

Hanoi Convention against cybercrime: reservations to human rights provisions?

Alexander Seger, 12 November 2025

Following the opening for signature of this treaty in #Hanoi, Vietnam on 26 October 2025, the focus will shift to ratification. As I [noted before](#), this will require:

- (a) the adoption of criminal legislation to provide for offences, powers and procedures required by the treaty in domestic law; and
- (b) the deposit with the UN of an instrument of ratification or similar consent to be bound, typically following an action of parliament domestically.

Further to some statements made in Hanoi, a key concern remains: Will States implement and apply the human rights and rule of law safeguards foreseen in the Hanoi Convention? (see [my article on “managing risks”](#)).

And this is where reservations and declarations come into focus. When depositing their instrument, States may make declarations and reservations; for example, to reserve the right not to apply a certain article.

In terms of the scope of such reservations, there are major differences between United Nations treaties and treaties of the @CouncilofEurope such as the Convention on Cybercrime (#Budapest Convention):

- In COE treaties, the option of reservations is normally restricted to those specifically listed in the treaty. Article 42 of the Budapest Convention is clear in this respect: “No other reservations may be made”.
- UN treaties on the other hand, are permissive. In principle, all sorts of reservations are permitted unless these are inconsistent with the object and purpose of the treaty (see Article 19 of the Vienna Convention on the Law of Treaties).

So, for example, could a State, when ratifying the #HanoiConvention, reserve the right not to apply all or parts of Article 6 (Respect for human rights) or of Article 24 (Conditions and safeguards), etc.?

Who decides whether or not such a reservation would be inconsistent with the object and purpose of the treaty?

And here is the problem: there is no effective mechanism to make such a determination:

- The UN Secretary General as the depositary has only an administrative role and records and transmits reservations.
- The Conference of States Parties (COSP) may discuss reservations and may exercise political pressure but cannot impose a determination.
- Most States are likely to reject referring such questions to the International Court of Justice (see reservations to UN treaties on corruption and organized crime).

In practice, each State may decide for itself whether it deems a reservation incompatible with the object and purpose of the treaty (see Article 20 of the Vienna Convention).

Therefore, it will be important that democratic States – and stakeholders – pay attention to reservations and declarations made, and that States voice their objections if necessary.

This is also stipulated in the European Union Council decision permitting EU Member States to sign the Hanoi Convention:

“The human rights conditions and safeguards recognised and provided for in this Convention, including those in Articles 6; 21 paragraph 4; 24; 36; 37 paragraph 15, 40 paragraph 22 are part of its object and purpose and therefore Member States shall not formulate reservations on these articles. Any such reservations by non-EU State Parties to the Convention should be objected as going against the object and purpose of the Convention.”

Other States could follow this example. Even if the legal effect of such objections is limited, States voicing their opposition may then restrict their cooperation with those States making reservations to safeguards.