

31 December 2018

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**Expert Group to Conduct a
Comprehensive Study on Cybercrime**

Vienna, 27–29 March 2019

Annotated provisional agenda**Provisional agenda**

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda.
2. Law enforcement and investigations.
3. Electronic evidence and criminal justice.
4. Other matters.
5. Adoption of the report.

Annotations**1. Organizational matters****(a) Opening of the meeting**

The fifth meeting of the Expert Group to Conduct a Comprehensive Study on Cybercrime will be opened on Wednesday, 27 March 2019, at 10 a.m.

(b) Adoption of the agenda and organization of work

In its resolution [65/230](#), the General Assembly endorsed the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World,¹ and requested the Commission on Crime Prevention and Criminal Justice to establish, in line with paragraph 42 of the Salvador Declaration, an open-ended intergovernmental expert group, to conduct a comprehensive study of the problem of cybercrime and responses to it by Member States, the international community and the private sector, including the exchange of information on national legislation, best practices, technical assistance and international cooperation, with a view to examining options to strengthen existing and to propose new national and international legal or other responses to cybercrime.

¹ General Assembly resolution [65/230](#), annex.



The first meeting of the Expert Group was held in Vienna from 17 to 21 January 2011. At that meeting, the Expert Group reviewed and adopted a collection of topics and a methodology for the study ([E/CN.15/2011/19](#), annexes I and II).

The second meeting of the Expert Group was held from 25 to 28 February 2013. At that meeting, the Expert Group took note of the draft comprehensive study of the problem of cybercrime and responses to it by Member States, the international community and the private sector, as prepared by the United Nations Office on Drugs and Crime (UNODC) with the guidance of the Expert Group, pursuant to the mandate contained in General Assembly resolution [65/230](#), and the collection of topics for consideration within a comprehensive study of the impact of and response to cybercrime and the methodology for that study, as adopted at the first meeting of the Expert Group. The report on the second meeting is contained in document [UNODC/CCPCJ/EG.4/2013/3](#).

In its resolution 22/7, the Commission on Crime Prevention and Criminal Justice took note of the draft comprehensive study on cybercrime prepared by UNODC under the auspices of the Expert Group and the discussion on its content at the second meeting of the Expert Group, at which diverse views had been expressed regarding the content, findings and options presented in the study, and requested the Expert Group, with the assistance of the Secretariat, as appropriate, to continue its work towards fulfilling its mandate.

Pursuant to Commission resolution 22/7, in 2015 and 2016 the Secretariat commissioned the translation of the draft comprehensive study on cybercrime into all six official languages of the United Nations² and disseminated it to Member States for their comments. The comments were reproduced as received on the website of UNODC.³

In the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, adopted by the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice and endorsed by the General Assembly in its resolution [70/174](#), Member States noted the activities of the Expert Group, the international community and the private sector, and invited the Commission to consider recommending that the Expert Group continue, based on its work, to exchange information on national legislation, best practices, technical assistance and international cooperation, with a view to examining options to strengthen existing responses and to propose new national and international legal or other responses to cybercrime.

The third meeting of the Expert Group was held from 10 to 13 April 2017. At that meeting, the Expert Group considered, inter alia, the adoption of the summaries by the Rapporteur of deliberations at the first and second meetings of the Expert Group, the draft comprehensive study of the problem of cybercrime and comments thereto, and the way forward on the draft study, and exchanged information on national legislation, best practices, technical assistance and international cooperation. The report on the third meeting is contained in document [UNODC/CCPCJ/EG.4/2017/4](#).

In its resolution 26/4, adopted at its twenty-sixth session in May 2017, the Commission on Crime Prevention and Criminal Justice requested the Expert Group to continue its work and, in so doing, to hold periodic meetings and function as the platform for further discussion on substantive issues concerning cybercrime, keeping pace with its evolving trends, and in line with the Salvador Declaration and the Doha Declaration, and requested the Expert Group to continue to exchange information on national legislation, best practices, technical assistance and international cooperation,

² Available at www.unodc.org/unodc/en/cybercrime/egm-on-cybercrime.html.

