

Statement by AUSTRIA

at the Fourth Negotiating Session of the Ad-hoc Committee to Elaborate a
Comprehensive International Convention on Countering the Use of Information
and Communications Technologies for Criminal Purposes

09. January 2023

Item 4: Provisions on Criminalization

Austria fully aligns herself with the statement made by the European Union on behalf of the EU and its Member States, both on the issues addressed under this chapter and regarding the unacceptable and continuing aggression of Russia against Ukraine. We would like to add the following in our national capacity.

Madame Chair, we would like to thank you and your team for all the efforts in preparing this fourth session of the Ad hoc Committee. We know how much work went into the preparation of the consolidated negotiating document and appreciate the inclusive approach that you are taking. As regards the CND, we appreciate that it takes into consideration existing international instruments and efforts at the regional and international level for combatting cybercrime.

Let me start by outlining those provisions that we can generally support in the document. This concerns Cluster 1 Articles 6 to 10 on illegal access, interception,

interference with computer data and computer systems as well as the misuse of devices and programs. Let me also be very clear that we cannot accept the reference to information and communications technology systems/devices in any of those provisions. There are many reasons for our position, one being that we would for example see no reason in criminalising in an international Convention the interception of telephone landlines that work without computers. Such an offence has no international dimension that would justify its inclusion in an UN Convention.

We can generally support Articles 18, 20, 35, 36 and 39. On Articles 18 and 20, we see room for more in depth negotiations.

Lastly, let me focus on those provisions, which we believe should not be included in the convention:

I would like to highlight, that we always argued in favour of a short list of offences. We particularly do not want to create overlaps with other Conventions. This is mainly the reason why we see no added value of provisions which are covered by other instruments such as the Convention against Illicit Traffic in Narcotic Drugs or UNTOC and its three protocols, among others.

Regarding the provisions in Cluster 8, the negotiations have already shown that a large number of Member States are against the inclusion of these provisions. They seem to be very controversial. For example, Article 26 uses the term “subversive” that is very vague and unclear. Article 27 refers to illegal acts, which is a very broad term that includes actions that might not even be criminal.