The application of existing international law in cyberspace: state practice and key concepts

Expert briefing organised in the framework of the EU International Law Initiative in Cyberspace under the EU Cyber Direct project, in cooperation with the European External Action Service and the Austrian Presidency of the Council

9 July 2018, 10.00-13.00, Scotland House, 6 Rond Point Schuman, Brussels

Context

The 2013 Cybersecurity Strategy of the EU and the 2017 Joint Communication ‘Resilience, Deterrence and Defence: Building strong cybersecurity for the EU’, together with numerous Council Conclusions, strongly promote the EU position that existing international law applies in cyberspace. This position reflects the consensus contained in the 2013 and 2015 reports of the UN Group of Governmental Experts (UNGGE) and is supported by academic research projects such as the Tallinn Manual 2.0. The European Union Foreign Affairs Council reiterated in April 2018 that existing international law applies in cyberspace. Yet, the understanding of how international law applies in cyberspace is still evolving, primarily due to limited state practice in this domain. Against this background, international lawyers argue that interpretation of international law (the ‘how’) will not move forward unless states make their views public. Recent statements by some of the EU member states constitute a step in this direction.

Objectives of the meeting

The expert briefings provided at the meeting will:

> Give an overview of the main ongoing initiatives;
> Present and analyse some of the outstanding issues in the ongoing legal debate;
> Highlight some of the key issues to keep in mind when engaging with other actors and the private sector on the application of international law in cyberspace.

About the EU Initiative on International Law in Cyberspace

The EU Initiative on International Law in Cyberspace aims to promote and clarify the EU position on the application of existing international law in cyberspace, notably the UN Charter in its entirety and international humanitarian law. This initiative will focus on three main areas of activity:

> **Promotion and clarification of relevant legal principles** and rules applying in cyberspace in the format of policy briefs, case studies and analyses, taking into account already existing academic efforts;
> **Awareness-raising** on international law applying in cyberspace and outreach to wider public via conferences, workshops, public debates, newsletters and other activities;
> **Capacity building activities** for diplomats, national security decision-makers, legal advisers, the cyber policy community, academia and civil society, in cooperation with like-minded countries.
Agenda
9:45-10:00
Registration and coffee
10:00-10:10
Welcome and scene-setter
Gustav LINDSTROM
Director, EU Institute for Security Studies
10:10-10:30
Keynote opening remarks
Pawel HERCZYNSKI
Director, Security Policy Directorate, European External Action Service
10:30-11:45
What does it take to apply existing international law in cyberspace? Insights from state practice to date.
Moderator
Patryk PAWLAK
Brussels Executive Officer / Project Coordinator for EU Cyber Direct, EU Institute for Security Studies
Speakers
Sarah TAYLOR
Director, Cyber Policy and National Security Capabilities, Foreign and Commonwealth Office, UK
Karsten GEIER
Head of the Cyber Policy Coordination Staff, Federal Foreign Office, Germany
Jean HEILBRONN
Strategic Affairs and Cybersecurity Office, Ministry for Europe and Foreign Affairs, France
Nadia MARSAN
Senior Assistant Legal Adviser, Office of Legal Affairs, NATO
Gléder I HERNÁNDEZ
Associate Professor in Public International Law, Durham Law School
11:45-12:45
How to advance awareness-raising and training on international law among cyber and tech communities? Lessons and food for thought for future engagements
Moderator
Camino KAVANAGH
Visiting Fellow, King’s College London
Speakers
Dimitri VOGELAAR
Deputy Head International Cyber Policy, Ministry of Foreign Affairs, The Netherlands
Chris PAINTER
Commissioner, Global Commission on Stability in Cyberspace
Lauri MÄLKSUU
Professor of International Law, University of Tartu
Sven HERPIG
Project Director Transatlantic Cyber Forum / Member of the EU Cyber Direct team, Stiftung Neue Verantwortung
Anna LEANDER
Professor of International Relations / Political Science, The Graduate Institute of International and Development Studies
12:45-13:00
Concluding remarks and next steps
Heli TIIRMAA-KLAAR
Head of Cyber Policy Coordination, European External Action Service
Elisabeth KOEGLER
Deputy Security Policy Director, Austrian Federal Ministry for Europe, Integration and Foreign Affairs
13:00-13:45
Lunch