

In the name of God, the Most Compassionate, the Most Merciful

**Comments and proposals of the Islamic Republic of Iran on the provisions of
the convention on countering the use of ICT
for criminal purposes regarding international cooperation, technical
assistance, preventive measures and the preamble**

The Islamic Republic of Iran, considering that provisions of the convention, *inter alia*, on international cooperation, technical assistance, preventive measures and the preamble will be addressed during the third session of the Ad hoc Committee to be held from 29 August to 9 September 2022 in New York, would like to submit and reaffirm its comments and proposals regarding the said provisions. The Islamic Republic of Iran will provide its views, comments and proposals on final provisions and mechanism for implementation of the convention as well as its further comments on the following provisions, at later stages.

The present submission does not prejudice contributions of the Islamic Republic of Iran on the abovementioned sections and any other section of the convention in future. The Islamic Republic of Iran, as it may deem appropriate, may provide concrete proposals or general comments, positions and observations on and in relation to the abovementioned provisions in the course of elaboration of the convention including during the substantive sessions of the Ad hoc Committee.

1. International cooperation

- International cooperation which also constitutes one of the main objectives of the Convention should be addressed through an approach that takes into account the specificities of the use of ICT for criminal purposes and challenges in combating such crimes while striving to keep pace with the evolving *modi operandi* of criminals. In the volatile and exponentially diversifying landscape of the information and communications technologies, expeditious international cooperation remains a vital element for effectively fighting these crimes. To this end, the convention should stipulate provisions on reliable assistance and cooperation among states parties that could ensure timely responses to crimes committed via ICT.

- Along the same lines, a tailored and effective fight against the use of ICT for criminal purposes necessitates a secure, time-sensitive and rapid-response international network and channel for expeditious cooperation. Such 24/7 platform could, among others, be utilized for operational cooperation among law enforcement, preservation of data, exchanging digital evidence, data seizure and prompt assistance in investigation. This channel should be open and available to all States without discrimination and could benefit from advanced technological means to ensure its secure, smooth and uninterrupted operation. Where necessary, technical standards such as formats for log reports and files, standard technical measures for preservation of evidence and other essential technical items could be set for ensuring effective cooperation including police-to-police cooperation in sharing evidence and responding to crimes in due time.
- Given the fact that offenders increasingly misuse services of private entities inducing service providers such as social media networking platforms for malicious purposes, cooperation of such entities with law enforcement and their due diligence in this area, in particular, the entities with global or substantial outreach and activity at the international level, is crucial for depriving criminals of freedom of operation and bringing offenders to justice. In this respect, the convention should set out regulations and obligations on effective cooperation of these entities with law enforcement, *inter alia*, on preservation and provision of evidence, expeditious response to law enforcement requests, facilitation of and supporting measures taken by law enforcement in fighting the crimes, immediate assistance and cooperation for reducing misuse of their services by criminals.
- The convention should also encourage international cooperation on exchanging good practices, lessons learned, expertise, knowledge and experience as well as information concerning relevant new crime trends, *modi operandi* of criminals and latest methods and operational measures in countering the use of ICT for criminal purposes including in conducting digital forensics. Such cooperation could enhance a coordinated response to criminals built upon shared understanding of criminal phenomena and optimized ways and means of fighting back against the crimes.
- Considering the fundamental role of asset recovery in dissuading criminals and denying them of illicit profits, the convention should lay down provisions as regard effective cooperation in asset recovery, in particular, for returning proceeds of crimes and assets. Such provisions should address the existing challenges that Member States, in particular, developing countries face in this area through, *inter alia*, adopting concrete measures for ensuring efficient

cooperation among states in asset recovery and removing impediments and barrier on applying measures of asset recovery.

- For giving effect to the objective of convention and realize the obligations assumed by states in promoting international cooperation, the convention should ensure that states desist and refrain from promulgating and applying Unilateral Coercive Measures, which have detrimental effects on international cooperation and in violation of the fundamental principles of international law and the purposes and principles set forth in the Charter of the United Nations, hinder cooperation in fighting the use of ICT for criminal purposes including in the field of transfer of technology, asset recovery and in supporting national efforts, allocation of resources and access to means and tools for combating these crimes.

2. Technical assistance

- An effective and global fight against the use of ICT for criminal purposes necessitates cooperation and widest measures of assistance among states for the purpose of enhancing the abilities and capabilities of states including through technology-driven responses to such crimes. Therefore, promoting, facilitating and providing reliable technical assistance and capacity building, in particular, to the benefit of developing countries should be an integral part of the Convention. Such assistance should be provided upon request and be based on the needs and priorities of requesting states. The technical assistance, which includes material support and transfer of technology, and contributions provided through international organizations for this purpose, especially the United Nations mechanism, should be politically neutral to ensure that measures in this area are efficient and effective in fighting the use of ICT for criminal purposes.
- Noting that the crimes in question are highly dependent on technology either as a means or target, the convention should also promote the use of modern technology by law enforcement in combating these crimes to make sure that efforts in this endeavor are commensurate with the sophistication and complexities of tools, materials and instrumentalities used for commission of the crimes.
- Given the root causes of crime that emanate from underdevelopment and the inextricable nexus between development and fighting crimes, the role of economic development and economic factors in fighting crimes should be fully taken into account in the convention and throughout its implementation.

In this regard, for implementation of the convention and enhancing effective fight against the use of ICT for criminal purposes, the convention should set out obligations on, *inter alia*, measures for promoting sustainable economic development, enhancing financial and material assistance to support the efforts of developing countries to prevent and fight such crimes, strengthening international cooperation and other measures conducive to the implementation of the convention through economic development.

- In similar vein, a shared future in cyberspace and equal access of all states to information and communications technologies as well as providing optimal and favorable environment for developing countries to use information and communication technologies for development are also key factors that enable the optimal implementation of the convention. In this context, the challenges and barriers that hinder development of Member States, in particular, the Unilateral Coercive Measures should be addressed with a view to assisting developing countries affected by such internationally wrongful acts in achieving the objectives of this Convention.

3. Preventive measures

- Preventing crimes could enhance safety of societies through a cost-effective approach. Adopting such measures could, among others, be pursued through strengthening cooperation between law enforcement and relevant private entities such as service providers. To this end, the convention should highlight the responsibility of service providers in this area and envisage regulations that would require such entities to adopt appropriate measures in accordance with the convention for preventing and reducing opportunities for perpetration of crimes.
- Nevertheless, prevention of crimes could not be fulfilled only by adopting measures that are preventive in nature, rather, effective international cooperation in fighting the use of ICT for criminal purposes, meaningful cooperation of service providers with law enforcement and socioeconomic development are highly conducive to prevention of crimes. Such factors contribute to increasing chances of apprehension of criminals and to reducing risks of perpetration and repetition of crimes. This would further ensure that crime does not pay and criminals cannot escape justice which in turn dissuade criminals and prevent commission of crimes. Sharing lessons learned in preventing the use of ICT for criminal purposes as well as raising awareness

on the methods and schemes used by criminals, could also help prevent individuals from falling victims to crimes.

4. Preamble

- The formulation and elements of the preamble could be better addressed in the light of the overall content of the convention, however, at this stage, the preamble could highlight the challenges Member States, in particular, developing countries face in fighting the use of ICT for criminal purposes, the importance of international cooperation, sustainable development and technical assistance, conformity of measures in fighting the use of ICT for criminal purposes with the fundamental principles of international law and principles set forth within the Charter of the United Nations and primary role of States in fighting these crimes.
