Parliamentary Assembly Supports Draft Cyber-Crime Convention

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In its Opinion No. 226 of 24 April 2001, the Parliamentary Assembly of the Council of Europe expressed its support for the latest version of a draft Convention on Cyber-crime. The Draft Convention was prepared by a Committee of Experts, which formally concluded its work with the completion of Draft No. 25 of the Convention in December 2000.

The Draft Convention requires States Parties to adopt certain substantive criminal offences, i.e. crimes against the confidentiality, integrity and availability of computer data, systems and communications (Articles 2-5); crimes involving the use of a computer system for their commission, most notably computer-related forgery and fraud, as well as offences related to child pornography (Articles 7-9) and the crime of copyright infringement through the use of computers (Article 10).

The Draft Convention also insists upon the adoption of procedural laws and other measures providing for government investigative powers in regard to computerrelated crime: government orders to freeze information stored in any computer (Articles 16-17); government access to information stored in computers, through production orders for any stored data and for any information identifying subscribers to computer communications systems (Article 18); search and seizure of computers and computerised data (Article 19); real-time interception applicable to all communications systems, including telephone networks, for all kinds of crimes and, in the case of content interception, for all kinds of serious crimes (Articles 20-21).

Another section of the Draft Convention binds States Parties to cooperate in collecting evidence and intercepting communications across borders. This section concerns requests to preserve records stored in a computer system (Article 29); to disclose records (Article 30); to conduct searches and seizures of computers (Article 31); to carry out real-time interceptions of transactional data and of the content of communications (Articles 33 and 34).

The absence in the Draft Convention of any provisions dealing with, inter alia, the dissemination of racist and xenophobic speech over the Internet, prompted the inclusion in Opinion No. 226 of a call for the immediate drafting of a protocol

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thereto. Such a protocol, to be titled "Broadening the scope of the convention to include new forms of offence", would have the objective of "defining and criminalising the dissemination of racist propaganda, abusive storage of hateful messages, use of the Internet for trafficking in human beings, and the obstruction of the functioning of computer systems by "spamming" (sending "junk e-mail")."

Further changes may yet be made in response to Opinion No. 226 of the Parliamentary Assembly, by the Council's European Committee on Crime Problems and then by the Committee of Ministers, which is expected to act on this draft convention in July or September 2001.

Draft Convention on Cyber-crime (Draft No. 25 REV)

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