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ANNEX

ANNEX

to the proposal for a

Council Decision

determining the criteria and the procedure for establishing the position to be taken on behalf of the European Union within the Council of Europe as regards the requests for accession of third parties to the Council of Europe Convention on Cybercrime ('Budapest Convention')

ANNEX

Objectives and criteria for the establishment of the positions to be taken on the Union's behalf within the Council of Europe with regard to invitations to accede to the Council of Europe Convention on Cybercrime ('Budapest Convention')

Objectives

1. To promote a stronger international cooperation to fight cybercrime and to exchange digital evidence.
3. To promote the respect of fundamental rights and the institution of safeguards related to procedural powers and international cooperation.
2. To pursue the alignment of legislative and strategic frameworks.
4. To enable effective capacity building actions.

Criteria

When assessing a request to accede to the Budapest Convention by a State that is not a Party to it, the Commission shall address the following aspects:

1. Cybercrime legislation: assess the extent to which the domestic legislation in force in the State requesting accession covers the offences and procedural powers of the Budapest Convention and if ongoing reforms are meant to bring a closer alignment with it.
2. Rule of law and fundamental rights: assess that the State that is not a Party is a signatory of international frameworks for the protection of fundamental rights and have implemented measures at national level to protect these rights, including the right not to be subject to inhuman and degrading punishment nor to the death penalty, and assess the extent to which the States' exercise of procedural powers is subject to sufficient conditions and safeguards.
3. Alignment with the Union's position on cybercrime: assess the extent to which the State requesting accession supports positions that are compatible with those taken by the Union in international fora (e.g. United Nations), in particular regarding the criminalisation of conducts, the respect of fundamental rights, and the conditions and safeguards applicable to procedural powers and international cooperation measures.
4. Current level of cooperation: assess the extent to which the level of cooperation between Union competent authorities and the authorities of the State requesting accession is relevant and if the accession of the requesting State can contribute to enabling future cooperation, both with Union Member States and other Parties to the Budapest Convention.
5. Cooperation with the Council of Europe: assess the extent to which the authorities of the State requesting accession have cooperated with the Council of Europe and have participated in relevant activities.