

Vienna, 9.01.2023

4nd Session of the UN Ad Hoc Committee
Poland's statement on Criminalization

Madame Chair, Distinguished Delegates,

Poland thanks you Madam Chair for your work and the presented Consolidated Negotiating Document, which we consider a good basis for our further debate on the ultimate shape of the future convention. Let me also thank your team and the whole Secretariat for their tireless efforts in advancing this process. Poland will continue to be supportive and fully committed to reach a positive outcome.

While working on the final language of the convention we need to avoid duplications across its text but also elements covered already by other legal instruments. On the contrary, we shall focus on elements bringing added value, around which we can build consensus. Convention focused on core crimes and based on instruments enjoying a wide consensus will be useful to truly enhance international cooperation aiming at fighting cyber-dependent crime. It should be stressed that the draft convention must be consistent with international or regional law instruments already in force and with international human rights.

Before we get to the details let me underline and recall that we work here in the shadow of the unprovoked Russian aggression against Ukraine, which is conducted in clear violation of the international law, including the UN Charter, and of the rules of a responsible behaviour in cyberspace. We urge Russian Federation to immediately, completely and unconditionally withdraw all of its military forces from the entire territory of Ukraine within its internationally recognised borders, as the UN General Assembly demanded, and that Russia stop all hybrid and cyber enabled attacks against Ukraine. Poland stands in solidarity with the people of Ukraine who are victims of this unjustified aggression.

Poland aligns itself with the statement delivered on behalf of the European Union. In our national capacity, I would like to draw your attention to several points. While supporting a number of elements to be covered by the future convention we reserve our right to negotiate the specific language proposed so far.

Referring to the chapter on criminalization, we would like to emphasize that we need to focus on criminalizing crimes that can only be committed using computer systems. Poland fully supports the position of the EU in the context of types of crimes to be included in the proposed convention. The future convention should cover crimes against the confidentiality, integrity and availability of computer systems, networks and data as well as the misuse of such systems, networks and data. We therefore support the inclusion of Articles 6 to 10 of Cluster 1 in the future convention. These offences should be the core of a future convention on cybercrime and we see real benefit in establishing a commonly agreed global approach. In view of the importance of children protection, Poland supports the inclusion in the future convention of Articles 18 and 20 of Cluster 5 - although the specific language needs to be agreed upon.

Poland objects inclusion of Cluster 8 and 9. These offences are not sufficiently computer-related to warrant their inclusion in this convention. Besides, as has already been pointed out many times by many speakers, there will be no consensus on their inclusion.

With regard to the remaining provisions, Poland fully supports the EU position and therefore believes there is no need to include in the convention the definitions of the crimes proposed in Articles 13-16, Article 19, and Articles 21-32. Although we are not in favour of the inclusion of Articles 11, 12, 17 and 33, we are open to a debate in the co-facilitator process.

Furthermore, Poland supports the inclusion of Article 36 on participation and attempt, and Article 39 on prosecution, adjudication and sanctions. In contrast, Poland does not see the added value of the inclusion of Articles 34, 37 and 38. In our view, these provisions are not particularly relevant in the context of the proposed convention.

Poland remains open to learn about various views and positions. In our opinion, with a proper attitude to the negotiation process, it is fully possible to achieve substantial consensual results.

I thank you for your attention.