

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

Procedural provisions

Thank you Madam Chair,

Slovenia aligns itself with the statement delivered on behalf of the European Union and its Member States. In its national capacity, Slovenia would like to highlight some points in relation to Chapter III that we find particularly important.

As for Article 40, Slovenia believes this article needs to be carefully scrutinized. In particular, the provisions that are new or differ from the corresponding provisions of the existing international agreements deserve special attention in order to, first, determine the elements for jurisdiction which seem to be particular to cyberspace and, second, to appropriately limit rules on jurisdiction to ensure an efficient prosecution as well as compliance with Article 4.

Slovenia emphasizes the importance of a balance between the procedural powers of the law enforcement and judicial authorities aimed at fighting cybercrime and the provisions on safeguards for the individuals affected by the applied measures. In that regard, we find Article 42 to be of utmost importance. In addition, the consistent application of the criminal law principles of proportionality, necessity and legality to the provisions regulating individual procedural measures is of extreme importance as well. Finally, an important element of safeguarding the right balance will be to provide the adequate grounds for refusal in the chapter on international cooperation.

As for the procedural measures in Cluster 2, Slovenia supports the inclusion of Articles 43, 44, 45 and 46 in the Convention. On the other hand, regarding Articles 47 and 48 that provide for more intrusive measures, Slovenia believes that finding before-mentioned balance in respect of these articles would be overly difficult, and is thus not in favor of including them in the Convention.

As for Article 49, Slovenia does not support addressing admissibility of digital evidence in the Convention. Established procedural rules on evidence should apply regardless of the form of evidence, and the courts of the State Parties must be allowed to assess the evidence on a case-by-case basis in accordance with the domestic procedural rules, including with regard to the admissibility of evidence.

Finally, in Cluster 3, Slovenia supports Articles 50 and 53. On the contrary, we do not see added value as regards the rest of the articles in this cluster. Especially difficult in this regard may be finding a suitable compromise on Article 55, considering the detailed language used in the CND and different approaches already established in domestic criminal law systems.

Thank you Madame Chair.