

## **Agreement on cooperation among the States members of the Commonwealth of Independent States in combating offences relating to computer information\***

The States members of the Commonwealth of Independent States (hereinafter referred to as “the Parties”),

With a view to ensuring the effectiveness of efforts to combat offences relating to computer information,

Being convinced that the actions agreed on by the Parties as means of combating offences relating to computer information are of pressing need,

Seeking to establish a legal framework for cooperation among the law enforcement and judicial bodies of the States parties to this Agreement (hereinafter: “the States”)\*\* in combating offences relating to computer information,

Have agreed as follows:

### **Article 1 — Basic terms**

For the purposes of this Agreement:

(a) “Offence relating to computer information” shall mean a criminal act of which the target is computer information;

(b) “Computer information” shall mean information stored in a computer’s memory or in a machine-readable or other storage medium in a format that can be read by a computer, or transmitted via communications channels;

(c) “Malicious software” shall mean software specifically designed or modified to cause the unauthorized destruction, blocking, modification or copying of information and the disruption of the functioning of a computer, computer system or related networks;

(d) “Illegal access” shall mean unauthorized access to computer information.

### **Article 2 — General provisions**

1. The Parties shall, in accordance with this Agreement, national legislation and other international instruments to which they are party, cooperate in order to ensure the effective prevention, detection, suppression, uncovering and investigation of offences relating to computer information.

2. The Parties shall adopt such organizational and legislative measures as may be necessary in order to implement the provisions of this Agreement.

3. The Parties shall strive to ensure the harmonization of their national legislation concerning the combating of offences relating to computer information.

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\* *Translator’s note:* This is a literal translation of the original text. The Russian equivalent of the term “cybercrime” is not used in that text. Please note also that both “offence relating to computer information” and “computer information” are defined in article 1 (paragraphs (a) and (b)) of the Agreement.

\*\* *Translator’s note:* No subsequent reference is made to “the States”.

### **Article 3 — Criminal acts**

1. The Parties shall, subject to their national legislation, establish the following as criminal acts, where such acts are committed intentionally:

(a) The illegal accessing of computer information protected by the law, where such act results in the destruction, blocking, modification or copying of information or in the disruption of the functioning of the computer, the computer system or related networks;

(b) The creation, use or distribution of malicious software;

(c) The violation of regulations governing the use of computers, computer systems or related networks by a person who has access to those computers, systems or networks, resulting in the destruction, blocking or modification of computer information protected by the law, where such act causes significant harm or serious consequences;

(d) The illegal use of computer and database software protected by copyright, or software piracy, where such act causes significant damage;

2. The definition of the concepts of “significant harm”, “serious consequences” and “significant damage” shall fall within the competence of the Parties.

### **Article 4 — Competent authorities**

1. Cooperation between the Parties within the framework of this Agreement shall be conducted directly between the competent authorities.

2. A list of competent authorities under this Agreement shall be drawn up by each Party and submitted at the time of signature of this Agreement or at the time of deposit of notifications of the completion of internal procedures with the depositary, who shall communicate such lists to the other Parties.

Each of the Parties shall notify the depositary in writing of any amendment to the list of competent authorities.

### **Article 5 — Forms of cooperation**

The Parties shall, within the framework of this Agreement, engage in the following forms of cooperation:

(a) Exchange of information, including information on:

offences relating to computer information that are in the course of preparation or have been committed, and the natural or legal persons involved in such offences;

ways and means of preventing, detecting, suppressing, uncovering and investigating offences relating to computer information;

the means used to commit offences relating to computer information;

national legislation and international agreements regulating issues relating to the prevention, detection, suppression, uncovering and investigation of offences relating to computer information;

(b) The execution of requests for investigations and proceedings in accordance with international instruments on legal assistance;

(c) The planning and implementation of coordinated activities and operations to prevent, detect, suppress, uncover and investigate offences relating to computer information;

(d) The rendering of assistance in the training and further specialized training of staff, including through the secondment of experts and the organization of conferences, seminars and study courses;

(e) The creation of information systems to support activities to prevent, detect, suppress, uncover and investigate offences relating to computer information;

(f) Joint scientific research on challenges, of mutual interest, in combating offences relating to computer information;

(g) The exchange of legislative and regulatory instruments and scientific and technical literature relating to the combating of offences relating to computer information;

(h) Such other forms of cooperation as the Parties may agree on.

