



**Position of the Republic of Turkey for the purpose of the conference held by Forum for 21<sup>st</sup> Century on 29 November 2011 reflected in the second draft of the negotiation paper regarding the Global Cybersecurity Issues**

The Republic of Turkey would like to express full support towards negotiating proposed topics on international level. After in-depth analysis of the second draft proposed by Forum for 21<sup>st</sup> Century let us annotate it and include our suggestions thereafter.

**In the section Notes:**

- ❖ The Republic of Turkey, as member of global community, is fully aware of the importance of Cybersecurity issues solving and finds essential to create the global cooperation with related international partners in order to increase national as well as global cybersecurity capacity and capability. The Republic of Turkey utterly understands the global dependence on communication systems and sees the most important issues in establishing the coordinated approach of global society in cyberspace related issues. Hereby, the international community must inevitably devote all its effort in order to develop effective means of cyberspace control to avoid potential risk.
- ❖ Appealing to the first position proposed to the Forum for 21<sup>st</sup> Century, the Republic of Turkey finds important to set certain limits in anonymity of Internet users as well as to determinate inappropriate, illicit and illegal content online in order to minimize the risk of potential cyberthreats, reduce cybercrime and preserve national security and public order. The Republic of Turkey finds important to protect not only national and international cyberspace related exclusively to governmental purposes of concerned parties, but our citizens as well. Therefore, we find necessary to develop legislation in fighting against IT crimes and unsecure as well as inappropriate internet content. The Republic of Turkey is in the conviction that the inappropriate internet content must be controlled and blocked by responsible bodies. The internet content must be supervised in order to make target groups aware of safer and responsible use of Internet. The legislation has been developed in Turkey to fight against ICT-related crime and illicit content online and as far as we are concerned, the international society must equally strengthen their law enforcements.

**In the section Proposals:**

- ❖ Within the past decades the Republic of Turkey has witnessed and even experienced an increasing amount of cyber attacks. Prolific, ingenious, and ranging in style from large-scale worms to below the radar phishing attempts, cyber attacks have evolved to unprecedented levels of sophistication. We believe that in order to advance in the field of cybersecurity, the global society must act proactively and in synergy to change the rules of the game. Instead of




being reactive to cyber attacks, the global society should become proactive and work on predicting threats and vulnerabilities and build the defense before threats materialize. The first step to do so, agreeing with Forum for 21<sup>st</sup> Century, is to create the legal basis with respect to usage and control of the Internet.

Regarding the Basic Cyberspace Principles proposed by the Forum for 21<sup>st</sup> Century in terms of Universal Declaration of Human Rights enhancement the Republic of Turkey alleges:

- Agreeing with the Forum of 21<sup>st</sup> Century on the contemporary changes of global environment with different rules and character, the Republic of Turkey would like to express the effort in the creation of legal basis within cyberspace related issues. Hereby, the Republic of Turkey agrees on the common legal basis of principles and terms to be set.
- Once the legal basis by course of the agreed International Cyberlaw is set, the Republic of Turkey pledge itself to enact the national legislative based on the International Cyberlaw on the premise of complying with principles, basic characteristics, national interests and historical and moral values of the Republic of Turkey.
- Appealing to the national legislation, every person has the right to confidentiality and personal privacy and these rights are untouchable. The Republic of Turkey agrees with the Forum for 21<sup>st</sup> Century that no one shall be subjected to arbitrary interference with his internet privacy. Moreover, everyone shall have the right to the protection of the law against such interference. Restriction and limitation of these rights are possible in exceptional circumstances by governmental authorities, police, courts or any other empowered legal entity. However, such particular restrictions must be legitimized with a court's decision or with a state of emergency or the restriction conditions must be defined explicitly in a regulation.
- New information technologies, in particular the Internet have considerably developed over the past few decades. The storage and transfer of personal data which had never been easier than nowadays naturally leads to concerns about the security of personal data. Such increase in exchanges of personal data on national but moreover on international level necessitates the effective protection of the right to privacy. The Republic of Turkey perceives the rapid increase in the number of social networks operators and search engines within past decade. As far as the portfolio of their operation has markedly changed and consequently increased up to the level of potential misuse of sensitive personal information, the Republic of Turkey agrees on the necessity to partly supervise certain actions of such operators.



- The Republic of Turkey is in conviction that the respective bodies empowered by the government shall be entitled to determine the procedures and principles towards the processing of personal data and protection of its privacy regarding electronic communication sector. Moreover, the respective bodies shall be entitled to make necessary arrangements and supervisions pertaining to the rights of internet users in order to ensure their privacy protection. Therefore the Republic of Turkey agrees with the Forum for 21<sup>st</sup> Century that the collection and usage of internet user's personal data shall be supervised and regulated by respective state bodies.
- The Republic of Turkey is in convinced that the operators, defined as any legal entity, which has the right to provide electronic communication services and/or to provide electronic communications network and to operate the infrastructure within the framework of authorization, shall be obliged to protect personal data and privacy of the subscribers. The providers shall not obtain any personal data without the express consent of the person; and process/use it in terms of communicating by telephone, fax, mobile phone, electronic mailing or any other electronic communication device. Hereby, the malevolent misuse of personal information and data which are being provided by internet users to the operators of social networks, search engines or any other internet services providers shall be punished by respective bodies regarding the agreed mechanism of punishments and sanctions.
- Appealing to the Constitution and further national laws, the Republic of Turkey is convinced that everyone has the right to freedom of thoughts and opinion. No one shall be compelled to reveal his thoughts and opinions for any reason or purpose, nor shall anyone be blamed or accused on accounts of his thoughts and opinions. Everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or though other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. The exercise of these freedoms however may be restricted for the purpose of protecting national security, public order, public safety and basic characteristics of the Republic and safeguarding the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights, private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary. Hereby, the Republic of Turkey declares that everyone has the right to freedom of opinion and expression in the Cyberspace on the premise it is not in contradiction with the Constitution and further national laws.

