

- **Germany thanks co-chairs GHA, LUX, MEX, CHE as well as the ICRC for preparing the key observations**
- **We consider these key observations to be an important step towards consolidating emerging shared understandings on how international humanitarian law applies to cyber activities.**
- **As a preliminary remark: Germany understands them as a non-binding consolidation of existing obligations and evolving State practice. In our view, they do not seek to create new legal rules, but rather to clarify, how established international humanitarian law principles operate in cyberspace.**
- **Germany strongly supports the overarching idea of the observations**
- **Yes, cyber activities during armed conflict can cause serious suffering.**
- **And yes, International humanitarian Law is the appropriate and, applicable legal framework for protecting civilians, other protected persons and civilian objects in both international and non-international armed conflict**
- **We consider these observations to be a strong and balanced foundation for the next phase of this workstream.**

- **Allow me to briefly comment on a few aspects:**

- **Regarding the first part: Germany particularly welcomes the conclusion that cyber operations expected to cause death or injury to persons, or damage to objects, including by disabling them, amount to attacks under International Humanitarian Law.**
- **From Germany's perspective, recognizing a loss of functionality as damage reflects a necessary and contemporary understanding of what damage constitutes, as such effects may have the same impact as physical damage.**
- **In the third paragraph of this part, we would also see value in clarifying that the principles recalled in this section also equally apply to cyber operations that do not amount to an attack.**

- **Regarding the second part:** Germany welcomes the affirmation that data lies at the heart of modern societies and that their handling during armed conflict can directly affect people's live and dignity. Germany agrees that civilian data is protected under international humanitarian law while noting that information-gathering activities that involve accessing data are not prohibited under IHL.
- Treating civilian data as protected objects under international humanitarian law best reflects the objects and purpose of rules relating to civilian objects and helps to avoid protections gaps.
- **Regarding the third part:** Germany also welcomes observations on the use of civilian cyber infrastructure for military use. Where civilian cyber infrastructure or parts thereof, are used for military purposes, they risk becoming military objectives.
- Germany particularly supports the emphasis that the principles of proportionality and precautions continue to apply when such military objectives are being targeted. However, the level of required precautionary measures must be assessed on a case by case basis, factoring in operational feasibility and available capabilities.
- **Regarding the fourth and fifth part** on civilian involvement in cyber activities and the role of technology companies during armed conflict, Germany supports the reminder that civilians must respect IHL when acting in the context of an armed conflict.
- Germany welcomes the emphasis on State's duties to ensure respect for IHL by civilians, to disseminate IHL to civilians under their authority, and to avoid encouraging civilian participating in cyber activities that amount to direct participation in hostilities. Germany also supports encouraging technology companies to assess and mitigate risks, including, where feasible, by separating civilian and military services.

Session 2

- **Germany also supports the key observations prepared by the co-Chairs and the ICRC for Session 2, in particular the emphasis on the specific protection of medical services, humanitarian activities and other specially protected persons, objects and activities against the effects of cyber activities during armed conflicts**
- **We agree that this protection extends to their data, ICT and communications systems, and that safeguarding these elements is essential for the effective functioning of medical and humanitarian action.**
- **Germany also supports continued work on the concept of a digital emblem to facilitate the identification of protected infrastructure “online”. We therefore welcome the encouragement for States to engage with the ICRC on all aspects of this initiative.**
- **Germany agrees with the drafters of the observation that the specific protection of objects indispensable to the survival of the civilian population, works and installations containing dangerous forces, cultural property and civil defense must extend to ICT infrastructure and data indispensable to their functioning. This is in line with the object and purpose adjusted to modern realities of the relevant IHL obligations**
- **Furthermore, Germany supports the clear reaffirmation that sexual violence and the recruitment and use of children in hostilities are prohibited under International Humanitarian Law, including when such acts are committed, encouraged or facilitated through cyber activities.**
- **Finally, Germany welcomes the strong focus on national implementation measures, including dissemination of IHL, integration into military doctrine and training, legal reviews of new cyber capabilities and engagement with the private technology sector.**