

Eticas Foundation's Oral Intervention on Groups 1-5 of the Zero Draft

**Delivered By Tanja Fachathaler on behalf of Eticas Foundation
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Madam Chair,
Excellencies,
Honourable Delegates,

Representing Eticas Foundation, we appreciate the effort of you, Madam Chair, and your team as well as of the Secretariat in drafting of the present Zero Draft.

We would also like to thank you for ensuring that the elaboration of a Cybercrime Convention is and has been an all-inclusive process which includes civil society. And we very much appreciate the opportunity to intervene here in the Plenary today.

We are pleased to see that several very contentious provisions from the CND did make it into the Zero Draft. However, we also echo previous speakers and regret that several provisions of paramount importance have not made it into the text, or least not in their entirety or to the extent necessary in order to ensure a smooth and secure functioning of the future Convention.

In particular, we are very concerned that **Article 5, the General Provision on Human Rights**, has been narrowed down significantly. As in previous sessions, we urge you to rather strengthen this key provision.

- This includes inserting an explicit reference to the main internationally recognised documents setting out human rights obligations, such as the UN Declaration on HR, and in particular the International Covenant on Civil and Political Rights.
- We further recommend that any qualifier, such as the reference to „their obligations“ be removed.

Equally, **Article 24 on conditions and safeguards** in its current form is not sufficiently far-reaching to ensure human rights are fully guaranteed.

- To that end, we urge to reintroduce the reference to the principles of necessity and legality, as at the moment only the principle of proportionality made it into the text. However, these three principles are well established and go hand in hand.
- We equally recommend reintroducing an explicit reference to the rule of law, privacy and protection of data as were mentioned in the CND.
- We further recommend deleting the qualifying phrase „its obligations under international human rights law“.
- Finally, more explicit conditions and safeguards need to be established in order to provide meaningful protection against potential misuse, such as:
 - a right to an effective remedy,
 - the prompt, thorough and impartial investigation of alleged violations,
 - as well as a requirement that any investigative powers listed in this Convention must be conducted in ways not to compromise the security of digital communications.

Abiding by internationally recognised human rights standards and implementing sufficient safeguards is key to the smooth and successful functioning of the future Convention. They are by no means obstacles or burdens. Considering human rights standards this way leads to a very slippery slope that I am certain we all would like to avoid.

Madam Chair, there is a lot more to say on the provisions of the remaining groups. Due to time constraints, however, I will finish here and would like to refer to the interventions of other civil rights organisations before me and yet to speak.

We hope to continue the discussion on these issues and remain available for further input on the individual provisions during the negotiations.

Thank you.