



Oral statement on groups 11-15

Global Partners Digital

***Delivered by Ellie McDonald, Global Advocacy and Engagement Lead
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Chair, distinguished delegates, I am speaking on behalf of Global Partners Digital or GPD. I will focus on Groups 11, 12 and 15 but we also align ourselves with the statements you've already heard from Privacy international, Electronic Frontier Foundation, Derechos Digitales and R3D.

For the future convention to facilitate effective cross-border cooperation in a human rights-respecting manner, it must provide legal clarity, and limit overreach and ensure that cooperation mechanisms are used in compliance with international human rights law.

Yet, as it is presently drafted, this chapter contains critical flaws which undermine its purpose. We recommend three aspects are considered:

First, the future convention should ensure that international cooperation mechanisms are subject to the conditions and safeguards contained in the Convention **as well as** the rights and guarantees provided by domestic law and international human rights law.

We welcome those states calling for the clarification that the conditions and safeguards in Article 24 apply to the entirety of the convention and not only to the procedural measures, while noting **further safeguards** are still required.

Second, the future convention should clarify that the scope of international cooperation is limited to "**specific** investigations, prosecutions and judicial proceedings" concerning the core cybercrimes which it is intended to cover—that is articles 6 to 16 of the convention.

In contrast, the absence of a dual criminality requirement and the inclusion of "serious crimes, including those offences covered by article 17" in Articles 35 and 40 dramatically expands the scope of intrusive powers to an ill-defined and problematic range of offences. We applaud those calling for the retention of the scope limitation to serious offences in Articles 6-16, and for the deletion of references to Article 17.

Third, the future convention should establish more comprehensive grounds for the refusal of cooperation based on human rights concerns.

We noted the EU's request to clarify that the grounds for refusal established by Article 40 apply throughout Articles 41-52, which we welcome. We also signal our support for incorporating grounds for refusal on the basis of discriminatory prosecution or punishment



in 40(c)(ter), which, **if made a cross-cutting provision**, would provide an important guardrail against abuse. Like OHCHR before us, we recommend aligning the language of Articles 40(c)(ter) and 37(15) with non-discrimination grounds under international human rights law to reflect a deeper understanding of the characteristics that could make certain persons or groups vulnerable.

We support the inclusion of grounds of refusal for political offences in Article 40 and encourage **also** incorporating grounds for refusal where a request would likely prejudice, *inter alia*, “the protection of human rights or fundamental freedoms”.

To ensure the future convention can facilitate action to prevent and combat cybercrime in a rights-respecting manner, these aspects should be considered and acted upon.

I thank you for your attention.