

[www.coe.int/cybercrime](http://www.coe.int/cybercrime)



Strasbourg, version 29 November 2018

T-CY (2018)23

## **Cybercrime Convention Committee (T-CY)**

Preparation of a 2<sup>nd</sup> Additional Protocol to the Budapest Convention on Cybercrime

### **Provisional draft text of provisions:**

**Languages of requests**

**Emergency MLA**

**Video conferencing**

**For comments by stakeholders by 20 February 2019**

## Contents

<b>1</b>	<b>Languages of requests .....</b>	<b>3</b>
1.1	Draft text.....	3
1.2	Draft Explanatory Report .....	3
<b>2</b>	<b>Emergency mutual assistance .....</b>	<b>5</b>
2.1	Draft text.....	5
2.2	Draft Explanatory Report .....	6
<b>3</b>	<b>Video conferencing .....</b>	<b>9</b>
3.1	Draft text.....	9
3.2	Draft Explanatory report .....	10

# 1 Languages of requests<sup>1</sup>

## 1.1 Draft text<sup>2</sup>

### Article [ ] – Languages of requests

Requests to a Party shall be made in a language acceptable to the requested Party or accompanied by a translation into such a language.

## 1.2 Draft Explanatory Report

1. Inaccurate or costly translations of mutual assistance requests relating to electronic crime are a chronic complaint requiring urgent attention. This impediment erodes legitimate processes to obtain data and protect public safety. While machine translation is expected to improve, it is currently inadequate. For these reasons, the translation problem was mentioned repeatedly in proposals about the articles to include in a protocol.

2. Translation to and from less-common languages is a special problem, since such translations may greatly delay a request or may be effectively impossible to obtain. They may also be critically misleading, and their poor quality can waste the time of both countries. However, the cost and difficulty of translations fall disproportionately on requesting Parties where less-common languages are spoken.

3. Because of this disproportionate burden, a number of non-anglophone countries asked that English be mandated in a potential protocol. They noted that English is usually the cheapest and most-readily-available language for translation and that many requests are handled as a practical matter by providers, who tend to operate in English. Further, as data is moved and stored more widely in the world and more countries become involved in assisting each other, translation may become even more burdensome and impractical. For example, two Parties may use less-common languages, be geographically-distant, and have little contact. If Party A suddenly needs Party B's assistance, it may be unable to find a translator for B's language, or an eventual translation may be less intelligible than non-native English. Drafters particularly emphasized that, to speed assistance, all efforts should be made to accept preservation requests and, in particular, emergency requests under this Protocol, in English or a shared language rather than in translation.

4. The drafters of the Protocol concluded that English should not be mandated in the treaty text. Some countries have official-language requirements that preclude such a mandate; many countries share a language and have no need for English; and, in some countries, officials outside of capitals are less likely to be able to read English but are often involved in executing requests.

5. Thus, the provision is phrased in terms of "a language acceptable to the requested Party." A requested Party may specify as acceptable other languages, for example, widely-spoken languages such as English, Spanish or French, even where those are not provided in its domestic law or applicable treaties.

6. In practice, certain countries may be prepared to accept requests in a language other than a language specified in domestic law or an applicable treaty. Thus, once a year, the T-CY will engage in an informal survey of acceptable languages for requests. They may alter their information at any time and all Parties will be made aware of any such change. They

---

<sup>1</sup> Text as agreed provisionally by the PDP, Strasbourg, 11 July 2018. Text may change as the Protocol evolves and comments are received.

<sup>2</sup> **NOTE:** A general provision on scope needs to be included: The provision covers any form of request under Articles 24 through 34, inclusive, of the mother convention and under the two protocols ....

may state that they accept only specified languages for certain forms of assistance. The results of this survey will be visible to all Budapest Parties, not merely Parties to the second protocol.

7. This pragmatic provision demonstrates the extreme importance of speeding up cooperation. It provides a treaty basis for a Party to accept additional languages.