### **Article 6 — Requests for assistance**

1. Cooperation within the framework of this Agreement shall be based on requests for assistance made by the competent authorities of the Parties.

Information may be provided by one Party to another without a request if that information is deemed to be of interest to the receiving Party.

2. Requests for assistance shall be made in writing. In urgent cases, requests may be transmitted by electronic means of communication or made orally; however, such requests should be confirmed in writing within three days.

3. In case of doubt as to the authenticity or content of the request, confirmation of the request may be sought.

4. Requests for assistance should contain:

(a) The name of the competent authority of the requesting Party and the name of the competent authority of the requested Party;

(b) The subject matter;

(c) The purpose of and justification for the request;

(d) The type of assistance sought;

(e) The desired time frame within which the request should be executed;

(f) Any other information that may be useful in facilitating the execution of the request, including relevant documentation.

5. A request for assistance that has been transmitted or confirmed in writing shall be signed by the head of the requesting competent authority or his or her deputy and shall bear the official stamp of that authority.

6. The competent authorities of the Parties shall define the procedure for joint activities and a list of persons authorized to carry out such activities, and the Parties shall communicate that information to one another.

### **Article 7 — Execution of requests**

1. The requested Party shall take such measures as are necessary to ensure the swift and fullest possible execution of the request.

The request shall be executed, as a rule, within 30 days of its receipt and, where possible, taking into account the wishes of the requesting competent authority with regard to execution of the request within the period indicated by that body.

The requesting Party shall be informed without delay of any circumstance preventing or significantly delaying the execution of the request.

2. If the execution of the request is not within the competence of the requested competent authority, that body shall transmit the request to the authority of the State to which it belongs that is competent to execute the request and shall at the same time notify the requesting competent authority thereof.

3. The requested Party may request such additional information as it deems necessary for the proper execution of the request.

The request shall be executed in accordance with the legislation of the requested Party; however, at the request of the requesting competent authority, the legislation of the State to which that authority belongs may be applied, provided that such application does not conflict with the national legislation or international obligations of the requested Party.

4. If the requested Party considers that the immediate execution of the request may impede a criminal trial or other proceedings taking place on its territory, it may postpone execution of the request, notifying the requesting party accordingly, or require that certain conditions identified as necessary following consultation with the requesting Party be fulfilled before the request can be executed. If the requesting Party agrees to receive assistance subject to the conditions proposed, that Party shall be bound to comply with those conditions.

5. The requested Party shall inform the requesting Party of the outcome of execution of the request as soon as possible.

### **Article 8 — Refusal to execute a request**

1. Execution of a request within the framework of this Agreement may be refused in part or in whole if the requested Party considers that such execution would be contrary to its national legislation.

2. The requesting Party shall be informed in writing of any refusal to execute a request in part or in whole and of the reasons for such refusal.

### **Article 9 — Confidentiality of information**

1. Each of the competent authorities of the Parties shall take such measures as are necessary to ensure the confidentiality of information received from the competent authority of another Party if the competent authority that provided the information considers its disclosure undesirable.

2. The competent authority shall, subject to national legislation, ensure that the information received is subject to the degree of confidentiality requested by the competent authority of the other Party.

3. Information and documents received within the framework of this Agreement shall not be used without the consent of the requested competent authority for purposes other than those indicated in the request and those to which the requested competent authority has given its consent.

#### **Article 10 — Settlement of disputes**

The Parties and the competent authorities of the Parties shall settle any dispute arising from interpretation or application of the provisions of this Agreement through consultation and negotiation.

#### **Article 11 — Costs**

The Parties shall individually bear any costs arising from implementation of this Agreement, unless otherwise agreed in specific cases.

#### **Article 12 — Working language**

The competent authorities of the Parties, in cooperating within the framework of this Agreement, shall use Russian as their working language.

