37th International Conference of Data Protection and Privacy Commissioners

Amsterdam, 27 October 2015

Resolution on Privacy and International Humanitarian Action

The 37th International Conference of Data Protection and Privacy Commissioners:

Understanding that humanitarian action aims at protecting and assisting vulnerable people in the context of armed conflicts, other situations of violence and natural disasters (together referred to as Humanitarian Crises) often in situation of emergencies;

Conscious that it covers national and transnational territories and is framed by national and international law, in particular international humanitarian law, international refugee law, international human rights law;

Taking into account that it brings together actors with different missions and statutes and often requires significant coordination efforts between them;

Taking into account that certain international organizations are set up to carry out specific tasks under international law, and the importance of Privileges and Immunities to enable them to achieve them in an independent way;

Considering the increase in Humanitarian Crises that has raised the number of people in need of humanitarian assistance;

Taking into account that data processing is an integral part of the performance of the mission of humanitarian actors and that the increasing use of technological solutions to respond to demands of more efficiency leads to a diversification in the nature of the data collected and to an increase in its number and in data flows;

Conscious that, while some international humanitarian organizations have recently adopted a legal framework for the processing of these data, the adoption of such frameworks by the overall humanitarian community is still scarce;

Recalling the Guidelines for the Regulation of Computerized Personal Data Files adopted by General Assembly Resolution 45/95 of 14 December 1990 and the Humanitarian Clause set out therein;

Recalling the Resolution on Data Protection and Major Natural Disasters adopted by the 33rd International Conference of Data Protection and Privacy Commissioners on 1 November 2011 in México City;

Also aware that any guidance as to the protection of personal data and privacy in the context of humanitarian action must take into consideration its specific characteristics in order not to hamper or complicate it but rather facilitate and support it;

The 37th International Conference of Data Protection and Privacy Commissioners resolves:

1.   To commit the International Conference to analyze privacy and data protection requirements in the context of humanitarian action in future meetings;

2.   To endeavour to meet the demand for co-operation in the development of guidance expressed by international humanitarian actors, taking into consideration the specificities of their actions and the need for these to be facilitated;

3.   To mandate the Executive Committee to create a Working Group on Privacy and Humanitarian Action to lead and coordinate these activities, and to call on data protection networks to actively contribute to the work of the Working Group.

The Working Group will report back to the 38th International Conference.

Explanatory statement:

1. Humanitarian action aims at protecting and assisting vulnerable people in the context of armed conflicts, other situations of violence and natural disasters (together referred to as Humanitarian Crises) often in situation of emergencies. Humanitarian action covers national and transnational territories and is framed by national and international law, in particular humanitarian law, international refugee law, international human rights law. It brings together actors with different missions and statutes and often requires significant coordination efforts between them.

2. In 2015, there has been an increase in Humanitarian Crises in different regions of the world. A record number of people are expected to benefit from humanitarian aid[1]. The humanitarian system continues to deliver some seriously needed assistance. At the same time, parts of the humanitarian system are faced with significant challenges. Actors in situations of violence are more numerous and varied, some areas become inaccessible, and humanitarian actors often lack funding. Technologies are increasingly used to respond to an urgent need for more efficiency, including in the identification of beneficiaries.

3. Identifying people and personal data processing are an integral part of the performance of the mission of humanitarian actors. The introduction of technology increases the number, nature and flow of data collected. In particular,

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[1] According to the UN Secretary General, "the number of people in need of humanitarian assistance around the world has doubled in just ten years" (Statement, New York, 20 April 2015) to reach around 58 million (The State of Humanitarian Aid, UNOCHA, 2015).

this data is used to improve knowledge of beneficiaries, strengthen the effectiveness of humanitarian action and be accountable to beneficiaries. This trend may be beneficial if properly framed through privacy and data protection guarantees. However, if not properly framed, it could jeopardize human rights protection.

4. In the context of humanitarian activities, the data collected may need to routinely include data that in a regular data protection context would be considered as sensitive data where processing of such data would be, in principle, prohibited and, when allowed, subject to strict conditions and requirements. In addition, data that would normally not be considered as sensitive under data protection laws may be very sensitive in humanitarian emergencies' context.

5. Specific privacy and security risks are identified, including the potential for development of monitoring systems, which could be increased by technologies such as management information systems and electronic transfers; digital identity registration and biometrics, mobile phones but also drones. Humanitarian organizations not benefiting from Privileges and Immunities may come under pressure to provide data collected for humanitarian purposes to authorities wishing to use such data for other purposes (for example control of migration flows and the fight against terrorism). The risk of misuse of data may have a serious impact on data protection rights of displaced persons and can be a detriment to their safety, as well as to humanitarian action more generally.

6. Over the years, working documents and guidelines have been developed in the area of data protection and privacy. Among these: Opinion of the EDPS on the Proposal for a Regulation establishing the European Voluntary Aid Corps (on volunteer management, 2012), *Professional Standards for Protection Work* adopted through an ICRC-led consultation process (2013), *Toward a Code of Conduct: Guidelines for the Use of SMS in Natural Disasters* of the GSMA (2013), and the *Policy on the Protection of Personal Data of Persons of Concern to UNHCR* of the UNCHR (2015). Yet the adoption of such frameworks by the overall humanitarian community is still scarce.

7. A need for clear guidelines has been expressed, without further complicating humanitarian action, but rather facilitating it: "Humanitarian organizations need clear guidelines and standards for how and by whom the information that they collect will be processed, used and stored" (Privacy International and *2013 World Disaster Report*, 2013). A major UN report (*Humanitarism in a Networked Age*, 2012) calls for the development of standards for an "ethical use of new forms of data including protocols for protecting privacy and guaranteeing informants' safety".

Sources:

- Website and reports of the UNOCHA

- Website of the World Humanitarian Summit

- *Data Protection in International Organisations and the New UNCHR Data Protection Policy: Light at the End of the Tunnel?*, A. Beck and C. Kuner, 2015

- Policy on the Protection of Personal Data of Persons of Concern to UNHCR, UNHCR, 2015

- Interview: *Devenirs humanitaires: quelles évolutions et adaptations du système humanitaire?*, IRIS, 2015 (French)

- Professional Standards for Protection Work carried out by humanitarian and human rights actors in armed conflict and other situations of violence, ICRC, 2013 and website of the ICRC, 2015

- Guidelines for the Use of SMS in Natural Disasters, GSMA, 2013

- *A paucity of privacy: Humanitarian, development organisations need beneficiary data protection policies*, Privacy International, 2013

- *Aiding Surveillance*, Privacy International, 2013

- *Sécurité et traitement des données personnelles*, M. Le Rutte, 2009 (French)