8. This article does not with interfere bi- or multilateral arrangements between countries. "A language acceptable to the requested Party," by definition, would include any languages required by previous arrangements. In many cases, Parties have entered into mutual assistance treaties that specify the language or languages in which requests must be submitted. Unless the requested Party indicates that it is prepared to accept requests in a language different from that set forth in its mutual assistance treaties with other Parties, the requesting Party will continue to apply the applicable mutual assistance treaty provision. In other words, since this Article makes the choice of language at the discretion of the requested Party, the fact that this provision is not grouped together in Article 27 of the Convention with forms of cooperation that apply in the absence of a treaty does not mean that this Article derogates from, restricts or replaces the basic rule that the relevant provision of an existing mutual assistance treaty between the requesting and requested Parties shall apply unless the Parties agree to diverge from it.

9. A Party's willingness to diverge from any such treaty obligation regarding language will be reflected via its indication to the T-CY that it agrees to accept some or all types of requests in another language.

## 2 Emergency mutual assistance<sup>3</sup>

### 2.1 Draft text

#### Article [ ] – Emergency Mutual Assistance<sup>4 5</sup>

1. For the purposes of this Article, an emergency means a situation in which there is a significant and imminent risk to the life or safety of any natural person.
2. Each Party may seek mutual assistance on a rapidly expedited basis where it is of the view that an emergency exists. A request under this Article shall include, in addition to the other contents required, a description of the facts that demonstrate that there is an emergency and how the assistance sought relates to it.
3. A requested Party shall accept such request in electronic form. However, it may require appropriate levels of security and authentication before accepting the request.
4. The requested Party may seek, on a rapidly expedited basis, supplemental information in order to evaluate the request. The requesting Party shall provide such supplemental information on the most rapidly expedited basis possible.
5. Once satisfied that an emergency exists and the other requirements for mutual assistance are satisfied, the requested Party shall respond to the request on the most rapidly expedited basis possible.
6. Each Party shall ensure that a person from its authority responsible for responding to mutual assistance requests under Article 25 or 27 of the Convention is available on a twenty-four hour, seven-day-a-week basis for purposes of responding to a request under this Article.
7. The authorities responsible for mutual assistance of the requesting and requested Parties responsible for mutual assistance may agree to provide that the results of the execution of a request under this Article, or an advance copy thereof, may be provided to the requesting Party through an alternate channel other than that used for the request.
8. a. In the event of an emergency, requests may be sent directly by judicial authorities of the requesting Party to such authorities of the requested Party, or through Interpol or the 24/7 point of contact established under Article 35 of the Convention. 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. Where a request is sent directly to a judicial authority of the requested Party 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.

---

<sup>3</sup> Text as agreed provisionally by the PDP, Strasbourg, 11 July 2018. Text may change as the Protocol evolves and comments are received.

<sup>4</sup> \*\*\*To be added in the Protocol:

- for the purposes of this Article, the scope of mutual assistance shall be identical to that set forth in Article 25 of the Budapest Convention.
- for greater certainty, nothing in this article prevents the sharing of information or the provision of other international assistance through other available avenues of international cooperation.

<sup>5</sup> \*\*\* To be added that this provision does not exclude other options [E.g. "This provision does not preclude the voluntary transmission of data to foreign competent authorities by internet service providers in conformity with their domestic and international applicable rules ".]

b. 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 only to its central authority.

## **2.2 Draft Explanatory Report**

1. Protocol Article [ ] (Emergency mutual assistance) is intended to provide a maximally expedited procedure for mutual assistance requests made in emergency situations. An emergency is defined in paragraph 1 as being those in which there is a significant and imminent risk to the life or safety of a natural person. The definition is intended to cover situations in which the risk is imminent, meaning that it does not include situations in which the risk to the life or safety of the person has already passed, or in which there may be a future risk that is not imminent. The reason for this very precise definition is that the article places labor intensive obligations on both the requested and requesting Parties to react in a greatly accelerated manner in emergencies, which consequently requires that emergency requests be given a higher priority than other important but somewhat less urgent cases, even if they had been submitted earlier.

