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Age of criminal responsibility for cybercrimes: an insight into approaches adopted in Azerbaijan in comparison with UK

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In order to address the challenges arising from the transnational character of cybercrime both Azerbaijan and UK have joined the Council of Europe (CoE) Convention on Cybercrime and started to bring their legislative framework into compliance with the Convention. Notwithstanding the fact that the relevant legislative frameworks have been harmonised with the Convention, there are discrepancies present in national laws which diminish the effectiveness and efficiency of international cooperation, and therefore the actual protection against and prevention of cybercrime. This is due to the reason that despite cybercrime exhibiting a transnational character, its criminalization stays dependent on national perceptions and implementation, which is one of the features creating an obstacle for international cooperation among states.

Criminalization of an act requires the incorporation of three compulsory elements, which include social / public danger (harm / threat to harm), culpability, and formal prohibition by laws under the threat of punishment. When it comes to criminalization, the Convention on Cybercrime mainly guides the member states in harmonizing only some of the details of these elements. One of the necessary elements of culpability, the minimum statutory age of criminal responsibility, has been totally left to the choice of the signatories themselves. In Azerbaijan, for example, the age of 16 is a prerequisite for being subjected to criminal responsibility for committing cybercrimes, while it is 10 in England and Wales and 8 in Scotland (the age at which a child can be prosecuted in Scotland is 12 years). In other words, in Azerbaijan, individuals under the age of 16 who commit cybercrime act cannot be charged with committing those acts as the law sees them as incapable of committing those acts, while in the UK individuals are seen to be capable of commissioning a crime so much earlier.

This paper critically evaluates the appropriateness of approaches adopted by UK and Azerbaijan regarding the minimum age of criminal responsibility to fighting cybercrimes and implications of differences on fostering international co-operation.