



## **EESC Conference "Towards a more responsible use of the internet - The European civil society perspective"**

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### **"Protection of personal data: now part of our DNA"**

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I am pleased to be able to contribute to the opening session of this conference. A responsible use of the internet is at the heart of our common vision for the future. More and more parts of our private and social life are now connected to a responsible use of the internet. What this means in terms of values and actions, and the European civil society perspective on this issue, are well worth a thorough discussion at this conference.

I would like to make a few remarks from my perspective on the role of data protection. That is not only a subject within my responsibilities, it is also essential for a responsible use of the internet and right now perhaps one of the most actively debated political themes, due to the current reform of the EU legal framework for data protection.

So, let me be as clear as possible. The protection of personal data has developed over decades, both at national and European level, and is now part of our DNA. The Council of Europe played a pioneering role in formulating the basic concepts and principles of data protection in a Convention in 1981, which since then has been ratified by more than 40 European countries, including all EU member states.

The European Union played a leading role in providing more harmonisation and legal security to the implementation of that Convention in the national laws of the member states. This led to the adoption in 1995 of the current Data Protection Directive. It has also resulted in the

recognition of the right to data protection as an autonomous fundamental right in Article 8 of the Charter of Fundamental Rights, which the Lisbon Treaty turned into a binding instrument, not only for the EU institutions and bodies, but also for the member states when implementing Union law. The Lisbon Treaty also created a horizontal basis for rules on data protection in all EU policies in Article 16 TFEU. This provision is also the basis for the current reform of the EU legal framework for data protection.

This reform is very welcome. The truth is that the current Directive as the main element of the EU legal framework for data protection was adopted at a time when the internet, as we have it now, was barely visible, and some of the present internet giants were not even conceived in the minds of their successful masters.

This means that it has now become more urgent than ever to ensure that the safeguards which were developed in the past continue to be effective in the present and the future more dynamic environment. Far from early suggestions that "privacy is lost and we just have to get over it", we now see that it is a hot subject in many fields and on many levels, and that also involves the numerous civil society actors taking part in the debate.

Moreover, we also know that the objectives of the Digital Agenda and the EU2020 strategy of a "smart, sustainable and inclusive" Europe are not achievable without strong safeguards for privacy and data protection. In this perspective, even a priority such as economic recovery has become linked to data protection reform. No wonder that the Commission is defending its proposals also with a reference to more jobs linked to the digital economy.

But make no mistakes: there is *no space to go back* in this exercise. Some late comers in the debate seem to argue their case in terms that suggest that the current legal framework does not exist or does not apply to them. In my view, the main focus should instead be on making the present legal safeguards more effective in practice, so as to ensure that they will help us to face the current and future challenges of a digital world.

Furthermore, we should use this occasion to reduce the current diversity and complexity of data protection law, mainly due to the implementation of one legal framework into at least 27 slightly different national versions of the same concepts and principles. The Commission's proposal for a directly binding Regulation is the appropriate answer to this problem, but also requires very great care to ensure that all relevant details come out well.

Many of the issues debated in Council and Parliament - and commented upon in the EESC reactions - have been addressed in the EDPS Opinion of March 2012 and in the input from the Article 29 Working Party at various occasions. We will follow the debates in the Parliament and in the Council with very great interest and provide further input where needed.

Although the Commission proposal for a Regulation still raises quite a few questions at this stage, there is also a growing consensus about its main lines.

First, the scope of EU law will be extended: it will also apply whenever goods or services are offered at the European market, or when residents of the EU are being monitored. This means a 'level playing' field where Internet service providers and other key actors will be covered, regardless of whether they operate from the EU or from a third country.

Secondly, the position of data subjects will be reinforced so as to ensure an adequate control over the collection and use of their personal data. This will come from more transparency of data processing, stricter rules on consent, and more effective rights of access, correction and erasure of data, including rights to be forgotten and to data portability.

Thirdly, the controller's responsibility will be emphasized by duties to ensure and demonstrate compliance with data protection requirements, to conduct timely data protection impact assessments, and to ensure that all relevant privacy aspects are included in new developments from the start ("Privacy by Design").

Fourthly, the position of independent authorities will be reinforced, with stronger and uniform powers for more effective supervision and enforcement, including the possibility of heavy fines and other effective sanctions.

Finally, the Data Protection Regulation will ensure more harmonisation and consistency across the EU. Supervisory authorities will also be cooperating more closely on issues with a European or international dimension.

I think that a result along these lines by the end of this year or by early 2014 would provide a very good basis for ensuring a more responsible use of the internet.

Finally, let me say that I fully agree with the need to achieve a good balance between different fundamental rights, and more generally, between different legitimate interests, but I see no reason to believe that the proposed Data Protection Regulation would not be entirely in line with that approach.