³ Available at www.unodc.org/unodc/en/organized-crime/comments-to-the-comprehensive-study-on-cybercrime.html.

with a view to examining options to strengthen existing responses and propose new national and international legal or other responses to cybercrime.

In the same resolution, the Commission decided that the Expert Group would dedicate its future meetings to examining, in a structured manner, each of the main issues dealt with in chapters three through eight of the study (as listed below), without prejudice to other issues included in the mandate of the Expert Group, taking into account, as appropriate, contributions received pursuant to Commission resolution 22/7 and the deliberations of the previous meetings of the Expert Group:

Chapter 3 Legislation and frameworks

Chapter 4 Criminalization

Chapter 5 Law enforcement and investigations

Chapter 6 Electronic evidence and criminal justice

Chapter 7 International cooperation (including sovereignty, jurisdiction and international cooperation, formal international cooperation, informal international cooperation, and extraterritorial evidence)

Chapter 8 Prevention

The fourth meeting of the Expert Group was held from 3 to 5 April 2018. At that meeting, the Expert Group focused on legislation and frameworks and criminalization related to cybercrime. The legislative and policy developments to address cybercrime at the national and international levels were discussed. Different views were expressed in relation to whether a new universal or global legal instrument on cybercrime was needed within the framework of the United Nations. The Expert Group also discussed how cybersecurity and cybercrime were related and what the differences were between them. Moreover, the Expert Group discussed ways in which cybercrime was criminalized at the national level. Also at its fourth meeting, the Expert Group adopted the Chair's proposal for the workplan of the Expert Group for the period 2018–2021 (UNODC/CCPCJ/EG.4/2018/CRP.1). The report on the fourth meeting is contained in document [E/CN.15/2018/12](#).

The dates for the fifth meeting of the Expert Group were decided by the extended Bureau at its meeting on 2 November 2018. The provisional agenda for the fifth meeting was agreed upon by the extended Bureau at the same meeting.

In accordance with the workplan for the period 2018–2021 proposed by the Chair, the Secretariat, before the fifth meeting, invited Member States to provide, in writing, comments, good practices, new information, national efforts and recommendations pertaining to agenda items 2 and 3 for compilation and dissemination, as received, on the pages of the UNODC website dedicated to the Expert Group. In the same context, the Secretariat also invited observers to provide relevant information.

The proposed organization of work for the fifth meeting (see annex) was prepared in accordance with the financial statement on Commission resolution 26/4 (E/CN.15/2017/CRP.5, annex VII) in order to enable the Expert Group to perform its mandated functions within the time and according to the conference services available to it. The resources available will permit the holding of six plenary meetings over the course of three days, with interpretation in the six official languages of the United Nations.

Documentation

Conference room paper containing the Chair's proposal for the workplan for the period 2018–2021 of the Expert Group to Conduct a Comprehensive Study on Cybercrime, based on Commission resolution 26/4 (UNODC/CCPCJ/EG.4/2018/CRP.1)

2. Law enforcement and investigations

Under agenda item 2, the Expert Group may wish to discuss issues concerning law enforcement and investigations related to cybercrime.

At the second meeting of the Expert Group, experts agreed that the conflict between investigative needs for fast access to data and delays resulting from efforts to meet rule-of-law and human rights “due process” requirements remained a serious concern. It was noted that when such problems arose in connection with domestic investigations, they could be addressed with expedited powers and safeguards under national law. However, the same problems became much more serious in transnational cases ([UNODC/CCPCJ/EG.4/2017/3](#), para. 19).

At the third meeting of the Expert Group, many speakers shared information on their national policies and strategies for preventing and countering cybercrime. In many countries, those policies and strategies included, inter alia, the creation of specialized cybercrime units within law enforcement agencies and the judiciary, enhancing the use of digital forensics and the use of electronic evidence in investigations, prosecutions and adjudications, and a multi-stakeholder approach that included the private sector, civil society and academia. In addition, the importance of having good public-private partnerships was emphasized, in particular with regard to detecting and reporting crimes, providing information on the location of suspects and victims, and providing other data as necessary. Many speakers also provided examples of past or recent cases of cybercrime investigations, including cross-border investigations and the practical use of cybercrime legislation ([UNODC/CCPCJ/EG.4/2017/4](#), para. 36).