2. Because protocol Article [ ] is limited to the circumstances justifying such rapidly accelerated action, it is distinct from Article 25(3) of the main Convention, in which requests for mutual assistance may be made by expedited means of communications in urgent circumstances that do not rise to the level of emergency as defined. In other words, Article 25(3) is broader in scope than protocol Article [ ], in that 25(3) covers situations not covered in Article [ ], such as ongoing but non-imminent risks to life or safety of persons, potential destruction of evidence that may result from delay, a rapidly approaching trial date, or other types of urgencies. While the mechanism in Article 25(3) provides for a more rapid method of conveying and responding to a request, the obligations in the case of an emergency under protocol Article [ ] are significantly greater; i.e. where MLA is required to prevent significant and imminent risk to life or safety, the process should be even more accelerated. Emergencies involving a significant and imminent risk to the life or safety of a person often involve hostage situations in which there is a credible risk of imminent loss of life, serious injury or other harm to the victim and the suspect is negotiating for ransom via email or social media so that the location of the victim may be determined through data stored by the provider, sexual abuse of a child as evidenced by the discovery of recently produced child sexual exploitation or child sexual abuse materials, or other indicia of abuse, immediate post terrorist attack scenarios in which authorities seek to determine with whom the attackers communicated in order to determine if further attacks are imminent, and threats to the security of critical infrastructure in which there is a significant and imminent risk of danger to life or safety of a natural person.

3. Under paragraph 2, in making an emergency request, the requesting Party must both conclude that an emergency within the meaning of the article exists, and it must include in its request a description of the facts that so demonstrate, and explain the manner in which the assistance sought is necessary to respond to the emergency, in addition to the other information required to be contained in the request under the applicable treaty or domestic law of the requested Party. In this regard, it should be recalled that under Article 25(4) of the Convention, execution of requests for mutual assistance, including emergency requests, generally "shall be subject to the conditions provided for by the law of the requested Party or applicable mutual assistance treaties, including the grounds on which the requested Party may refuse co-operation".

4. Paragraph 3 requires the requested Party to accept the request in electronic form. Before accepting the request, the requested Party may make the acceptance of the request conditional to compliance by the requesting Party with appropriate levels of security and authentication. With respect to the security requirement contained in this paragraph, the

Parties may decide among themselves whether there is a need for special security protections (including encryption) that may be necessary in a particularly sensitive case.

5. Where the requested Party requires additional information to come to the conclusion that there is an emergency within the meaning of paragraph 1, and/or that the other requirements for mutual assistance have been met, it is required by paragraph 4 to seek the additional information as rapidly as possible. Conversely, paragraph 4 requires the requesting Party to provide the supplemental information in the same rapidly expedited manner. Both Parties are thus required to do their utmost to avoid loss of time that could inadvertently contribute to a tragic result.

6. Under paragraph 5, once the needed information has been provided to enable the request to be executed, the requested Party is required to use the same maximally accelerated efforts to do so. This generally means rapidly expediting the obtaining of judicial orders compelling a provider to produce data that is evidence of the offense and the service of the order on the provider. Delays occasioned by provider response times to such orders should not be attributed to the authorities of the requested State, however.

7. Under paragraph 6, all Parties shall ensure that members of its central authority for mutual assistance (or, if Article [ ](8) is applicable, the relevant judicial authorities concerned) are available on a 24 hour a day, seven day a week basis, in case emergency requests must be made outside regular business hours. It should be recalled that in this regard the 24/7 network under Article 35 of the main Convention is available to coordinate with the authorities responsible for mutual assistance. The obligation in this paragraph does not require the authority responsible for responding to mutual assistance requests under Article 25 or 27 of the Convention to be staffed and operational 24/7. Rather, that authority should implement procedures to ensure that staff may be contacted in order to review emergency requests outside normal business hours.

8. Paragraph 7 provides a basis for the Parties concerned to agree upon an alternate channel for transmission of the responsive evidence or information, be it the mode of transmission or the authorities between whom it is transmitted. Thus, rather than the responsive information or evidence being sent back through the central authority channel habitually used to transmit evidence or information provided in [the] execution of the requesting Party's request, they may agree to use a different channel to speed transmission, maintain the integrity of the evidence, or other reason. For example, in an emergency, the Parties may agree to the transmission of evidence directly to an investigating or prosecuting authority in the requesting Party that will be using the evidence, rather than through the chain of authorities through which such evidence would normally travel. The Parties may also agree, for example, to special handling for physical evidence in order to be able to rule out challenges in subsequent judicial proceedings that the evidence may have been altered or contaminated, or the transmission of sensitive evidence.

