties shall co-operate to the widest extent possible under their domestic law with those Parties which request the execution of measures equivalent to confiscation leading to the deprivation of property, which are not criminal sanctions, in so far as such measures are ordered by a judicial authority of the requesting Party in relation to a criminal offence, provided that it has been established that the property constitutes proceeds or other property in the meaning of Article 5 of this Convention.

- **Article 24 – Execution of confiscation**

1. The procedures for obtaining and enforcing the confiscation under Article 23 shall be governed by the law of the requested Party.
2. The requested Party shall be bound by the findings as to the facts in so far as they are stated in a conviction or judicial decision of the requesting Party or in so far as such conviction or judicial decision is implicitly based on them.
3. Each State or the European Community 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, declare that paragraph 2 of this article applies only subject to its constitutional principles and the basic concepts of its legal system.
4. If the confiscation consists in the requirement to pay a sum of money, the competent authority of the requested Party shall convert the amount thereof into the currency of that Party at the rate of exchange ruling at the time when the decision to enforce the confiscation is taken.
5. In the case of Article 23, paragraph 1.a, the requesting Party alone shall have the right to decide on any application for review of the confiscation order.

- **Article 25 – Confiscated property**

1. Property confiscated by a Party pursuant to Articles 23 and 24 of this Convention, shall be disposed of by that Party in accordance with its domestic law and administrative procedures.
2. When acting on the request made by another Party in accordance with Articles 23 and 24 of this Convention, Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated property to the requesting Party so that it can give compensation to the victims of the crime or return such property to their legitimate owners.
3. When acting on the request made by another Party in accordance with Articles 23 and 24 of this Convention, a Party may give special consideration to concluding agreements or arrangements on sharing with other Parties, on a regular or case-by-case basis, such property, in accordance with its domestic law or administrative procedures.

- **Article 26 – Right of enforcement and maximum amount of confiscation**

1. A request for confiscation made under Articles 23 and 24 does not affect the right of the requesting Party to enforce itself the confiscation order.
2. Nothing in this Convention shall be so interpreted as to permit the total value of the confiscation to exceed the amount of the sum of money specified in the confiscation order. If a Party finds that this might occur, the Parties concerned shall enter into consultations to avoid such an effect.

- **Article 27 – Imprisonment in default**

The requested Party shall not impose imprisonment in default or any other measure restricting the liberty of a person as a result of a request under Article 23, if the requesting Party has so specified in the request.

- **Article 28 – Grounds for refusal**

1. Co-operation under this chapter may be refused if:
 - a. the action sought would be contrary to the fundamental principles of the legal system of the requested Party; or
 - b. the execution of the request is likely to prejudice the sovereignty, security, ordre public or other essential interests of the requested Party; or
 - c. in the opinion of the requested Party, the importance of the case to which the request relates does not justify the taking of the action sought; or

- d. the offence to which the request relates is a fiscal offence, with the exception of the financing of terrorism;
 - e. the offence to which the request relates is a political offence, with the exception of the financing of terrorism; or
 - f. the requested Party considers that compliance with the action sought would be contrary to the principle of "*ne bis in idem*"; or
 - g. the offence to which the request relates would not be an offence under the law of the requested Party if committed within its jurisdiction. However, this ground for refusal applies to co-operation under Section 2 only in so far as the assistance sought involves coercive action. Where dual criminality is required for co-operation under this chapter, that requirement shall be deemed to be satisfied regardless of whether both Parties place the offence within the same category of offences or denominate the offence by the same terminology, provided that both Parties criminalise the conduct underlying the offence.
2. Co-operation under Section 2, in so far as the assistance sought involves coercive action, and under Section 3 of this chapter, may also be refused if the measures sought could not be taken under the domestic law of the requested Party for the purposes of investigations or proceedings, had it been a similar domestic case.
 3. Where the law of the requested Party so requires, co-operation under Section 2, in so far as the assistance sought involves coercive action, and under Section 3 of this chapter may also be refused if the measures sought or any other measures having similar effects would not be permitted under the law of the requesting Party, or, as regards the competent authorities of the requesting Party, if the request is not authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.
 4. Co-operation under Section 4 of this chapter may also be refused if:
 - a. under the law of the requested Party confiscation is not provided for in respect of the type of offence to which the request relates; or
 - b. without prejudice to the obligation pursuant to Article 23, paragraph 3, it would be contrary to the principles of the domestic law of the requested Party concerning the limits of confiscation in respect of the relationship between an offence and:
 - i an economic advantage that might be qualified as its proceeds; or
 - ii property that might be qualified as its instrumentalities; or
 - c. under the law of the requested Party confiscation may no longer be imposed or enforced because of the lapse of time; or
 - d. without prejudice to Article 23, paragraph 5, the request does not relate to a previous conviction, or a decision of a judicial nature or a statement in such a decision that an offence or several offences have been committed, on the basis of which the confiscation has been ordered or is sought; or
 - e. confiscation is either not enforceable in the requesting Party, or it is still subject to ordinary means of appeal; or
 - f. the request relates to a confiscation order resulting from a decision rendered in absentia of the person against whom the order was issued and, in the opinion of the requested Party, the proceedings conducted by the requesting Party leading to such decision did not satisfy the minimum rights of defence recognised as due to everyone against whom a criminal charge is made.
 5. For the purpose of paragraph 4.f of this article a decision is not considered to have been rendered *in absentia* if:
 - a. it has been confirmed or pronounced after opposition by the person concerned; or
 - b. it has been rendered on appeal, provided that the appeal was lodged by the person concerned.
 6. When considering, for the purposes of paragraph 4.f of this article if the minimum rights of defence have been satisfied, the requested Party shall take into account the fact that the person concerned has deliberately sought to evade justice or the fact that that person, having had the possibility of lodging a legal remedy against the decision made *in absentia*, elected not to do so. The same will apply when the person concerned, having been duly served with the summons to appear, elected not to do so nor to ask for adjournment.