 The Republic of Turkey feels the necessity of protecting personal data, personal privacy, privacy of communication and ensuring network security against unauthorized access, and



therefore, in order to ensure national security, public order and the smooth operation of public services finds important to set the required definitions of cyberspace related issues.

- The Republic of Turkey proposes to broaden the definition bidden by the Forum for 21<sup>st</sup> Century as follows: “The Cyberspace is the specified environment created by the electronic medium of computer, mobile and landline networks in order to provide the communication possibilities to the users within the framework of Internet and intranets.”
- As far as the threats and attacks in the cyberspace affect not only our governmental or non-governmental organizations, but equally large masses and even more those who do not use information technologies and cause serious harm, the Republic of Turkey finds necessary to define system of sanctions for cyberspace related crimes. Appealing to the first position proposed to the Forum for the 21<sup>st</sup> Century, the Republic of Turkey finds important to discuss the definition of the cybercrime firstly, which is perceived as every organized action or attack on any communication and information systems of our country or any private institution by taking control of their systems or web sites.
- Consequently, the sanctions should be defined as well. As expressed in the first position, the Republic of Turkey is in the conviction that the exact mechanism of cybercrime sanction should be proposed under the discussion of all participants of the Conference but for the purpose of position paper proposes following definitions of cybercriminal acts and their adequate sanctions.
- The Republic of Turkey perceive as cybercriminal whomever obtains program or data or another component from an automatic data processing systems illegally, whomever performs harmful activities within cyberspace with the purpose of harming anybody, whomever destroys, changes, deletes or prevents from operating an automatic data processing system, data or another component, completely or partially, for the purpose of harming anyone or deriving a benefit for himself or anybody else. Moreover, whoever whose computer is involved in committing a crime, is considered a potential criminal and thus shall be investigated.
- The Republic of Turkey perceives that the agreed typology of criminal or illegal activity conducted within the cyberspace is needed in order to set the proper mechanism of sanctions. Hereby, the Republic of Turkey proposes following malevolent acts to be included in the typology of cybercriminal illegal activity: offences against data processing systems, offences against the functioning of a system, offences against the collection, storage and usage of data, including deletion, alteration, corrupting, improper use or unlawful transmission and reception of data, offences against copyright, offence of producing, distributing or expanding access to child





pornography, organized cybercrime activities and terrorist cybercrime acts. The exact typology of criminal and illegal activity conducted within the cyberspaces shall be agreed by respective international actors. The sanctions shall be graded from heavy fines up to imprisonment on the basis of cybercrime seriousness. The exact determination of fines and sanctions shall be discussed by the respective international actors.

- Once the legal basis by course of the agreed typology of cybercriminal acts and their sanctions is set, the Republic of Turkey pledge itself to abide by the typology, on the premise of complying with principles, basic characteristics, national interests and historical and moral values of the Republic of Turkey.
- 🇹🇷 International sharing of malevolent attacks, cyberterrorist groups within joint database is needed, equally as the workshops for experience share in order to share national and international success stories on fight against cybercrime, so that preventing a crime that occurred in any part of the globe from occurring again in other country, are needed. In order to do so, the multilateral cybersecurity exercises are vital. The creation of global communication channel is needed in order to be able to get urgent information on cybercrime committed from a source in another country and so to be able to take the necessary measures. Hereby, the Republic of Turkey welcomes the effort of the Forum for 21<sup>st</sup> Century towards establishment of CYBERPOL, however is convinced that its establishment shall be discussed by broader international society.
- 🇹🇷 The Republic of Turkey is concerned of the importance to protect its national defense systems and government bodies and therefore will consequently consider every attack of this category as an act of aggression which should be condemnable by international society. But in order to preserve the global peace, the Republic of Turkey does not perceive the retaliatory attacks or armed forces to be taken as the first possible measure.
- 🇹🇷 As far as the Republic of Turkey has witnessed and even suffered several cyberattacks on governmental websites which came from organized groups of hackers, the Republic of Turkey welcomes the effort to establish the cooperation in prosecution of illegal paramilitary or terrorist activity. However, the Republic of Turkey finds important to set the strict and clear distinction between defensive military units coordinated by governmental bodies and illegal harmful hacker organizations and hacktivists. The distinction shall be discussed and further approved by the respective international actors on the Conference.

The Republic of Turkey finds aforesaid issues important to resolve and is open for further discussion.