9. Finally, paragraph 8 is a more compressed version of Article 27(9) of the main Convention, by which Parties to the protocol can provide for requests to be made directly between judicial authorities. In some Parties, such direct judicial authority to judicial authority channels are well-established and may provide an efficient means of further accelerating the making of and execution of requests. The transmission of the emergency request through the Party's 24/7 point of contact or through the International Criminal Police Organisation is useful not only to reduce any delay but also to increase standards of security and authentication. However, in some Parties, the sending of a request directly to a judicial authority in the requested Party without the involvement and approval of the central authority for mutual assistance could be counter-productive in that, without guidance and/or approval from the central authority, the receiving authority may not be empowered to act independently, or may not be familiar with the proper procedure. Therefore, as in Article

25(9)(e), each Party may notify the Council of Europe Secretary General that requests under this Article must be addressed only to its central authority.



## **3 Video conferencing<sup>6</sup>**

### **3.1 Draft text**

#### **Article [ ] – Video conferencing**

1. A requesting Party may request, and the requested Party may permit, testimony and statements to be taken from a witness or expert by video conference. The requesting Party and the requested Party shall consult in order to facilitate resolution of any issues that may arise with regard to the execution of the request, including, as applicable: which Party shall preside; the authorities and persons that shall be present; whether one or both Parties shall administer particular oaths, warnings or instructions to the witness or expert; the manner of questioning of the witness or expert; the manner to ensure due respect for the rights of the witness or expert; the treatment of claims of privilege or immunity; the treatment of objections to questions or responses; and whether one or both Parties shall provide interpretation and transcription services.
2. A requested Party providing assistance under this article shall endeavor to obtain the presence of the person whose testimony or statement is sought. Where appropriate the requested Party may, to the extent possible under its law, take the necessary measures to compel a witness or expert to appear in the requested Party at a set time and location.
3. The procedures relating to the conduct of the video conference specified by the requesting Party shall be followed, except where incompatible with the law of the requested Party. In case of incompatibility, or to the extent the procedure has not been specified, the requested Party shall apply the procedure under its law unless otherwise agreed upon by the requesting and requested Parties.
4. Without prejudice to any jurisdiction under the law of the requesting Party, where in the course of the video conference, the witness or expert:
  - (a) makes an intentionally false statement when the requested Party has, in accordance with the law of the requested Party, obliged such person to testify truthfully; or
  - (b) refuses to testify when the requested Party has, in accordance with the law of the requested Party, obliged such person to testify; or
  - (c) commits other misconduct that is prohibited by the law of the requested Party in the course of such proceedings;the person shall be sanctionable in the requested Party in the same manner as if such conduct had been committed in the course of its domestic proceedings.
5. (a) Unless otherwise agreed between the requesting Party and the requested Party, the requested Party shall bear all costs related to the execution of a request under this article, except:
  - i. the fees of an expert witness;
  - ii. the costs of translation, interpretation and transcription; and
  - iii. costs of an extraordinary nature.

---

<sup>6</sup> Text as agreed provisionally by the PDP, Strasbourg, 29 November 2018. Text may change as the Protocol evolves and comments are received.

- (b) If the execution of a request would impose costs of an extraordinary nature, the requesting Party and the requested Party shall consult in order to determine the conditions under which the request will be executed.
- 6. Where mutually agreed upon by the requesting Party and the requested Party:
  - (a) the provisions of this article may be applied for the purposes of carrying out audio conferences;
  - (b) video conferencing technology may be used for purposes, or hearings, other than those described in paragraph 1, including for purposes of identification of persons or objects.
- 7. Where a requested Party chooses to permit the hearing of a suspect or accused person, it may require particular conditions and safeguards with respect to the taking of testimony or a statement from, or providing notifications or applying procedural measures to, such person.

### **3.2 Draft Explanatory report**

1. Article [ ] primarily addresses the use of video conferencing technology to take testimony or statements. This form of cooperation may be provided for in existing bilateral and multilateral mutual assistance treaties, e.g., ETS 182 (Second Additional Protocol to the Convention on Mutual Assistance in Criminal Matters). In order to not supersede provisions specifically designed to meet the requirements of the parties to those treaties or conventions, Article [ ], like several other articles in this Protocol, applies in the absence of a mutual legal assistance treaty, or arrangement on the basis of uniform or reciprocal legislation, in force between the requesting and requested Parties. Such articles follow the same approach as in Article 27 of the Budapest Convention.

