

Contribution from the Kingdom of Norway

Preparation for the second session of the United Nations Ad Hoc Committee to elaborate a Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes, taking place from 30 May to 10 June 2022 in Vienna

The Government of the Kingdom of Norway is pleased to respond to the invitation to the Member States to submit draft texts and contributions on the specific chapters and provisions to be examined during the second session of the Ad Hoc Committee, namely on criminalization, general provisions and procedural measures and law enforcement. Below you will find our general comments on the chapters under discussion.

General comments

Initially we would like to reiterate the importance of the main outcome of the negotiation process being a Convention that will be a practical and effective instrument enabling criminal law enforcement and judicial authorities in the global fight against cybercrime.

General provisions

1. The convention should include strong provisions on the protection of human rights and fundamental freedoms, including the right to privacy and the protection of personal data. We must guarantee full compatibility of a future UN Cybercrime Convention with international legal obligations in this area.
2. In order to be effective, this instrument should provide the necessary safeguards, including proportionality, legality and necessity of law enforcement action.
3. The purpose should focus on international cooperation to prevent and combat cybercrime.

Criminalization

4. We would suggest that the convention criminalizes offences that are cyber-dependent. Even though cybercrime develops every day, national and international agencies have managed to identify central reoccurring types of conduct. These offences are already criminalized in many Member States today. In that regard, the Government of the Kingdom of Norway would like to recommend at least the following cyber-dependent offences to be considered:
 - Illegal access, i.e. accessing a computer or computer system without authorization,
 - Illegal interception, i.e. real-time unlawful interception of the content of communications or traffic data related to communications,
 - Data or system interference, i.e. malware, denial of service attacks, ransomware, data deletion or modification,
 - Misuse of devices, i.e. trafficking or using credit data, passwords and personal information which permit access to resources
5. We would like to keep the list short.
6. The convention should also avoid duplicating offences that are addressed in other legal instruments.
7. The text should be technology neutral.
8. In addition to the short list of cyber-dependent crimes, the convention should include provisions on offences related to child sexual abuse materials.

Procedural measures and law enforcement

9. The Ad hoc committee should draw on experiences from existing treaties, such as the UN Convention against Transnational Organized Crime (UNTOC) and the UN Convention against Corruption (UNCAC). At the same time, bearing in mind that the new convention will deal with the challenges of modern cybercrime, it should require the Member States to include domestic provisions specifically aimed at electronic evidence. Furthermore, the Ad hoc committee should be mindful that

time and efficiency is of essence when investigating or prosecuting cybercrime. The convention should allow cooperation to collect and obtain electronic evidence for any type of crime, not only cybercrime.

10. To avoid unnecessary duplication of efforts, it should make good use of and strengthen existing and well-functioning channels of communication and networks.
11. The key role of the private sector must be addressed.
12. Assistance to and protection of victims as well as protection of witnesses should be addressed.
13. The provisions on procedural measures must be consistent with due process and the protection of human rights and fundamental freedoms.

Human rights

14. The work of combating cybercrime should be consistent with States' human rights obligations set forth in the Universal Declaration of Human Rights (UDHR), The International Covenant on Civil and Political Rights (ICCPR), and other international human rights instruments and standards.