



May 2022

CONVENTION ON CYBERCRIME of 23 November 2001
(ETS No. 185, entered into force on 1 July 2004)

Subject: **Accession by States which are not member States of the Council of Europe and which have not participated in the elaboration of the Convention**

I. Participation in the Convention on Cybercrime is not exclusively limited to member States of the Council of Europe and to the non-member States which have participated in its elaboration, namely Canada, Japan, South Africa and the United States of America.

The Convention is also open for accession by other non-member States, provided that they have been formally invited to accede by the Committee of Ministers of the Council of Europe. The relevant provision of the Convention on Cybercrime - Article 37, paragraph 1 - reads as follows:

“After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting with and obtaining the unanimous consent of the Contracting States to the Convention, may invite any State which is not a member of the Council and which has not participated in its elaboration to accede to this Convention. The decision shall be taken by the majority provided for in Article 20.d. of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.”

II. The procedure for the accession of a State which is not a member of the Council of Europe and which has not participated in the elaboration of the Convention may be summarised as follows:

1. In principle, the Committee of Ministers may take the initiative of inviting a non-member State to accede to a specific Convention. It is nevertheless customary for the non-member State to request accession in a letter addressed to the Secretary General of the Council of Europe. The letter should be signed by the Minister for Foreign Affairs or a diplomatic representative acting upon instructions of his or her government (see [Model application for accession to a treaty](#)).

2. In accordance with the Council of Europe's practice and before formally inscribing the point on the agenda of the Committee of Ministers, the Secretariat consults at the same time all member States of the Council of Europe, whether they are Parties or not to the Convention, and Parties to this Convention, that are not member States, on the request of invitation.

3. Requests for accession to a Council of Europe convention are examined by the Committee of Ministers' Rapporteur Group on Legal Co-operation (GR-J) and, then, by the Committee of Ministers. In the case of the Convention on cybercrime, the decision on whether or not to issue an invitation has to be unanimously agreed by those Council of Europe members which have ratified the Convention. This decision is usually taken at the

level of the Ministers' Deputies. Then, an invitation to accede to the Convention is notified to the State concerned by the Secretariat General.

4. It must be noted that the Committee of Ministers decided, in April 2013, to limit the validity of invitations of non-member States to accede to conventions to a period of five years.

5. The instrument of accession is deposited at the seat of the Council of Europe in Strasbourg, in the presence of a representative of the acceding State and of the Secretary General of the Council of Europe or his Deputy. The representative of the acceding State brings with him or her the instrument of accession and a procès-verbal of deposit is signed by both parties. Should it prove difficult for the acceding State to send a representative to Strasbourg, the instrument of accession may be sent by diplomatic courier. Deposit of the instrument of accession is notified to all concerned, accordingly to Article 48 of the Convention.

6. Article 37, paragraph 2, of the Convention on cybercrime provides that the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

7. The Convention has been supplemented by an Additional Protocol (ETS No. 189) concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, which entered into force on 1st March 2006. States having acceded to the Convention are entitled to accede to the Protocol, without a specific invitation by the Committee of Ministers being necessary.

The Convention has also been supplemented by a Second Additional Protocol (CETS No. 224) on enhanced co-operation and disclosure of electronic evidence, which was opened for signature on 12 May 2022. States Parties to the Convention are entitled to sign this Protocol, without a specific invitation by the Committee of Ministers being necessary

8. The instrument of accession and any reservation or declaration appended to it shall be accompanied by a translation into one of the official languages of the Council of Europe (English or French). It is important to stress that, subject to the applicable provisions of each treaty (see Articles 40 and 42 of this Convention) and in line with the 1969 Vienna Convention on the Law of Treaties, any reservations or declarations are to be made when depositing the instrument of accession. For reasons of legal certainty and in order to ensure the uniform implementation of conventions, reservations may not be made at any later date.

9. It should be noted that Articles 24, 27 and 35 of the Convention on Cybercrime provide for the designation of competent authorities to be made imperatively at the time of deposit of the instrument of accession.

III. The text of the Convention, its explanatory report, the chart of signatures and ratifications and all declarations and reservations made with regard to it can be consulted on the website of the Council of Europe's Treaty Office on <http://conventions.coe.int>. Information concerning the Protocol is also available on this website.

For any further information, please contact the Treaty Office:

Treaty Office
Directorate of Legal Advice
and Public International Law (DLAPIL)
Council of Europe
F-67075 Strasbourg Cedex (France)
E-mail : treaty.office@coe.int