2. In addition, Article [ ] has the same material scope as in Article 25 of the Budapest Convention, that is, it is available "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." As stated in paragraph 253 of the Explanatory Report to the Budapest Convention, "criminal offences related to computer systems and data" means "the offences covered by Article 14, paragraph 2, litterae a-b" of the Budapest Convention, i.e., "the criminal offences established in accordance with Articles 2-11 of this Convention" and "other criminal offences committed by means of a computer system ...."

3. Paragraph 1 authorizes the taking of testimony and statements from a witness or expert by video conferencing. This Paragraph gives the requested Party discretion whether or not to accept the request or to set conditions in providing assistance. For example, where it would be more effective for assistance to be rendered in a different manner, such as through a written form authenticating official or business records, the requested Party may opt to provide assistance in that manner.

4. At the same time, it is expected that parties to the Protocol will have the basic technical capability to provide assistance via video conferencing.

5. Carrying out a video conference to take testimony or a statement can give rise to many issues, which may include legal, logistical, and technical problems. In order that the video-conference functions smoothly, advance coordination is essential. Additional coordination may be needed when the requested Party sets conditions as prerequisites to carrying out the video conference. Therefore, paragraph 1 also requires the requesting and

requested Parties to consult where needed to facilitate the resolution of any such issues that arise. For example, as explained further below, the video conference may need to follow a certain procedure in order for the result to be admissible as evidence in the requesting Party. Conversely, the requested Party may need to apply its own legal requirements in certain respects (e.g., the taking of an oath by, or advising of rights to, the witness). Moreover, the requested Party may require its official(s) to be present in the video conference in some or all situations, whether for the purpose of presiding over the procedure, or to ensure that the rights of the person whose testimony or statement is taken are respected. In this regard, the consultations may reveal that some requested Parties require that its participating official be able to intervene, interrupt or stop the hearing in case of concerns regarding conformity with its law, while other Parties may permit a video conference to take place without the participation of its officials in some circumstances. As a further example, requested Parties may seek particular safeguards with respect to witnesses whose safety is at risk, child witnesses, etc. These matters should be discussed and agreed upon in advance. In some cases, the requested Party's desire for one procedure, may conflict with the laws of the requesting Party to facilitate use of the testimony or statement at trial. In such cases, the Parties should do their best to try to find creative solutions that meet the needs of both sides. In addition, it is advisable to discuss in advance issues such as how to handle objections or claims of privilege or immunity raised by the person or their legal counsel, or the use of documentary or other evidence, during the video conference. Also, particular procedures may be required because of conditions imposed in order for video conference to take place. Logistical questions such as whether the requesting Party should provide for interpretation and recording of the testimony or statement from its side of the video conference, or the requested Party from its side should also be discussed, as well as technical coordination to initiate and maintain the transmission and have alternate channels of communication in the event that the transmission is interrupted.

6. Since a video conference may require judicial and auxiliary officials in a requesting Party to be available to participate in the taking of testimony or statement in the requested Party, many time zones away, it is critical that the person to be heard appears at the scheduled time and place. Under paragraph 2, where the requested Party provides assistance under this article, it must endeavor to obtain the presence of the person whose testimony or statement is sought. How to best do so may depend on the circumstances of the case, domestic legal framework of the requested Party, and whether, for example, there is confidence that the person will appear at the scheduled time voluntarily. In contrast, in order to ensure that the person appear, it may be advisable for the requested Party to issue an order or summons compelling the person to appear, and this paragraph authorizes it to do so, in accordance with the safeguards set forth in its domestic law.

7. The procedure relating to the conduct of video conferences is set forth in paragraph 3. The key objective is to provide the testimony or statement to the requesting Party in a form that will permit its use as evidence in its investigation and proceedings. For that reason, the procedures requested by the requesting Party shall be applied, unless to do so would be incompatible with the law of the requested Party, including the requested Party's applicable legal principles not codified in its legislation. For example, during the video conference, the preferred procedure would be for the requested Party to permit the authorities of the requesting Party to directly question the person from whom testimony or statements are sought. It will be the requesting Party's prosecutor, investigating judge or investigator that knows the criminal investigation or prosecution most deeply, and therefore knows best which questions are most useful for the investigation or prosecution, as well as how best to phrase them in the way to comply with the requesting Party's law. In that case, the authority of the requested Party participating in the hearing would intervene only if necessary because the requesting Party authority proceeded in a way incompatible with the requested Party's law. In that case, the requested Party may disallow questions, take over questioning or other action as may be appropriate under its law and the circumstances of the

video conference. The term “incompatible with the law of the requested Party” does not encompass situations in which the procedure is merely different from that in the requested Party, which will often be the case. Rather, it is intended to address situations in which the procedure is contrary to or unworkable under the requested Party’s law. In such case, or where no specific procedure is sought by the requesting Party, the default procedure will be the procedure applicable under the requested Party’s law. If application of the requested Party’s law causes a problem for the requesting Party, for example in terms of the admissibility of the testimony or statement at trial, the requesting and requested Parties can seek to reach agreement on a different procedure that will satisfy the requesting Party yet avoid the problem under the law of the requested Party.

