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**RESPONSE FROM THE DANISH INSTITUTE FOR  
HUMAN RIGHTS TO THE CONSULTATION PROCESS OF  
THE OHCHR REGARDING GENERAL ASSEMBLY  
RESOLUTION 68/167 “ THE RIGHT TO PRIVACY IN  
THE DIGITAL AGE”**

07 MARCH 2014

**1. MEASURES TAKEN AT NATIONAL LEVEL TO ENSURE  
RESPECT FOR AND PROTECTION OF THE RIGHT TO  
PRIVACY, INCLUDING IN THE CONTEXT OF DIGITAL  
COMMUNICATION**

The main measures are the Act on Processing of Personal Data (Act No. 429 of 31 May 2000) that entered into force on 1 July 2000, and the supervising Data Protection Authority. The Act on Processing of Personal Data implements EU Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Since the act entered into force in 2000, it has been amended several times - most recently on July 1st 2007.

Data processing within the police sector is exempted from the act.

The Act on Processing of Personal Data is available at:  
<http://www.datatilsynet.dk/english/the-act-on-processing-of-personal-data/read-the-act-on-processing-of-personal-data/compiled-version-of-the-act-on-processing-of-personal-data/>

Information concerning the Data Protection Authority is available at:  
<http://www.datatilsynet.dk/english/>

## **2. MEASURES TAKEN TO PREVENT VIOLATIONS OF THE RIGHT TO PRIVACY, INCLUDING TO ENSURE THAT RELEVANT NATIONAL LEGISLATION COMPLIES WITH INTERNATIONAL HUMAN RIGHTS LAW.**

It is the duty of the Danish Data Protection Agency (DPA) to ensure compliance with the Act on Processing of Personal Data. Through notifications and authorisations the DPA can control some of the more sensitive processing of personal data that is performed by authorities and companies. Moreover, the DPA provides guidance and advise to authorities, companies and citizens. In case of citizen complaints, the DPA can make decisions on whether certain processing is in accordance with the regulations of the Act on Processing of Personal Data. The DPA can take up cases of its own initiative if it suspects a violation of the act, and subsequently issues criticism if it finds that the data controller has violated the regulations of the Act on Processing of Personal Data. The DPA does not refer to international human rights law or European case law in its decisions.

As part of its mandate as a national human rights institution, the Danish Institute for Human Rights comments on new legislative proposals that has an impact on international human rights law, including the right to privacy. Furthermore the Danish Institute for Human Rights publishes an annual status report structured in thematic chapters covering the most pressing human rights issues, including data protection. The report provides an overview of the international framework and contains a description of the domestic context as well as a list of recommendations for improving human rights implementation in a wide range of areas in Denmark. Recommendations are oriented towards executive, legislative, implementing powers and institutions at central and regional levels. Where there is a lack of information and statistics, this is also noted.

The Danish Council for Digital Security (Rådet for Digital Sikkerhed) is an independent expert organisation working to promote a greater understanding of digital security and protection of personal data through engagement in public debate and issuing recommendations to improve digital security in Denmark. The council was established in 2012.

**3. SPECIFIC MEASURES THAT HAVE BEEN TAKEN TO ENSURE THAT PROCEDURES, PRACTICES AND LEGISLATION REGARDING THE SURVEILLANCE OF COMMUNICATIONS, THEIR INTERCEPTION AND THE COLLECTION OF PERSONAL DATA, ARE COHERENT WITH INTERNATIONAL HUMAN RIGHTS LAW.**

There are no specific national measures to ensure human rights compliance of procedures, practices and legislation regarding the surveillance of communications, besides the ones mentioned above.

**4. MEASURES THAT HAVE BEEN TAKEN TO ESTABLISH AND MAINTAIN INDEPENDENT, EFFECTIVE DOMESTIC OVERSIGHT MECHANISMS CAPABLE OF ENSURING TRANSPARENCY, AS APPROPRIATE, AND ACCOUNTABILITY FOR STATE SURVEILLANCE OF COMMUNICATION, THEIR INTERCEPTION AND COLLECTION OF PERSONAL DATA.**

No measures taken except the DPA mentioned above. Moreover, an oversight mechanism with relatively limited powers has been established as part of the regulation of the Danish Security and Intelligence Service (Act No. 604 of 12 June 2013), available at: <https://www.retsinformation.dk/Forms/r0710.aspx?id=152182> (in Danish).

**5. ANY OTHER INFORMATION ON THE PROTECTION AND PROMOTION OF THE RIGHT TO PRIVACY IN THE CONTEXT OF DOMESTIC AND EXTRATERRITORIAL SURVEILLANCE AND/OR INTERCEPTION OF DIGITAL COMMUNICATION AND COLLECTION OF PERSONAL DATA.**

As of February 2014, a new draft bill proposes to establish a Center for Cyber Security within the Danish Defence Intelligence Service. The Center for Cyber Security would include both the Danish GovCert, which is the national point of contact for internet related security incidents regarding national services and infrastructure and the military equivalent (MilCert). GovCert was originally established as part of Ministry of Science, but was in 2011 moved to the Ministry of Defense. The Danish Institute for Human Rights and others have flagged concern that the proposed regulation would diminish the protection of citizens since GovCert (as part Danish Defence Intelligence Service) would not

be covered by the Act on Processing of Personal Data nor the oversight of the DPA. Moreover, the draft bill proposes to extend the powers of the Center for Cyber Security regarding their ability to access and exchange personal data nationally and abroad.

The draft bill is available at (in Danish):

[http://prodstoragehoeringspo.blob.core.windows.net/aac281dd-b6da-4223-a003-ec75a87eba99/Udkast%20til%20lovforslag%20om%20Center%20for%20Cybersikkerhed%20\[DOK530616\].pdf](http://prodstoragehoeringspo.blob.core.windows.net/aac281dd-b6da-4223-a003-ec75a87eba99/Udkast%20til%20lovforslag%20om%20Center%20for%20Cybersikkerhed%20[DOK530616].pdf)

Concerning the general debate regarding illegal surveillance carried out by the American National Security Agency (NSA) there has been discussions in Denmark on whether or not Denmark has been subject to illegal surveillance in connection with the Copenhagen Climate Change Conference in December 2009. The Danish government has been urged to further investigate the matter, but the Prime Minister, The Minister of Justice and the Minister of Defence have all stated in February 2014 that they have no reason to suspect that illegal surveillance against Denmark has occurred.