United Nations: New Resolution on the right to privacy in the digital age

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On 27 February 2017, the UN Human Rights Council passed a draft resolution on the right to privacy in the digital age. The Resolution calls upon member states to ensure that measures for the prevention of privacy breaches are effective and accessible, and in accordance with international human rights standards. Procedural and legislative framework regarding surveillance of communications should be reviewed. At the same time establishment of independent, effective, and competent domestic oversight mechanisms should be ensured.

The Resolution reiterates that the right to privacy enables enjoyment of other human rights, notably the right to freedom of expression and freedom of peaceful assembly and association, while facilitating individuals' participation in political, cultural, and social life. The problem of automated decision making processes, which may result in discrimination or have negative impact on the enjoyment of human rights, is also recognised. The Resolution emphasises that the processing of personal data without explicit and freely given individual consent for re-use and re-sales has significantly increased in the digital age. Therefore, member states are urged to develop legislative measures and remedies "addressing harm" caused by these methods of processing personal data.

The rapid development of technology has enhanced the capacities of business enterprises and governmental entities to undertake surveillance measures. The Resolution notes that aggregation of vast amounts of meta data "can reveal personal information that can be no less sensitive than the actual content of communication" and, consequently, reveal certain matters about an individual's behaviour and identity. In addition, the unlawful interception of communication and collection of personal data, "when undertaken extraterritoriality or on a massive scale", violates the right to privacy and other human rights and undermines the values of a democratic society. Therefore, member states are urged to respect international obligations in regard to practices of the interception of digital communication.

The Resolution draws particular attention to the relevance of technical solutions for the protection of confidentiality of digital communication, such as encryption and anonymity. The business sector is encouraged to work further on the improvement of these measures and the protection of the confidentiality of communication. Member states should refrain from interfering with the use of

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these technologies, while any restriction thereon should be compliant with international human rights law. Furthermore, member states should refrain from requiring business entities to disclose personal data in an unlawful or arbitrary way. Instead, they should propose the adoption of measures for the improvement of transparency mechanisms regarding such requests. Finally, the Resolution stresses the importance of fostering the improvement of digital literacy and technical skills necessary for the protection of human rights in the digital age. The United Nations High Commissioner for Human Rights is encouraged to engage in the analysis and debates concerning the principles and standards for the protection of the right to privacy, as well as to prepare a report in that regard for the thirty-ninth Human Rights Council session.

UN Human Rights Council Resolution on the protection of privacy in the digital age (HRC/34/l.7), 22 March 2017

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