8. The purpose of paragraph 4, concerning penalty or sanction for false statement, refusal to answer and other misconduct, is to protect the integrity of the process of providing testimony or statement when the witness is physically in a different country than that in which the criminal proceeding is taking place. To the extent that the requested Party has placed the person under an obligation to testify or to testify truthfully or has prohibited the person from engaging in certain conduct (e.g., disrupting the proceedings), the witness will become subject to consequences in the jurisdiction where the witness is located. In such cases, the requested Party must be able to apply the sanction it would apply if such conduct took place in the course of its own domestic proceedings. It shall apply without prejudice to any jurisdiction of the requesting Party. This requirement provides a further incentive for the witness to testify, testify truthfully and not engage in prohibited conduct. If there is no sanction that would apply in the requested Party’s domestic proceedings (e.g., for a false statement by an accused person), it is not required to establish any for such conduct committed during a video conference. This provision will be particularly useful to ensure the prosecution of a witness who testifies falsely but cannot be extradited to face prosecution in the requesting Party because, for example, of a requested Party’s prohibition on extradition of nationals.

9. Paragraph 5 provides rules regarding the allocation of costs arising in the course of video-conferences. As a general rule, all costs arising in the course of a video conference are borne by the requested Party, except for (1) fees of an expert witness; (2) costs of translation, interpretation and transcription, and (3) costs that are so significant as to be of an extraordinary nature. Travel costs and costs for overnight stays within the requested Party most often are not substantial, so that such costs, if any, generally are absorbed by the requested Party. The rules regarding costs may be modified by the agreement between the requesting and requested Parties, however. For example, if the requesting Party provides for the presence of an interpreter who is needed, or for transcription services on its end of the video conference, there may well be no need for it to pay for the requested Party to furnish such services. When the requested Party foresees extraordinary costs in providing assistance, in accordance with subparagraph (b) of this Paragraph, the requesting Party and the requested Party shall consult prior to execution of the request in order to determine if the requesting Party can bear such cost and how they can avoid such cost if the requesting Party cannot bear it.

10. While paragraph 1 expressly authorizes the use of video conferencing technology for taking testimony or statement, subparagraph (a) of paragraph 6 provides that the provisions of Article [ ] may be applied for purposes of carrying out audio conferences where so mutually agreed. In addition, subparagraph (b) of paragraph 6 provides that, where agreed upon by the requesting and requested Parties, the technology may be used for other “purposes, or hearings, . . . such as identification of persons or objects.” Thus, if mutually agreed, the requesting and requested Parties may contemplate using video conferencing technology in order to hear or carry out proceedings regarding a suspect or accused (it should be noted that some Parties may consider a suspect or accused to be a “witness” so that the taking of that person’s testimony or statement would already be covered by

paragraph 1 of this article). Where paragraph 1 is not applicable, paragraph 6 provides legal authority to permit the use of the technology in such instances.

11. Paragraph 7 addresses the situation in which the requested Party chooses to permit the hearing of a suspect or accused person such as for purposes of giving testimony or statements or for notifications or other procedural measures. In the same manner as the requested Party has discretion to permit a video conference of an ordinary witness or expert, it has discretion with respect to a suspect or accused person. Furthermore, in addition to any other condition or limitation a requested Party may impose in order to permit the carrying out of a video conference, a Party's law may require particular conditions with respect to the hearing of suspects or accused persons. For example, a Party's law may require consent of the suspect or accused person to provide testimony or statement, or a Party's law may prohibit or limit the use of video conference for notifications or other procedural measures. Thus, paragraph 7 is intended to give emphasis to the fact that procedures aimed at a suspect or accused person may give rise to the need for conditions or safeguards supplemental to those that might otherwise arise.