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Statement by the Republic of Poland
1st session of the Ad Hoc Committee
to Elaborate a Comprehensive International
Convention on Countering the Use of Information
and Communications Technologies
for Criminal Purposes

Agenda Item 4
Objectives and scope of the Convention

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New York, 2nd March 2022

Madam Chair, Distinguished Delegates,

Like many speakers before, I must express our full solidarity with Ukraine and the Ukrainian people. Poland condemns in the strongest possible way the Russian aggression on Ukraine.

Madam Chair,

Poland supports the position of the EU in the context of provisions to be included in the proposed Convention.

Referring to the objectives of the Convention, we would like to emphasise that human rights safeguards should be reflected in the overall objectives.

Moreover the Convention should take into full consideration existing international instruments and efforts at the national, regional and international levels.

One of the objectives of the convention shall be protection of cybercrime victims. The proposed provisions must take into account the specific situation of cybercrime victims and provide them with an adequate level of protection.

The Convention should focus on combating cybercrime, and should not refer to security and cyber-security issues, internet governance, state behaviour or state responsibility.

With regard to the Convention's scope in particular, it should be emphasized that the proposed regulations must be very precise and contain clear legal definitions of cybercrimes.

We consider that the new instrument should focus on cyber-dependent crimes, that is activities that can only be committed through the use of information systems. The new 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.

The Convention should cover illegal access to computer data or a computer system, illegal interception, illegal data interference, illegal system interference; the manufacturing and making available of instruments used for committing the cybercrimes or computer password or access code.

Furthermore, we propose that the Convention should also apply to narrowly defined cyber-enabled crimes for example computer fraud, *understood as the manipulation of computer data or a computer system, with fraudulent or dishonest intent of procuring, without right, an economic benefit.*

In keeping with what has been assumed, an attempt should be made to avoid extending the scope of the future instrument too far. Therefore, caution should be taken in the possible extension of the scope of the Convention to broadly defined content-related crimes.

It must be absolutely avoided that the future Convention would be used to restrict freedom of speech and the expression of opinions, ideas and beliefs.

The new Convention must be precise, in particular with regards to the catalogue of crimes. However, the definitions of offences should be formulated in technologically neutral language.

Evidence of cybercrime may be stored in foreign, multiple or unknown jurisdictions. Rapid access to data is fundamental to detecting and prosecuting perpetrators and reducing cybercrime. Therefore the Convention should also

include mechanisms for obtaining electronic evidence, while ensuring that such evidence can be collected, preserved, authenticated and used in criminal proceedings.

Moreover, we could consider mechanisms for direct co-operation with service providers and immediate co-operation in emergencies, with due regard for the necessary safeguards as well as personal data protection standards.

Consideration should be given to include provisions for cooperation in removal of specific and narrowly defined illegal content (such as images or recordings of child sexual abuse).

I thank you for your attention.