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| **Article** | **Concerns** | **Recommendations/Alternate text** |
| **Section III:**  **Publicity by electronic means** |  |  |
| **Article I – 7:**  *Without prejudice to Article I-4 any advertising action, irrespective of its form, accessible through online communication service, shall be clearly identified as such. It shall clearly identify the individual or corporate body on behalf of whom it is undertaken.* |  |  |
| **Article I – 8:**  *The conditions governing the possibility of promotional offers as well as the conditions for participating in promotional competitions or games where such offers, competitions or games are electronically disseminated, shall be clearly spelt out and easily accessible.* |  |  |
| **Article I – 27**  *Where the legislative provisions of Member States have not laid down other provisions, and where there is no valid agreement between the parties, the judge shall resolve proof related conflicts by determining by all possible means the most plausible claim regardless of the message base employed.* |  |  |
| **PART II:**  **PERSONAL DATA PROTECTION**  **Objectives of this Convention with respect to personal data** |  |  |
| **Article II – 2:**  *Each Member State of the African Union shall put in place a legal framework with a view to establishing a mechanism to combat breaches of private life likely to arise from the gathering, processing, transmission, storage and use of personal data.*  *The mechanism so established shall ensure that any data processing, in whatsoever form, respects the freedoms and fundamental rights of physical persons while recognizing the prerogatives of the State, the rights of local communities and the target for which the businesses were established.* |  |  |
| **Article II-6, II-7, 11-8, II-11, II-12, II-13 refer to a Protection Authority** which is meant to establish standards for data protection. Article II – 14 *provides for each Member State of the African Union to establish an authority with responsibility to protect personal data. It* *shall be an independent administrative authority with the task of ensuring that the processing of personal data is conducted in accordance with domestic legislations.*  In article II-17 states that *Sworn agents may be invited to participate in audit missions in accordance with extant provisions in Member States of the African Union.* |  |  |
| **Article II – 20:**  *…Members of the protection authority shall not receive instructions from any authority in the exercise of their functions.* And  **Article II – 21:**  *Member States are engaged to provide the national protection authority human, technical and financial resources necessary to accomplish their mission.* |  |  |
| **Article II – 28 to II-34** outlines six principles governing the processing of personal data namely:  Consent and of legitimacy,  Honesty,  Objective, relevance and conservation of processed personal data,  Accuracy,  Transparency and  Confidentiality and security of personal data.  Under each of the specific principles, detailed explanation of how each should be undertaken is offered. |  |  |
| **PROMOTING CYBERSECURITY AND COMBATING CYBERCRIME** |  |  |
| **Article III – 14: Harmonization**   1. *Member States have to undertake necessary measures to ensure that the legislative measures and / or regulations adopted to fight against cybercrime enhance the possibility of regional harmonization of these measures and respect the principle of double criminality.* |  |  |
| **Article III – 48**  *Each Member State of the African Union have to take necessary legislative measures to ensure that, in the case of conviction for an offense committed by means of digital communication facility, the competent jurisdiction or the judge handling the case gives a ruling imposing additional punishment.* |  |  |
| **Other issues** | 1. How will cross-border crimes be prosecuted? 2. Where this draft is in contradiction to local laws, which one will take precedence? |  |