7. A Party shall not invoke bank secrecy as a ground to refuse any co-operation under this chapter. Where its domestic law so requires, a Party may require that a request for co-operation which would involve the lifting of bank secrecy be authorised by either a judge or another judicial authority, including public prosecutors, any of these authorities acting in relation to criminal offences.
8. Without prejudice to the ground for refusal provided for in paragraph 1.a of this article:
 - a. the fact that the person under investigation or subjected to a confiscation order by the authorities of the requesting Party is a legal person shall not be invoked by the requested Party as an obstacle to affording any co-operation under this chapter;
 - b. the fact that the natural person against whom an order of confiscation of proceeds has been issued has died or the fact that a legal person against whom an order of confiscation of proceeds has been issued has subsequently been dissolved shall not be invoked as an obstacle to render assistance in accordance with Article 23, paragraph 1.a;
 - c. the fact that the person under investigation or subjected to a confiscation order by the authorities of the requesting Party is mentioned in the request both as the author of the underlying criminal offence and of the offence of money laundering, in accordance with Article 9.2.b of this Convention, shall not be invoked by the requested Party as an obstacle to affording any co-operation under this chapter.

- **Article 29 – Postponement**

The requested Party may postpone action on a request if such action would prejudice investigations or proceedings by its authorities.

- **Article 30 – Partial or conditional granting of a request**

Before refusing or postponing co-operation under this chapter, the requested Party shall, where appropriate after having consulted the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.

- K. [Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#) (CETS No. 201), *Art 38*

- **Article 38 – General principles and measures for international co-operation**

1. The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through the application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:
 - a. preventing and combating sexual exploitation and sexual abuse of children;
 - b. protecting and providing assistance to victims;
 - c. investigations or proceedings concerning the offences established in accordance with this Convention.
2. Each Party shall take the necessary legislative or other measures to ensure that victims of an offence established in accordance with this Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence.
3. If a Party that makes mutual legal assistance in criminal matters or extradition conditional on the existence of a treaty receives a request for legal assistance or extradition from a Party with which it has not concluded such a treaty, it may consider this Convention the legal basis for mutual legal assistance in criminal matters or extradition in respect of the offences established in accordance with this Convention.

4. Each Party shall endeavour to integrate, where appropriate, prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states.

L. [Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (CETS No. 210), *Art.62*

- **Article 62 – General principles**

1. Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through the application of relevant international and regional instruments on co-operation in civil and criminal matters, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:
 - a. preventing, combating and prosecuting all forms of violence covered by the scope of this Convention;
 - b. protecting and providing assistance to victims;
 - c. investigations or proceedings concerning the offences established in accordance with this Convention;
 - d. enforcing relevant civil and criminal judgments issued by the judicial authorities of Parties, including protection orders.
2. Parties shall take the necessary legislative or other measures to ensure that victims of an offence established in accordance with this Convention and committed in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence.
3. If a Party that makes mutual legal assistance in criminal matters, extradition or enforcement of civil or criminal judgments imposed by another Party to this Convention conditional on the existence of a treaty receives a request for such legal co-operation from a Party with which it has not concluded such a treaty, it may consider this Convention to be the legal basis for mutual legal assistance in criminal matters, extradition or enforcement of civil or criminal judgments imposed by the other Party in respect of the offences established in accordance with this Convention.

