CONTRIBUTION FOR A UNITED NATIONS CONVENTION ON COUNTERING THE USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES FOR CRIMINAL PURPOSES

Third session of the Ad Hoc Committee
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Acknowledgments

On behalf of Privanova’s team, we would like to express our gratitude for the opportunity to submit our written contribution to the Third Session of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communication Technologies for Criminal Purposes, to be held from 29 August to 9 September 2022 in New York.

We would like to thank the Committee Chair and the Secretariat for the organisation of the intersessional consultations with multi-stakeholders.

We would also like to express our appreciation for the support and ideas provided to us during the preparation of this contribution by the coordinators and consortium partners of Privanova’s cybercrime-related EU-funded research projects including: CC-DRIVER [Grant ID 883543], TRACE [Grant ID 101022004], CYBERSPACE [Grant ID 101038738], MARVEL [Grant ID 957337] and CYRENE [Grant ID 952690].
Introduction

Privanova is an innovative R&D consultancy operating at the interface between privacy, technology and policy. Our activities focus on the analysis of legal, ethical and technological issues, often from the law enforcement perspective. As former UN, INTERPOL and EU professionals taking part in large-scale interdisciplinary research projects, we provide a unique perspective on the legal, technological, ethical and policy-related cybercrime issues.

This document represents a continuation of our work and presentation made at the First intersessional consultation of the Ad Hoc Committee in Vienna on 24 and 25 March 2022. It aims to address the main topics of the third session of the Ad Hoc Committee, namely international collaboration, technical assistance, measures for cybercrime prevention as well as the implementation-related issues.
Recommendations

Building on top of already existing mechanisms

With regard to the drafting of the Chapter 4. International cooperation, Chapter 5. Technical assistance, including exchange of experience and Chapter 6. Preventive measures, the Ad Hoc Committee should take into consideration already existing international organisations and instruments for international cooperation and mutual assistance.

Entities such as the International Criminal Police Organization (INTERPOL) and the European Union Agency for Law Enforcement Cooperation (EUROPOL) to name just a few, play an important role in investigating and prosecuting cybercrime and provide an effective platform for international cooperation between and among national law enforcement agencies, often supported by an appropriate international legal frameworks.

Such an approach would also reduce the risk of establishing conflicting rules that would complicate international criminal cooperation.

Protection of human rights

The convention should introduce appropriate statements concerning the necessity to strike a reasonable balance between the interests of law enforcement on one and the respect for fundamental human rights on another side.

Most importantly, the protection of human rights should inspire in particular the Chapter 4. on International cooperation. Appropriate legal safeguards must be introduced to ensure the protection of fundamental rights and freedoms guaranteed in the Universal Declaration of Human Rights and other international sources.

Privacy, data protection, freedom of expression and other human rights must be protected while preventing discrimination on the basis of race, religion, nationality, ethnic origin or political opinion etc.
Technical assistance and capacity building

When focusing on technical assistance, including the issues around the collection of electronic evidence, the Convention should take into consideration the results of large-scale, international research and development initiatives involving LEAs, Academia, Industry representatives, SMEs, Standardisation Organisations, NGOs and Policy Makers. Such an approach would be beneficial to ensure the compliance of such assistance with international laws, especially those concerning the protection of privacy and personal data.

Examples of such successful collaborative work include outcomes of various EU-funded projects. Ongoing initiatives relying on the multi-stakeholder approach with a strong representation of the international law enforcement community ensure a much more balanced approach toward capacity building on one and compliance with relevant legal rules on the other side.

In this context, we believe that the framework for the assistance of a technical nature should be at least partially inspired by the outcomes of relevant ongoing innovative projects including CC-DRIVER [Grant ID 883543]¹, TRACE [Grant ID 101022004]², CYBERSPACE [Grant ID 101038738]³, MARVEL [Grant ID 957337]⁴ and CYRENE [Grant ID 952690]⁵.

Besides outputting cutting-edge results in the area of international law enforcement cooperation, information exchange and training as well as delivering innovative technological solutions addressing law enforcement's operational needs, these research activities are accompanied by strict ethics and legal review ensuring their compliance with principles of legality, necessity and proportionality.

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¹ Understanding the drivers of cybercriminality, and new methods to prevent, investigate and mitigate cybercriminal behaviour
   - https://cordis.europa.eu/project/id/883543

² Identifying, analysing and solving Illicit Money Flows
   - https://cordis.europa.eu/project/id/101022004

³ Enhancing cybersecurity, improving cooperation and the reporting of cyberattacks in the EU
   - https://cordis.europa.eu/project/id/101022004

⁴ Multimodal Extreme Scale Data Analytics for Smart Cities Environments
   - https://cordis.europa.eu/project/id/957337

⁵ Certifying the Security and Resilience of Supply Chain Services
   - https://cordis.europa.eu/project/id/952690