

## **Eticas Foundation's Oral Intervention**

**Delivered by Tanja Fachthaler on behalf of Eticas Foundation  
Concluding Session – 29 January to 9 February 2024**

Madam Chair,  
Excellencies,  
Honourable Delegates,

Representing Eticas Foundation, we appreciate the opportunity to intervene in the Plenary today. Throughout this first week civil society has been closely following the negotiations and has used opportunities to engage with delegates at various occasions.

Still, and despite our exchanges, I would like to once again highlight our particular concerns about the latest draft of the Convention:

- **Narrow the scope** of the whole Convention **to cyber-dependent crimes** specifically defined and included in its text. Any broader application gives rise to the danger that the Convention will be used to criminalise legitimate online expression, which is likely to create discriminatory impacts and deepen gender inequality;
- **Include language or specific provisions against excessive criminalisation** to ensure that security researchers, whistleblowers, journalists, and human rights defenders are not prosecuted for their legitimate activities and that other public interest activities are protected;
- **Strengthen data protection and international human rights standards** throughout the entire Convention. This means removing reference to domestic standards and including the principles of non-discrimination, legality, legitimate purpose, necessity, and proportionality, as well as introducing explicit references to safeguards such as prior judicial authorisation for accessing or sharing data, as well as for conducting cross-border investigations and cooperation in accordance with the rule of law; a right to notification as soon as investigations allow and a right to an effective remedy. The two are connected and one makes no sense without the other.
- **Mainstream gender** across the Convention so as to ensure the Convention is not used to undermine people's human rights on the basis of gender;

- **Limit the scope of application of procedural measures and international cooperation to the cyber-dependent crimes** established in the criminalisation chapter of the Convention in order not to undermine trust in secure communications and infringe on international human rights standards.
- **Avoid endorsing any surveillance provision that can be abused to undermine cybersecurity and encryption** so as not to allow for excessive information sharing for law enforcement cooperation beyond the scope of specific criminal investigations.

Madam Chair, the final outcome of the treaty negotiation process should only be deemed acceptable if it **effectively incorporates strong and meaningful safeguards to protect human rights, ensures legal clarity for fairness and due process, and fosters international cooperation under the rule of law.**

I thank you very much.