

FACILITATOR'S PROPOSED TEXTS ON GROUP 6 (Articles 25-30).

Status as of 31 August 2023

(Notes: newly added texts are made in bold)

Article 25. Expedited preservation of stored [computer data] [digital information]

1. Each State Party shall adopt such legislative and other measures as may be necessary to enable its competent authorities to order or similarly obtain the expeditious preservation of specified [computer data] [digital information], [including traffic data, **content data, and subscriber information**, that has been stored by means of [a computer system] [an information and communications technology device], in particular where there are grounds to believe that the [computer data are] [digital information is] particularly vulnerable to loss or modification.
2. Where a State Party gives effect to paragraph 1 above by means of an order to a person, **including a legal person** to preserve specified stored [computer data] [digital information] in the person's possession or control, the State Party shall adopt such legislative and other measures as may be necessary to oblige that person to preserve and maintain the integrity of that [computer data] [digital information] for a period of time as long as necessary, up to a maximum of ninety days, **or any longer period in accordance with the domestic laws of that State Party** to enable the competent authorities to seek its disclosure. A State Party may provide for such an order to be subsequently renewed.
3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige the custodian or other person **including a legal person** who is to preserve the [computer data] [digital information] to keep confidential the undertaking of such procedures for the period of time provided for in its domestic legislation.

Article 26. Expedited preservation and partial disclosure of traffic data

Each State Party shall adopt, in respect of traffic data that are to be preserved under the provisions of the article on the expedited preservation of stored [computer data] [digital information], such legislative and other measures as may be necessary to:

- (a) Ensure that such expeditious preservation of traffic data is available regardless of whether one or more service providers were involved in the transmission of that communication; and
- (b) Ensure the expeditious disclosure to the State Party's competent authority, or a person designated by that authority, of a sufficient amount of traffic data to enable the State Party to identify the service providers and the path through which the communication or indicated information was transmitted.

Article 27. Production order

Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order:

- (a) A person, **including a legal person** in its territory to submit specified [computer data] [digital information] in that person's possession or control that [are] [is] stored in [a computer system] [an information and communications technology device] or a [computer data] [digital information] storage medium; and

(b) A service provider offering its services in the territory of the State Party to submit subscriber information relating to such services in that service provider's possession or control.

Article 28. Search and seizure of stored [computer data] [digital information]

1. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to search or similarly access ~~in the territory of that State Party~~ :

(a) [A computer system] [An information and communications technology device], part of it, and [computer data] [digital information] stored therein; and

(b) A [computer data] [digital information] storage medium in which the [computer data] [digital information] sought may be stored.

in the territory of that State Party.

2. Each State Party shall adopt such legislative and other measures as may be necessary to ensure that, where its authorities search or similarly access a specific [computer system] [information and communications technology device] or part of it, pursuant to paragraph 1 (a) of this article, and have grounds to believe that the [computer data] [digital information] sought is stored in another [computer system] [information and communications technology device] or part of it in its territory, and such data are lawfully accessible from or available to the initial system, such authorities shall be able to expeditiously conduct the search to obtain access to that other [computer system] [information and communications technology device].

3. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to seize or similarly secure [computer data] [digital information] in its territory accessed in accordance with paragraphs 1 or 2. These measures shall include the power to:

(a) Seize or similarly secure [a computer system] [an information and communications technology device] or part of it, or a [computer data] [digital information] storage medium;

(b) Make and retain copies of [those computer data] [that digital information] in electronic form;

(c) Maintain the integrity of the relevant stored [computer data] [digital information];

(d) Render inaccessible or remove [those computer data] [that digital information] in the accessed [computer system] [information and communications technology device].

4. Each State Party shall adopt such legislative and other measures as may be necessary to empower its competent authorities to order any person who has knowledge about the functioning of the [computer system] [information and communications technology device] in question, the information and telecommunications network, or their component parts, or measures applied to protect the [computer data] [digital information] therein, to provide, as is reasonable, the necessary information to enable the undertaking of the measures referred to in paragraphs 1 to 3 of this article.

Article 29. Real-time collection of traffic data

1. Each State Party ~~shall~~ **may** adopt such legislative and other measures as may be necessary to empower its competent authorities to:

(a) Collect or record, through the application of technical means in the territory of that State Party; and

(b) Compel a service provider, within its existing technical capability:

(i) To collect or record, through the application of technical means in the territory of that State Party; or

(ii) To cooperate and assist the competent authorities in the collection or recording of;

traffic data, in real time, associated with specified communications in its territory transmitted by means of [a computer system] [an information and communications technology device].

2. Where a State Party, owing to the principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1 (a), it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of traffic data associated with specified communications transmitted in its territory, through the application of technical means in that territory.

3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.

Article 30. Interception of content data

1. Each State Party ~~shall~~ **may** adopt such legislative and other measures as may be necessary, in relation to a range of serious criminal offences to be determined by domestic law, to empower its competent authorities to:

(a) Collect or record, through the application of technical means in the territory of that State Party; and

(b) Compel a service provider, within its existing technical capability:

(i) To collect or record, through the application of technical means in the territory of that State Party; or

(ii) To cooperate and assist the competent authorities in the collection or recording of;

content data, in real time, of specified communications in its territory transmitted by means of [a computer system] [an information and communications technology device].

2. Where a State Party, owing to the principles of its domestic legal system, cannot adopt the measures referred to in paragraph 1 (a), it may instead adopt legislative and other measures as may be necessary to ensure the real-time collection or recording of content data on specified communications in its territory, through the application of technical means in that territory.

3. Each State Party shall adopt such legislative and other measures as may be necessary to oblige a service provider to keep confidential the fact of the execution of any power provided for in this article and any information relating to it.