

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



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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

Paweł HERCZYŃSKI

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

Gleider 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 MÄLKSOO

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