



**Access Now's statement to the fifth session of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communication Technologies for Criminal Purposes**

**Discussion on Item 5: Technical Assistance**

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Thank you chair for this opportunity to speak. We had hoped to take the floor yesterday on the agenda item on international cooperation, but we were unable to do so since the list was cut short. We are glad to speak to you today on the important issue of technical assistance, and its connection to the wider issues and purpose of this proposed treaty.

As an organization engaged in digital security and digital rights capacity building internationally, working in coordination with many of our civil society and technical colleagues, Access Now is very aware of the need to enhance international efforts on technical assistance relating to cybercrime related matters

We welcome the comprehensive areas for training and technical assistance suggested in the proposed Article 87. We agree with the concerns raised by many delegations that this list is best suited as being illustrative, although the *chapeau* language is crucial in order to provide clear direction to states.

We welcome the inclusion of a dedicated clause on human rights, including the protection of privacy and personal data and respect for due process, in the form of proposed Article 87(2)(m). We note that the current language limits this to "while preventing and combating offenses covered by this convention". Separately, we have stated previously that we believe procedural measures and international cooperation under this treaty should only be limited to those offenses specifically criminalized by it. We are aware that several states have of course asked that procedural measures and international cooperation be wider, subject to potential safeguards. The drafting of Article 82(2)(m) is therefore insufficient as currently drafted, and needs improvement.

We also agree with the concerns expressed by many delegations that the guidance on technical assistance regarding human rights should apply as an underlying approach to all technical assistance. Human rights requires mainstreaming, not being locked away in one limited silo. We therefore support calls for human rights to be included earlier in this article, in its *chapeau*, as well as an explicit illustrative area in a sub-clause. That will allow for the broader human rights anchored approach to all forms of assistance as well as deeper technical assistance on human rights that we both require and which international stakeholders stand ready to provide.

On that same basis, we believe that we should not promote forms of technical assistance which can harm human rights or which are related to proposals in previously discussed chapters which have received significant concern and escape consensus. On that basis, we believe that Article 87(2) should not include illustrative areas such as special investigative techniques at this point of time, nor should it encourage the sharing of training or technical equipment on electronic surveillance - as proposed by Articles 87(2)(g) and new text proposed by some delegates earlier in this session. We should not promote, directly or indirectly, the excesses of the global spyware "hack-for-hire" industry that we are now all too familiar with. We also wish to note here that the current treaty text does not use or define the term "electronic surveillance" - currently used in Article 87(2)(g) - in any other chapter or clause.

We welcome the recognition from this discussion that in addition to the hard work done by the UNODC, there are many existing and upcoming international initiatives and actors engaged in capacity building in this space, across intergovernmental agencies, state to state assistance, civil society, and the technical community. We hope that appropriate changes are made to this chapter.

On that basis, we wish to reiterate: this international convention to address cybercrime, should not result in making the world more cyber insecure. In closing, we draw the attention of this committee to the much needed technical assistance provided to vulnerable groups and others in need everyday by civil society organizations and others engaged in digital security training. The retention of overboard, unclear language around criminalisation and the inclusion of intrusive procedural measures or intrusive intrusive international cooperation mechanisms will have that exact effect. It would result in the criminalisation of digital security training and the chilling of security research that ironically are a crucial need for increased international efforts on technical assistance and cyber capacity building more broadly. Digital security training and information security community human expertise is crucial for technical assistance and enhanced global cybersecurity. Let us promote an ecosystem that makes that possible, rather than undermine it.

Thank you, chair.

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