

STAKEHOLDERS IN COMPARISON ON CYBERSPACE, CYBERCRIME AND CYBERSECURITY

On the 24th and 25th of March 2022, Centro Pio La Torre attended the first Intersessional Consultation of the Ad Hoc Committee, dedicated to multi-stakeholders, to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies (ICT) for Criminal Purposes.

The meetings had been called by the Chair of the Ad Hoc Committee, H.E. Ms. Faouzia Boumaiza Mebarki, in accordance with General Assembly resolution 75/282.

Thanks to these reunions, multi-stakeholders – representatives from NGOs, global and regional intergovernmental organizations, and civil society – had the possibility to provide to the Chair and Member States new ideas to take into account for the elaboration of the new Convention.

As agreed previously on the agenda, the Intersessional Consultation dealt with three specific items: criminalization, general provisions, procedural measures and law enforcement.

Many themes arose in the discussion on criminalization, especially by Article 19, Access Now and Foundation for International Blockchain and Real Estate Expertise (Fibree Foundation), the three panelists that explained their panels before the Ad Hoc Committee.

More specifically, the attention was focused on the crucial role played by stakeholders for the realization of this Convention, precisely because their expert competences may provide to Member States new perspectives and important elements to include within the Convention.

Cybercrime is an independent crime, and for this reason, it is necessary to provide a detailed and precise discipline on this phenomenon and its manifestations in cyber-dependent and cyber-enabled. One of its main characteristics is the speed by which it evolves, together with technological developments, so, it is necessary to include innovative definitions, able to cover a long-time frame.

As already proposed during the First Session of the Ad Hoc Committee, these stakeholders were concentrated on fundamental rights and freedoms, especially stating how much noteworthy is the impact of cybercrime on individuals.

In the light of what discussed herein among Non-Governmental Organizations, Member States and Civil Society, a particularly progressive aspect analyzed was about the balance between the defense from cybercrime and the necessity of a protection related to fundamental rights and freedoms, in the detail the freedom of expression: despite the imminent collective need to protect/be protected by/from cybercrime, it could arise the risk to limit a person's freedom of express his/hers own opinion legitimately, originating a counter-productive effect.

References to UNTOC, UNCAC and Budapest Convention are necessary to maintain the same thread, so avoiding to repeat same disciplines, already protected by these Conventions.

About criminalization, Centro Pio La Torre presented a contribution to the Secretariat of the Ad Hoc Committee, in which the center proposed the inclusion within the convention of a specific section dedicated to human rights and cyber-organized crime.

The discussion on general provisions of the Convention had as panelists University For Peace and International Conference For Cyberlaw, Cybercrime and Cybersecurity, which suggested to create an harmonized system of rules and institutions to counter and combat cybercrime.

Moreover, the importance to attribute value to jurisprudential opinions was also stated.

Among different propositions, the criminalization for aiding and abetting people to commit cybercrime was particularly highlighted: cybercrime is perpetrated by many authors generally, and for this reason it is necessary a regulation on aiding/abetting and also on cyber-organized crime.

An idea strongly appreciated by Member States was about the question on the ambiguity of terms: the importance of a technical terminology on cybercrime and ICTs had been affirmed also during the First Session of the Ad Hoc Committee; not by chance, either in this occasion, the subject was re-proposed, underlining the importance to remove possible ambiguities of words, which may cause difficulties for the interpretation. So, it is necessary to spread knowledge related to cybercrime regulations: despite the increasing of this crime is known worldwide, many people do not know

really how cybercrime acts. Stakeholders proposed the circulation of information about it, informing directly people on the effects, and trying to avoid a huge problem: becoming criminal without even knowing it.

The last subject treated was about procedural measures and law enforcement, with INTERPOL, Privanova SAS, Microsoft and eLiberare Association as panelists.

During the discussion, it was underlined the fundamental role of INTERPOL, on the law enforcement phase, especially because judicial police is the body which handles with the effects and consequences of crime. Indeed, one of the most well-liked proposal was on the application and implementation of coordinated operations among Member States, so improving cybersecurity, together with the help of corporations.

The presence of a colossal like Microsoft was particularly encouraging: even the most important corporations make efforts for a common cause, giving the instruments and means to counter and combat cybercrime.

The best solution remains international collaboration and cooperation among States: sharing experiences and electronic evidence, Member States may carry out incisive measures into cyberspace, without evading other states' sovereignty.

From these interactive dialogues among Member States and stakeholders arose stimulating ideas and suggestions, to include in the process of elaboration of the new Convention, which objective is to become a guidance for preventing and combatting cybercrime.

The next appointment will be in Vienna for the Second Session of the Ad Hoc Committee, from the 30th of March to the 10th of June 2022.