The Expert Group may wish to further discuss and exchange information on national trends, challenges and best practices regarding law enforcement and investigations related to cybercrime.

Documentation

No documentation is currently foreseen under agenda item 2.

3. Electronic evidence and criminal justice

Under agenda item 3, the Expert Group may wish to discuss issues pertaining to electronic evidence and criminal justice.

At the second meeting of the Expert Group, several experts mentioned the need for standard-setting and technical assistance with respect to the collection, preservation and use of electronic evidence. They noted that both prosecutions in domestic scenarios and those carried out as a result of transnational investigations could fail if electronic evidence was not collected properly and copied and stored in ways that would meet domestic and foreign forensic standards and evidentiary requirements ([UNODC/CCPCJ/EG.4/2017/3](#), para. 40).

At the third meeting of the Expert Group, there was broad support for efforts to enhance the capabilities of national authorities to deal effectively with challenges posed by cybercrime and challenges associated with electronic evidence. Many speakers highlighted the importance of exchanging information and best practices, developing and/or upgrading legislation and strengthening international cooperation mechanisms as technical assistance priorities ([UNODC/CCPCJ/EG.4/2017/4](#), para. 29).

At the fourth meeting of the Expert Group, speakers emphasized that legislation on the admissibility of electronic evidence in criminal investigations and prosecutions was needed to effectively counter cybercrime. The introduction of such legislation should be accompanied by adequate training and capacity-building for law enforcement officials, prosecutors and judges. The importance of sharing electronic evidence among jurisdictions was also underscored ([E/CN.15/2018/12](#), para. 28).

The Expert Group may wish to further discuss and exchange information on national trends, challenges and best practices in gathering and using electronic evidence for criminal justice purposes.

Documentation

No documentation is currently foreseen under agenda item 3.

4. Other matters

As no issues to be raised under agenda item 4 have come to the attention of the Secretariat, no documentation regarding the item is currently foreseen.

5. Adoption of the report

Under agenda item 5, a report on the meeting of the Expert Group will be adopted. In accordance with the workplan of the Expert Group, the Rapporteur, with the necessary assistance of the Secretariat and on the basis of the discussions and deliberations, will prepare a list of preliminary conclusions and recommendations suggested by Member States, which should be precise and should focus on strengthening practical responses to cybercrime. The list, as a compilation of suggestions made by Member States, is to be included in the summary report of the meeting for further discussion at the stock-taking meeting of the Expert Group, to be convened not later than 2021.

Annex

Proposed organization of work

| <i>Date</i> | <i>Time</i> | <i>Item</i> | <i>Title or description</i> |
|---------------------|----------------|-------------|--|
| Wednesday, 27 March | 10 a.m.–1 p.m. | 1 (a) | Opening of the meeting |
| | | 1 (b) | Adoption of the agenda |
| | 3–6 p.m. | 2 | Law enforcement and investigations |
| | | 2 | Law enforcement and investigations (<i>continued</i>) |
| Thursday, 28 March | 10 a.m.–1 p.m. | 2 | Law enforcement and investigations (<i>continued</i>) |
| | | 3 | Electronic evidence and criminal justice |
| | 3–6 p.m. | 3 | Electronic evidence and criminal justice (<i>continued</i>) |
| | | 3 | Electronic evidence and criminal justice (<i>continued</i>) |
| Friday, 29 March | 10 a.m.–1 p.m. | 3 | Electronic evidence and criminal justice (<i>continued</i>) |
| | | 3 | Electronic evidence and criminal justice (<i>continued</i>) |
| | 3–6 p.m. | 4 | Other matters |
| | | 5 | Adoption of the report |