



AD HOC COMMITTEE TO ELABORATE A COMPREHENSIVE INTERNATIONAL CONVENTION ON COUNTERING THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES FOR CRIMINAL PURPOSES

FOURTH INTERCESSIONAL CONSULTATION WITH MULTI-STAKEHOLDERS, AD HOC COMMITTEE TO ELABORATE A COMPREHENSIVE INTERNATIONAL CONVENTION ON COUNTERING THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES FOR CRIMINAL PURPOSES

13.02.2023

From the European Institute for Multidisciplinary Studies on Human Rights and Sciences - Knowmad Institut, we believe that a balanced and comprehensive approach that respects the right to anonymity – as part of the right to personal data protection – is essential to create safe spaces in cyberspace and prevent the criminal use of information technologies.

The promotion and protection of human rights should be the primary objective when regulating information and communication technologies (ICTs). Access to technology should improve people's quality of life and not infringe on their rights and freedoms. To achieve this, it is crucial that the Single Convention on the Criminal Uses of ICTs guarantees human dignity and ensures the unrestricted use of ICTs for society by implementing clear measures to prevent and combat human rights abuses and violations.

Therefore, it is recommended that the language of the Convention be clarified and simplified, eliminating references that restrict human rights. In addition, it is suggested that a specific clause be included to identify and protect vulnerable or priority groups, such as refugees, displaced persons or migrants.

The Convention should promote the representative and inclusive participation of persons and groups exposed to conflict or persecution of a political nature. In this way, it should consider the digital divide suffered by these persons or groups, as well as the risk of being excluded within the various processes of social integration.

Likewise, an intersectional approach to human rights with a gender perspective implies replacing punitive or authoritarian approaches in the management of new information and communication technologies. This means considering that ethnic and gender factors interact and contribute to making visible and reducing the vulnerability of groups.



Fundamentally, addressing the challenges and risks of ICTs - taking into account effective measures to protect human rights and human dignity - must be based on the imperative of free and responsible use of these technologies. In this sense, open science should also be considered a valuable tool for preventing criminal use, since it fosters transparency and international collaboration without undermining the legitimate universal right to access knowledge through new technologies.

Research and development of ethical and safe technologies must be a priority, as well as access to them, guaranteeing the protection of human rights and the physical, psychological and moral integrity of every person. Clear regulation expressed in effective oversight, together with open science, are essential to ensure the protection of human dignity and the free use of information technologies.

In line with the recommendations presented during the third session of the committee, we reaffirm our concern about the emergence of new crimes and their hybridization in the physical and digital world. To this end, it is important to highlight the role of States as perpetrators of crimes or rights violations in cyberspace. It is necessary to define and regulate the responsibilities and competencies of States, creating an institutional system that guarantees that the collection of data for information and intelligence is carried out in a legal and clear manner, without affecting the population and democracy.

Closely related to the above, outsourced espionage and intelligence services represent a threat to civil society as a whole, as have been the cases of persecution against journalists, activists and scientists, among others, putting democratic freedoms at risk. Therefore, it is of paramount importance that these services be thoroughly regulated and supervised by independent agencies, supported by an institutional framework with the necessary powers, as well as due observation and accountability by the public.

Finally, the Knowmad Institut stresses the importance of a balanced and comprehensive approach that respects the right to anonymity. The construction of a universal instrument should in no way become an intrusive mechanism on the freedom and privacy of individuals. Crime-related issues should be conceived as an exception to this rule. Any measures to prevent and prosecute crime must be based on respect for the presumption of innocence and due process.



Consequently, an instrument of this magnitude should not be conceived as an open letter for the arbitrariness of States and the profit of corporations, but as a tool that fundamentally protects the human rights of all individuals, including the right to privacy and the right to maintain intimacy of conscience even through the use of new technologies.

European Institute for Multidisciplinary Studies on Human Rights and Sciences - Knowmad Institut.

Rev. Martin Ignacio Díaz Velásquez, Lic. David Bruna Ortiz, Prof. Jorge Vicente Paladines, MA. Pedro Salvador Fonseca, Rev. Daniela Kreher, Lic. Jazmín Fallas Kerr.

Referencias:

- Recommendations: THIRD SESSION: INTERNATIONAL COOPERATION, TECHNICAL ASSISTANCE, PREVENTION MEASURES AND THE MECHANISM OF IMPLEMENTATION. (2022, February). UNODC. https://www.unodc.org/documents/Cybercrime/AdHocCommittee/Second_session/Documents/Knowad_E_3rd_session.pdf
- Nations, U. (2022). Convention and Protocol Relating to the Status of Refugees. UNHCR. <https://www.unhcr.org/3b66c2aa10>
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. (2023). OHCHR. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>
- A/HRC/32/L.20. (n.d.). Human Rights Council Thirty-second session, Documents-Dds-Ny.un.org. <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/131/89/PDF/G1613189.pdf?OpenElement>
- INTER-AMERICAN CONVENTION ON THE PREVENTION, PUNISHMENT AND ERADICATION OF VIOLENCE AGAINST WOMEN “CONVENTION OF BELEM DO PARA.” (2023). Oas.org. <https://www.oas.org/juridico/english/treaties/a-61.html>
- Weber, R. (2009). Internet of things–Need for a new legal environment? Computer law & security review, 25(6), 522-527