#### **Article 13 — Relationship with other international instruments**

This Agreement shall not affect the rights and obligations of the Parties arising from other international instruments to which they are party.

#### **Article 14 — Amendments and additions**

This Agreement may be amended or supplemented by mutual consent of the Parties.

#### **Article 15 — Procedure for entry into force**

This Agreement shall enter into force on the date of deposit with the depositary of the third notification of completion by the Parties that have signed the Agreement of their respective internal procedures required for its entry into force.

For those Parties that complete the requisite procedures at a later date, the Agreement shall enter into force on the date of deposit of the relevant instruments with the depositary.

#### **Article 16 — Validity**

This Agreement shall remain in force for five years from the date of its entry into force. Upon expiry of that period, the validity of this Agreement shall automatically be extended for further consecutive five-year periods, unless otherwise agreed by the Parties.

### **Article 17 — Final provisions**

Any Party may withdraw from this Agreement by notifying the depositary in writing at least six months prior to the intended date of withdrawal.

This Agreement shall be open for accession by any other State willing to be bound by its provisions, subject to the agreement of all Parties, through the deposit of the relevant instrument of accession with the depositary. For the acceding State, this Agreement shall enter into force on the date of receipt by the depositary of the final notification of the consent of all Parties to such accession.

Done at Minsk on 1 June 2001 in a single authentic text in the Russian language. The authentic text shall be deposited with the Executive Committee of the Commonwealth of Independent States, which shall transmit a certified copy of that text to each State party to this Agreement.

For the Republic of Azerbaijan

H. ALIYEV

For the Republic of Moldova

V. VORONIN

For the Republic of Armenia

R. KOCHARYAN

For the Russian Federation

V. PUTIN

For the Republic of Belarus

A. LUKASHENKO

For the Republic of Tajikistan

E. RAKHMONOV

For the Republic of Kazakhstan

N. NAZARBAYEV

For the Republic of Uzbekistan

I. KARIMOV

For the Kyrgyz Republic

A. AKAYEV

For Ukraine

L. KUCHMA

**Reservations of Ukraine under item 5 of the agenda of the meeting of the Council of Heads of States Members of the Commonwealth of Independent States, entitled “Agreement on cooperation among the States members of the Commonwealth of Independent States in combating offences relating to computer information”**

1 June 2001

“Ukraine does not consider itself bound by the provision of article 5, paragraph (e), relating to the creation of information systems to support activities to prevent, detect, suppress, uncover and investigate offences relating to computer information”.

“Ukraine may refuse to execute a request if such execution would be contrary to the interests of the State, its national legislation or its international obligations”.

President of Ukraine  
L. D. Kuchma

**Status of the Agreement on cooperation among the States members of the Commonwealth of Independent States in combating offences relating to computer information**  
(as at 15 January 2008)

Signature: Republic of Azerbaijan, Republic of Armenia, Republic of Belarus, Republic of Kazakhstan, Kyrgyz Republic, Republic of Moldova, Russian Federation, Republic of Tajikistan, Republic of Uzbekistan, Ukraine.

Notifications:

- Republic of Belarus — instrument of accession deposited on 18 September 2001;
- Republic of Tajikistan — instrument of accession deposited on 20 February 2002;
- Republic of Armenia — instrument of accession deposited on 14 March 2002;
- Republic of Moldova — instrument of accession deposited on 3 April 2002;
- Republic of Kazakhstan — instrument of accession deposited on 18 September 2002;
- Republic of Azerbaijan — instrument of accession deposited on 14 May 2004;
- Russian Federation — instrument of accession deposited on 31 December 2004 (internal procedures are being carried out).

The Agreement entered into force on 14 March 2002.

Entry into force in States parties:

- Republic of Belarus — 14 March 2002;
- Republic of Tajikistan — 14 March 2002;
- Republic of Armenia — 14 March 2002;
- Republic of Moldova — 3 April 2002;
- Republic of Kazakhstan — 18 September 2002;
- Republic of Azerbaijan — 14 May 2004.