



*CPDP 2018 - EDPS side event*

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*“Privacy by Design - Privacy Engineering”*

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Let me first of all thank the CPDP organisers to give us this opportunity to shine a spotlight on privacy by design and privacy engineering at this conference. I am grateful to the Future of Privacy Forum and to Qwant for their support to make this event a reality. Last but not the least, a big thank you to the Data Protection Commissioner of the Schleswig-Holstein German state, for walking side by side with us in this journey towards a promised land where people can be reassured that they are in control of their personal data and where the information technology is at their service. We want to work all together so that the promise comes true.

In exactly four months, privacy by design and by default will no longer be a utopian concept, a wish-to-have to embellish the speech of some dreaming activists or data protection commissioners, but will rather be an obligation that all those who process personal data of European residents will have to comply with.

The WP29 and the EDPS have systematically invited and supported the EU legislator to enhance and integrate what was already in Recital 46 of Directive 95/46/EC in the substantive provisions of the GDPR.

Article 25 is at the heart of the new data protection rules because it substantiates the obligations for controllers and the rights of data subjects, by giving directions to make those provisions effective in protecting the individuals and their fundamental rights.

While we haven't managed to convince the co-legislators to widen this provision to third parties providing technology and services to controllers, this could come indirectly if we are able to keep high the compliance threshold.

We know. We are lost in technology and our personal information is out of control. We are not any longer a few idealists voicing this and the choir is now composed of many authoritative singers.

“The internet is broken”. Wired UK magazine has dedicated its December 2017 issue cover and a wide report to the need to somehow re-think the internet. There, Tim Berners Lee, who invented the web, restated his call for users to be able to get back control of their data and put forward his solution to decouple applications from the data they process. Jaron Lanier, who is also member of the EDPS Ethics Advisory group, wrote that

the online services business model has gone very wrong, pointing his fingers to advertising.

Last week at a coding event in a UK college, Tim Cook, Apple CEO, said that he doesn't want his nephew on a social network. Two weeks ago Roger Mac Namee, a former mentor of Mark Zuckerberg and now tech investor, warned against the danger of users' addiction to internet platform and their exploitation by bad actors.

These are just a few of the recent growing tummy aches and unease lining up to denounce the gap between the potential of online services to serve mankind and the reality, too often rowing in the opposite direction.

How to fix all this, leveraging the data protection by design and by default obligation?

Is Art.25 of the GDPR enough? Can we say we have our definitive magic wand to transform the ugly world of personal data exploitation for profit maximisation or unlimited surveillance into the paradise of data at the service of human kind?

We do not want that the "state of the art" of technology and engineering, which is one of the parameter to take into account in implementing Art.25, be blamed and used as an excuse for not implementing privacy by design. We want to work for an ambitious "state of the art" capable of effectively protecting individuals through adequate processes and technology.

That's why for example we felt the need to launch the IPEN initiative. Together with FPF, ULD, Carnegie Mellon University and KU Leuven we organised in November last year a successful workshop to take stock of relevant developments and define what we miss at this stage. Conclusions will appear later this year in a joint report and we are committed to continuing our collaboration together for a successful impact.

While we start seeing first signs of increased use of privacy enabling and enhancing technology within commercial products (such as the use of "differential privacy"), there is a still clear need to further boost research and plug academic research findings into products and services.

EU and national co-funding should be addressed more and more in this direction. Incentives should be put at disposal of SMEs.

Of course it will be key that all EU DPAs have a common understanding of what means complying with Art.25. The WP29 is planning common guidance for the future and we will do our part by contributing to it and defining operational lines for the EU institutions.

Initial privacy by design inspirations were magnified by the former Ontario Commissioner Ms Kavoukian and then carved in the Resolution on Privacy by Design signed by Privacy and Data Protection Commissioners at the 2010 International Conference. If on the one hand they were not immediately translated into mandatory rules, on the other hand they brought a visionary dimension that should accompany the implementation of the new obligation of Art.25.

In front of the challenges of the internet of things, bodies and minds, I have already set out my strategy in our Opinions on Big Data and on Personal Information Management Systems.

I strongly believe all of us, and in particular industry and academia, need to work out a new mind-set and new business models for a human centric approach when building services over the internet of bodies and minds.

At the same time legislators, regulators and the wider civil society cannot avoid implementing a holistic approach to tackle the unprecedented dilemmas we face against technological advancements and their use.

Yesterday Davos summit addressed Artificial Intelligence and how to use it responsibly. This afternoon the EDPS the Ethics Advisory Group has presented its report, which doesn't mark the conclusion of journey but rather its beginning.

An effective implementation of the legal principle of data protection by design and by default is a necessary yet not sufficient milestone towards responsible technology and data governance at the service of humans and should be framed within the wider concept of "ethics by design".

The technology and engineering world is realising more and more that we cannot defer this challenge. In October 2017 the Internet Engineering Task Force has adopted a standard, called RFC8280, whose title is "Research into Human Rights Protocol Considerations". This document aims to expose the relationship between protocols and human rights, and proposes possible guidelines to protect the Internet as an enabling environment for human rights in future protocol development, in a manner similar to the work done for privacy considerations in a previous standard (RFC6973).

Let me conclude by a last quotation from this document. In its introductory section, this standard recalls a sentence from the IETF mission statements, which says "The Internet isn't value-neutral ... ". I cannot but agree that this is what we have to fix and where we have to head.

Let's continue working together for a value driven personal data processing. And the EU certainly does not lack a value Charter! The legal obligation of Art.25 of the GDPR will need to be interpreted in that context to be effective. I will wrap all these ideas in the EDPS forthcoming preliminary Opinion on Privacy by Design and by Default. We will then be honoured to collect any useful input to shape a final document as a plan for action.