

PROVISIONS ON CRIMINALIZATION

Agenda Item 4

STATEMENT

GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME

Fourth Session of The Ad Hoc Committee to Elaborate a Comprehensive International Convention on
Countering the Use of Information and Communications Technologies for Criminal Purposes
Vienna, 9- 20 January 2023

We thank the Chair for the preparation and open engagement throughout this process. And we appreciate hearing the discussions and positions so far set out by states and multistakeholders.

On the criminalization chapter, GITOC will only make a few points.

We agree with those calling for the focus of this convention to be core cybercrimes – i.e. cluster one.

We also support the use of cybercrime as an established term, whose parameters this treaty is - in fact - attempting to fine tune.

Intent and Harm:

We have listened with interest to states and stakeholder positions and agree with those who have said intent and harm need to be included as a standard to protect against unintended application, for example with regard to security researchers and journalists.

Limited Scope:

We feel this treaty should not duplicate crimes addressed in other treaties. An exhaustive list of crimes may render the treaty too unwieldy to set agendas in the future and for treaty implementation.

And it would cause duplicative work across the UN system.

We do not think national security priorities should be addressed here in a criminal justice treaty, where again there are already homes for these priorities in other areas of the UN.

In this way the core treaty should be limited to cyber-dependent crimes – and therefore create a clear agenda to build stronger global cooperation to combat these crimes.

We have one overarching recommendation for the chapter. We recommend that the criminalization chapter has a clearly defined and explicit link to the following chapters, either set out in an article in this chapter or outlined in subsequent sections.

There appears to be a disconnect in scope and application in negotiations thus far on this chapter and on subsequent chapters on law enforcement and procedural measures and on international cooperation. We hope a clear line will be drawn throughout the document that connects all chapters.

Thank you for the opportunity to contribute.