

**Statement by Estonia at the fourth substantive session of
the 2021-2025 UN Open-Ended Working Group on Developments in the Field of
Information and Telecommunications in the Context of International Security
Discussion under agenda item 5 in relation to international law,**

7 March 2023

Thank you, Mr Chair, for giving me the floor.

Estonia aligns itself with the statement by the European Union and adds the following in its national capacity. Firstly, we would like to thank you, Chair, for the guiding questions put forward for this session that will help start more focused discussion on concrete topics on international law. Our remarks today are complementing our domestic views on the interpretation of international law which we have published previously.

Estonia is a strong supporter of the application of international law to State behaviour in cyberspace. We reiterate that the existing international law, including the UN Charter, the international humanitarian law and international human rights law, is applicable also in cyberspace. The applicability of international law in its entirety in cyberspace has by now been affirmed several times also by the UN General Assembly and the OEWG consensus reports. We agree with Sri Lanka, Canada, Switzerland, and many others that before we develop new rules, we must have a better understanding how existing rules apply. The discussions we are having today are very useful for developing such an understanding.

Estonia underlines that States are called upon to avoid and refrain from taking any measures not in accordance with international law. In this light we underline again our condemnation of Russia's unjustified military aggression against Ukraine which has been accompanied by a significant increase of malicious cyber activities, including targeting critical infrastructure and conducting information campaigns. The international community needs now more than ever to join forces to strengthen the international rules-based order, and adhere to it also in cyberspace.

The UN Charter is undoubtedly one important centre-piece in international law. It includes some of the most important rights and obligations for relations between States, among them also the topics raised by the Chair as the starting point for our focused discussions. Allow me to reiterate the Estonian position on these selected topics.



The UN GGE reports have underscored that sovereignty and the international norms and principles that flow from it apply to state conduct of ICT-related activities. States have territorial sovereignty over the ICT infrastructure and persons engaged in cyber activities on their territory. However, states' right to exercise sovereignty on their territory is not unlimited. States also bear the responsibility to comply with legal obligations flowing from sovereignty – for example, the responsibility not to breach the sovereignty of other states and to take reasonable efforts to ensure that their territory is not used to adversely affect the rights of other states.

The principle of sovereignty is also closely linked with the principle of non-intervention. When assessing whether a cyber operation constitutes an unlawful intervention into the external or internal affairs of another state, the element of coercion is a key factor. Cyber operations that aim to force another nation to act in an involuntary manner or to refrain from acting in a certain manner, and target for example the other nation's national democratic processes such as elections, or military, security or critical infrastructure systems, could constitute an unlawful intervention.

The UN Charter also obliges all States in the name of peace and security to seek to settle possible disputes between states through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, and other internationally lawful peaceful means. Following the framework of Peaceful Settlement of Disputes would help to peacefully solve conflicts, avoid escalation and essentially strive for stability in cyberspace.

Estonia also stresses that the use of cyber operations during armed conflict is subject to the rules and principles of IHL just like the use of any other weapons, means and methods of warfare. It is as important to keep in mind the principles of international humanitarian law noted also in the 2015 GGE report and the annual progress report of this Group from last year. The fundamental principles of proportionality, distinction, humanity, and necessity are important tools to help reduce risks and potential harm to both civilians and civilian objects, like for example schools and hospitals, in the context of armed conflict. IHL and its core principals offer a much-needed additional layer of protection especially to civilians in the context of armed



conflict. We would like to repeat that by no means can the application of IHL in cyber space be seen to legitimize the militarization of cyber space.

Just yesterday, Estonia, Indonesia, Rwanda and Switzerland held a successful side event, in a cross-regional format, on the principles of IHL applicable to the use of ICTs. The high interest from participants and lively discussion reconfirmed the great interest and need to further study these principles and exchange views on how to apply them to the use of ICTs.

Mr. Chair,

Estonia highly values this opportunity to express our understanding of international law to this group and we have listened, and continue to do so, with great interest to how other States see the existing international law can be applied in cyber space. We also welcome countries (26) who have published their views on the application on international law – a useful overview of these can be found on the Cyber Law Toolkit website. Kenya mentioned the usefulness of such a repository in their statement. We would also like to reiterate our support to the Canadian-Swiss concept paper.

Estonia fully supports previously made comments and proposals on the need on capacity building on international law, as underlined by many others, such as Thailand. We also do see that the discussions on international law issues would merit greatly from engaging the expertise from different stakeholders, including the private sector, civil society and academia. We therefore are in full support of the expert briefings proposed by Netherlands, UK and others. We support the UK's proposal of agreeing on a roadmap for the discussion on international law, and more time dedicated to international law discussions, as underlined by South Africa and others.

We look forward to the opportunity of further focused discussions on international law.

Thank you!