

STATEMENT OF THE REPUBLIC OF SLOVENIA
at the 4th session of the Ad Hoc Committee to Elaborate a Comprehensive International
Convention on Countering the Use of Information and Communications Technologies for
Criminal Purposes

Item 4 - CRIMINALIZATION

Thank you, Madam Chair.

Slovenia aligns itself with the statement delivered on behalf of the European Union and its Member States. In addition, we would like to share with you some views on the chapter on Criminalization in our national capacity.

Madam Chair,

Slovenia considers it very important for the new Convention to bring clear added value to the field of fighting cybercrime. To ensure the consistency, we do not consider it necessary nor practical to try to cover the different aims a perpetrator may pursue or types of harm that may arise from such acts in the chapter on Criminalization. The Convention should instead focus solely on the essence of all such violations that concern cyberspace and that are serious enough to constitute criminal offences.

Bearing this in mind, Slovenia can support the offences covered in cluster 1. A few elements will nevertheless require further consideration, such as inconsistencies that may arise from listing the different aggravating circumstances in each specific Article as well as the problems that could arise from incriminating the sole possession of devices in Article 10.

Slovenia also supports the inclusion of two of the offences from Cluster 5, namely Articles 18 and 20. Importantly, we are however not able to accept certain elements currently included in the proposal. It is especially important for Slovenia that these provisions only apply to the materials linked to actual child sexual abuse or exploitation. The aim of the provisions in which there is no child victim, such as where persons concerned only appear or are believed to be children, as well as where the materials that include drawings, writings, and audio recordings, is unclear. Furthermore, such provisions could lead to unwanted consequences, including, for instance, censorship of books and films. Finally, we must allow the State Parties to the Convention to keep their established approaches regarding the age of consent.

Madam Chair,

The rest of the offences from Cluster 5 (i.e. Articles 19 and 21) as well as the offences from Clusters 2, 3 and 6 are sufficiently addressed by the previously mentioned provisions in Clusters 1 and 5, and the relevant provisions of Cluster 11.

Furthermore, we find Article 17 in Cluster 4 without an added value. The sole fact that an offence as defined by the national law has been committed online is not a sufficient reason to include a reference to such an offence into the Convention.

Similarly, the offences from clusters 7, 8, 9 and 10 have a very weak link to cyberspace. In addition, trying to harmonize the approaches from different legal systems in these areas during the negotiations would likely grow into a painfully burdensome task.

The expansion of the information and communications technologies has led to an extreme growth in numbers of many of the pre-existing offences, the consequences of which can almost instantly appear anywhere in the world. Yet, this does not change the basic nature of these offences. The answer to problems in investigations and prosecutions that originate from the evolvement of cyberspace is to strengthen the judicial cooperation and mutual trust between the competent authorities of the States of the world, and not the incrimination of different cyber elements of the existing offences.

Thank you, Madam Chair.