M. [Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health](#) (CETS No. 211) – *Art.21-22*

- **Article 21 – International co-operation in criminal matters**

1. The Parties shall co-operate with each other, in accordance with the provisions of this Convention and in pursuance of relevant applicable international and regional instruments and arrangements agreed on the basis of uniform or reciprocal legislation and their domestic law, to the widest extent possible, for the purpose of investigations or proceedings concerning the offences established in accordance with this Convention, including seizure and confiscation.
2. The Parties shall co-operate to the widest extent possible in pursuance of the relevant applicable international, regional and bilateral treaties on extradition and mutual legal assistance in criminal matters concerning the offences established in accordance with this Convention.
3. If a Party that makes extradition or mutual legal assistance in criminal matters conditional on the existence of a treaty receives a request for extradition or legal assistance in criminal matters from a Party with which it has no such a treaty, it may, acting in full compliance with its obligations under international law and subject to the conditions provided for by the domestic law of the requested Party, consider this Convention as the legal basis for extradition or mutual legal assistance in criminal matters in respect of the offences established in accordance with this Convention.

- **Article 22 – International co-operation on prevention and other administrative measures**

1. The Parties shall co-operate on protecting and providing assistance to victims.
 2. The Parties shall, without prejudice to their internal reporting systems, designate a national contact point which shall be responsible for transmitting and receiving requests for information and/or co-operation in connection with the fight against counterfeiting of medical products and similar crimes involving threats to public health.
 3. Each Party shall endeavour to integrate, where appropriate, prevention and combating of the counterfeiting of medical products and similar crimes involving threats to public health into assistance or development programmes provided for the benefit of third States.
- N. [Council of Europe Convention on the Manipulation of Sports Competitions](#) (CETS No. 215) – *Art.26-28*

- **Article 26 – Measures with a view to international co-operation in criminal matters**

1. The Parties shall co-operate with each other, in accordance with the provisions of this Convention and in accordance with the relevant applicable international and regional instruments and arrangements agreed on the basis of uniform or reciprocal legislation and with their domestic law, to the widest extent possible for the purposes of investigations, prosecutions and judicial proceedings concerning the offences referred to in Articles 15 to 17 of this Convention, including seizure and confiscation.
2. The Parties shall co-operate to the widest extent possible, in accordance with the relevant applicable international, regional and bilateral treaties on extradition and mutual assistance in criminal matters and in accordance with their domestic law, concerning the offences referred to in Articles 15 to 17 of this Convention.
3. In matters of international co-operation, whenever dual criminality is considered to be a requirement, it shall be deemed to have been fulfilled, irrespective of whether the laws of the requested State place the offence within the same category of offence or use the same term to denominate the offence as the requesting State, if the conduct underlying the offence in respect of which legal mutual assistance or extradition is requested is a criminal offence under the laws of both Parties.
4. If a Party that makes extradition or mutual legal assistance in criminal matters conditional on the existence of a treaty receives a request for extradition or legal assistance in criminal matters from a Party with which it has no such treaty, it may, acting in full compliance with its obligations under international law and subject to the conditions provided for by its own domestic law, consider this Convention to be the legal basis for extradition or mutual legal assistance in criminal matters in respect of the offences referred to in Articles 15 to 17 of this Convention.

Article 27 – Other international co-operation measures in respect of prevention

Each Party shall endeavour to integrate, where appropriate, the prevention of and the fight against the manipulation of sports competitions into assistance programmes for the benefit of third States.

Article 28 – International co-operation with international sports organisations

Each Party, in accordance with its domestic law, shall co-operate with international sports organisations in the fight against the manipulation of sports competitions.

O. [Council of Europe Convention against Trafficking in Human Organs](#) (CETS No. 216) – *Art.17*

• **Article 17 – International co-operation**

1. The Parties shall co-operate with each other, in accordance with the provisions of this Convention and in pursuance of relevant applicable international and regional instruments and arrangements agreed on the basis of uniform or reciprocal legislation and their domestic law, to the widest extent possible, for the purpose of investigations or proceedings concerning the offences established in accordance with this Convention, including seizure and confiscation.
2. The Parties shall co-operate to the widest extent possible in pursuance of the relevant applicable international, regional and bilateral treaties on extradition and mutual legal assistance in criminal matters concerning the offences established in accordance with this Convention.
3. If a Party that makes extradition or mutual legal assistance in criminal matters conditional on the existence of a treaty receives a request for extradition or legal assistance in criminal matters from a Party with which it has no such a treaty, it may, acting in full compliance with its obligations under international law and subject to the conditions provided for by the domestic law of the requested Party, consider this Convention as the legal basis for extradition or mutual legal assistance in criminal matters in respect of the offences established in accordance with this Convention.