

Statement of Romania

within the fourth substantive session of the Open-Ended Working Group on security of and in the use of information and telecommunications technologies 2021-2025 (OEWG), established pursuant to General Assembly resolution 75/240 adopted on 31 December 2020

(6-10 March 2023)

Agenda item 5: discussions on substantive issues contained in paragraph 1 of the General Assembly resolution 75/240: *How **international law** applies to the use of information and communications technologies by States*

Mr. Chair,

Romania is fully aligned with the statement given by the European Union on this agenda item.

In my national capacity, I will be brief, and note that the full respect for the international law is one of the most important pillars of Romania's foreign policy. It is our belief that international relations, irrespective of the tools used, must be based on international law.

This is true as well for cyberspace. An open, secure, stable, accessible, and peaceful cyberspace is the result of responsible State behavior, which cannot be imagined outside an international rule-based system, primarily founded on international law.

Thus, Romania makes no distinction between the obligations applicable to states within and outside cyberspace. International law, including the UN Charter, in its entirety, treaties, customs and general principles, as well as the corpus of international humanitarian law, and international human rights law, fully apply to state conduct in cyberspace. There exists no genuine reason why it would not. ICTs are tools used in the interaction between states. ICTs do not change the nature of states as subjects of international law, nor the nature of their interaction within the international community.

Consequently, Romania is of the view that there is no need to develop international legal frameworks to address strictly cyberspace, not least because before considering developing new rules, we need to have a full understanding of the applicability of the corpus of international law in cyberspace. On this issue, we join the analogy made by Australia on diagnosing the patient prior to sending them for surgery, as we note that it provides clarity on the current state of affairs.

Mr. Chair,

The prohibition of the threat or use of force is a well-established principle of international law, being included in art. 2(4) of the UN Charter. There are only three well determined exceptions to this prohibition: (1) self-defense in the event of armed aggression; (2) UNSC Chapter VII authorization of the use of force; and (3) consent of the State on whose territory the operation takes place. Even if we only look at the situation through these lenses alone, we can see that through its actions in Ukraine – which include cyber operations – the Russian Federation is in an objective breach of international law.

We deplore this objective reality and reiterate an equally objective one that stems from it – that in spite of progress on the topic within the GGE and former OEWG, and within our discussions in

this format, the manner in which member states of the UN can advance their understanding of the applicability of international law to cyberspace is predicated, at the very minimum, on their genuine intention to respect it; and that their legitimacy is based on the correlation of their conduct with the fundamental rules, norms and principles which have defined and govern the work of the United Nations and of the international community.

Mr. Chair,

With this in mind, we welcome discussions on the topic of international law within this session and join our voice to those states which also strongly favor identifying a timeslot within the activity of the OEWG in May or June, for an inter-sessional dedicated to exchanging ideas and views on developing understanding the concrete applicability of international law in cyberspace. We see that a hybrid format would be practical for ensuring the widest possible participation. The productivity of our debates at this time shows how important it is to dedicate more time to this topic.

In closing, I would like to highlight that a more comprehensive expression of Romania's views on the manner in which international law applies to cyberspace, is also available in our contribution to the 2021 official compendium of voluntary national contributions on the subject of how international law applies to the use of information and communications technologies by States submitted by participating governmental experts in the Group of Governmental Experts on Advancing Responsible State Behavior in Cyberspace in the Context of International Security.

Thank you.