

## **UNITED NATIONS' HANOI CONVENTION AGAINST CYBERCRIME – HON'BLE SUPREME COURT CALLS UPON INDIA TO DECIDE ITS POSITION**

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While hearing a suo moto case concerning 'digital arrest fraud' on 17<sup>th</sup> November 2025, the Hon'ble Supreme Court requested the Solicitor General to provide an update on India's position on the United Nations Convention against Cybercrime. The Court specifically stated that "without the collective efforts from all the law enforcement agencies across the world" it would not be possible to curb cybercrimes.

This Convention, also known as the Hanoi Convention, was signed by 72 nations last month in Hanoi, Vietnam. It marks the most significant global effort in cyber governance till date as it is the first universal legal framework to combat cybercrime worldwide. The Convention was first adopted by the General Assembly of the United Nations in New York in December 2024 after negotiations that spanned over five years. Its nine chapters provide States with a range of measures that equip them to take actions to prevent and combat cybercrimes.

In its Preamble, the Convention affirms the vast, diverse and grave nature of crimes that can occur using information and communications technology systems, including smuggling of migrants, trafficking in persons and drug trafficking. Most pertinently, the Convention acknowledges the increasing urgency to ensure global cooperation in order to effectively combat cybercrimes and ensure enforcement.

In lieu of this, it introduces various measures that require State collaboration, these include:

- Extradition of persons who have committed offences (Article 37)
- Transfer of sentenced persons upon signing of relevant treaties (Article 38)
- Transfer of criminal proceedings to ensure proper administration of justice (Article 39)
- Mutual legal assistance of the "widest nature" between States for purposes such as taking evidence statements, effecting service of judicial documents, executing search and seizures, examining objects and sites, amongst others (Article 40)

- Mutual State assistance in collection of traffic data, expedited disclosure of and access to certain types of preserved data and interception of content data (Article 43, Article 44, Article 45, Article 46)
- Cross-State law enforcement cooperation to enhance effectiveness and establish channels of communication between authorities so as to ensure swift and protected exchange of information (Article 47)
- Joint investigations stemming from bilateral or multilateral agreements or case-by-case arrangements (Article 48)

Interestingly, under Article 41, the Convention mandates the designation of a point of contact in each State which is available 24x7 so as to ensure immediate assistance for the purposes of criminal investigations, prosecutions or judicial proceedings. This assistance, if permitted by domestic law, will entail the provision of technical assistance, collection of evidence and locating suspects, amongst others.

The Convention will set into force 90 days after receiving ratification from 40 countries. It is expected that this threshold will be achieved soon considering that it already has 72 signatories.

Notably, India is still to sign the Convention. It has been reported that although India was closely involved in drafting deliberations, it has withheld from signing the treaty owing to reasons which possibly point towards the Convention's potential run-ins with India's data protection standards and with the Hon'ble Supreme Court's landmark Puttaswamy judgment on privacy.<sup>1 2</sup> The Convention has faced criticism from several international digital rights groups which have stated that it encourages States to create surveillance regimes without effective safeguards.

Notwithstanding the above, the response received to the Convention is symbolic of a long-required consensus between States on countering cybercrime. It recognises that given the ubiquitous nature of the internet, effective action against cybercrime demands cross-border collaboration, whether between governments, law enforcement agencies or judicial bodies.

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<sup>1</sup> The Indian Express, '72 nations sign landmark UN treaty to tackle cybercrime: what does this mean for India?' (28<sup>th</sup> October 2025)

<sup>2</sup> MediaNama, '72 Nations Sign UN's First Cybercrime Treaty; India Abstains Amid Privacy Concerns' (28<sup>th</sup> October 2025)

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