

Proposer

- Dutch Data Protection Authority, the Netherlands

Co-sponsors

- Office of the Privacy Commissioner, Canada
- European Data Protection Supervisor, European Union
- National Commission on Informatics and Liberties, France
- Federal Commissioner for Data Protection and Freedom of Information, Germany
- Data Protection Commissioner, Ireland
- Data Protection Office, Mauritius
- Privacy Commissioner, New Zealand
- Federal Data Protection and Information Commissioner, Switzerland
- Information Commissioner's Office, United Kingdom
- Regulatory and Control Unit for Personal Data, Uruguay

The 36th International Conference of Data Protection and Privacy Commissioners

Recalling the resolution of the 35th Conference on anchoring data protection and the protection of privacy in international law;

Referring to the ongoing revelations on the existence and use of mass electronic surveillance programs since the summer of 2013;

Mindful that not all members of the Conference have jurisdiction over state surveillance issues;

Emphasizing the fundamental nature of the right to privacy and data protection;

Noting and supporting the United Nations' General Assembly's resolution 68/167 that affirmed that the same rights that people have offline must also be protected online, including the right to privacy;

Taking note of the reports of the United States Privacy and Civil Liberties Oversight Board on programs operated under section 215 of the USA PATRIOT Act and section 702 of the USA Foreign Intelligence Surveillance Act;

Aware of the Article 29 Data Protection Working Party's Opinion on surveillance of electronic communications for intelligence and national security purposes;

Welcoming with great interest the probing report of the Office of the United Nations High Commissioner for Human Rights on "The right to privacy in the digital age";

1. Affirms its readiness to participate in the multi-stakeholder dialogue that is proposed in the Office of the High Commissioner's Report to address the challenges related to the right to privacy and data protection in the context of modern communications technology;
2. Mandates the Executive Committee to represent the Conference in this dialogue;
3. Calls upon the members of the Conference to advocate for compliance of any electronic surveillance program with at least the general data protection and privacy principles as laid down in the 2009 Madrid Standards, the International Covenant on Civil and Political Rights, the Convention of the Council of Europe for the protection of individuals with regard to automatic processing of personal data and its additional protocol and other international instruments and to participate in national and international stakeholder dialogues on this subject;
4. Calls upon the members of the Conference to ensure compliance of any electronic surveillance program with these general data protection and privacy principles, if necessary by seeking more effective powers to fit the challenges and risks of surveillance;
5. Invites its members to share any information on mass electronic surveillance programs as well as best practices on the oversight of such programmes with the Executive Committee for further dissemination among the members and observers of the International Conference.

The U.S. Federal Trade Commission abstains from this resolution, which relates to matters outside its jurisdiction.

Explanatory Note

The resolution is intended to support the UN High Commissioner's report on Privacy in the digital age. The report and the stakeholder dialogue that is to follow if the report is also adopted by the UN General Assembly, may be the first step into realising the additional protocol the Conference has called for in its resolution adopted in Warsaw.

It is proposed that the International Conference shall take part in the eventual stakeholder dialogue, similar to the current representation of the Conference to other international fora. In this instance, it would be the Executive Committee that is mandated to take part in the stakeholder dialogue meetings, to ensure representation at a high level. This should also signal a level of commitment towards the UN.

Practically spoken, the proposers and co-sponsors envisage that the contributions on behalf of the Conference would be drafted in advance to the stakeholder dialogue meetings and be primarily based on the International Standards on the Protection of Personal Data and Privacy (the Madrid Resolution). Time allowing, draft contributions shall be send to the members of the Conference so that objections can be raised.

To allow further development of the position of the Conference on state surveillance issues, several delegations have indicated they may host or organise meetings, workshops and/or conferences throughout the year. The members of the Conference will be informed on such events if and when more information is available.

The Executive Committee shall report back on the outcomes of the stakeholder dialogue at regular intervals and in any case during the annual Closed Sessions.