EDPS Newsletter

European Data Protection Supervisor

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- HIGHLIGHT-

Reform of EU Data Protection law: EDPS calls on the European Commission to be ambitious in its approach

In a speech given at the European Privacy and Data Protection Commissioners' Conference in Prague on 29 April 2010, Peter Hustinx, EDPS, argued in favour of the need to be proactive in the context of the unfolding debate on the future of the EU legal framework for data protection. The EDPS called on the European Commission to remain ambitious in updating the existing framework to avoid the risk of an increasing loss of relevance and effectiveness of data protection in a society that is ever more driven by technological change and globalisation.

> ***"The stakes are not more and not less than how to ensure privacy and data protection in a highly developed Information Society of 2015, 2020 or beyond. An ambitious approach is the only way in which we can ensure that our privacy and personal data are well protected, also in the future. It is essential that the Commission comes up with proposals that take into account what is really needed and does not settle for less ambitious results."*** **Peter Hustinx, EDPS**

In his speech, Peter Hustinx stressed the key conditions for an effective legal framework to protect individual personal data in the EU. These included the need for a comprehensive legal framework to ensure more effectiveness, as well as the following main elements:

- integration of **"privacy by design"** and "**privacy by default**" in information and communication technologies;
- **more accountability for controllers**: data controllers should be made more accountable to ensure compliance with data protection rules in practice. This would bring significant added value for an effective implementation of data protection and would considerably help data protection authorities in supervision and enforcement;
- **stronger enforcement powers for data protection authorities**: it is essential that data protection authorities have sufficient resources to exercise their monitoring tasks and, if necessary, enforce compliance with data protection rules.

☞ EDPS speech (pdf)

CONSULTATION

> EDPS opinion on FRONTEX Regulation

The EDPS opinion, adopted on 17 May 2010, relates to the European Commission's proposal aimed at strengthening the operational capabilities of the European Agency for cooperation at external EU borders, FRONTEX. The opinion focuses on the growing tasks of the agency as envisaged by the proposal and their consequences for data protection.

In the EDPS' view, it is striking that the proposed Regulation is almost completely silent about the processing of personal data by FRONTEX, all the more so as the new legal framework in which FRONTEX is to operate in the near future is changing so fundamentally. He expresses concerns about the fact that the proposal does not specify to what extent FRONTEX would be allowed to process personal data and, if so, under which circumstances, conditions and limitations.

> ***"It is essential to lay down clear rules on data protection and provide for a clarification of the conditions and circumstances under which data processing by FRONTEX could take place."*** ***Peter Hustinx, EDPS***

The EDPS believes that the proposed Regulation should clearly address the question of the **scope of activities** that may give rise to the processing of personal data by FRONTEX.

A specific **legal basis**, subject to strong data protection safeguards and in accordance with the proportionality and necessity principles, is needed. Only where necessary for clearly identified and lawful purposes should such processing be allowed.

The Commission's reluctance to specify this legal basis in the proposed Regulation, or to clearly state the date by when it will do so, raises serious concerns. In the EDPS' view, this approach could lead to

undesirable **legal uncertainty** and a significant **risk of non-compliance** with data protection rules and safeguards. He therefore firmly calls on the Council and the Parliament to provide more clarity.

☞ EDPS opinion (pdf)

> EDPS opinion on sexual abuse of children and child pornography

On 10 May 2010, the EDPS adopted an opinion on a Commission proposal for a Directive on combating the sexual abuse, sexual exploitation of children and child pornography.

The objective of the proposal is to improve the fight against child abuse from several aspects, including criminalisation of serious forms of child abuse in relation for instance to child sex tourism, criminal investigation and coordination of prosecution, new criminal offences in the IT environment, protection of victims and prevention of offences. With regard to the objective of preventing offences, one of the tools would be the restriction of access to child pornography on the Internet.

In his opinion the EDPS does not question the need to put in place a better framework providing for adequate measures to protect children against abuses. He nevertheless stresses the impact of some of the measures, such as the blocking of websites and the setting-up of hotlines, on the fundamental rights to privacy and data protection of individuals involved. The issue raised is not specific to the fight against child abuse but to any initiative aiming at the **collaboration of the private sector for law enforcement purposes**.

The EDPS has in previous opinions expressed his concerns regarding the monitoring of individuals by private sector actors (*e.g.* Internet Service Providers (ISPs) or copyright holders), in areas that are in principle under the competence of law enforcement authorities.

In his opinion, the EDPS insists in particular on the need to ensure legal certainty with regard to all parties involved, including ISPs, victims and individuals using the network.

Although the proposal mentions the need to take into account the fundamental rights of end users, the EDPS considers it should be complemented by an obligation for Member States to ensure **harmonised, clear and detailed procedures** when fighting illegal content, under the **supervision of independent public authorities**.

☞ EDPS opinion (pdf)

> EDPS opinion on the citizens' initiative

The citizens' initiative is one of the **innovations** introduced by the Lisbon Treaty. It enables not less than one million citizens who are nationals of a significant number of Member States to invite the Commission to submit a legislative proposal on a subject of their interest. The collection of at least one million statements of support implies the collection of personal data. In his opinion of 21 April 2010, the EDPS underlined that full respect for data protection rules contributes considerably to the reliability, strength and success of this important new instrument.

A proposed Regulation, adopted on 31 March 2010, determines the further procedures and conditions for the citizens' initiative. The EDPS was generally **satisfied** with the way in which the data protection aspects of the initiative were addressed, but he saw some room for further improvements.

One of the recommendations concerned the obligation for the organiser of an initiative who intends to use an online collection system to request the competent authority for a certification of the security of such a system. As regards the timing of this request, the EDPS suggested to oblige the organiser to do so *before* he starts collecting the statements of support instead of after he has collected them.

Another recommendation concerned the **purpose limitation principle**. The EDPS suggested that the legislator ensures that personal data collected by the organiser is not used for any other purpose than the indicated support of the given citizens' initiative and to ensure that data received by the competent authority is used only for the purpose of verifying the authenticity of statements of support for a given citizens' initiative.

☞ EDPS opinion (pdf)

> EDPS opinion on waste electrical and electronic equipment

The opinion, published on 15 April 2010, concerns the Commission's proposal to recast the Directive on waste electrical and electronic equipment (WEEE, also referred to as "e-waste"), a proposal that was discussed intensively in the European Parliament and Council, but without consideration of the data protection implications.

While supporting the proposal's objective to improve environmental-friendly policies in the area of e-waste, the EDPS points out that the initiative only focuses on the environmental risks related to the disposal of WEEE and does not take into account the data protection risks that may arise from their inappropriate disposal, reuse or recycling. These risks exist in particular when personal data relating to the users of the devices and/or third parties remain stored in IT and telecommunications equipment (e.g. personal computers, laptops) at the time of disposal.

In view of such risks, the EDPS emphasises the importance of adopting appropriate **security measures** at every stage of the processing of personal data, including during the phase of disposal of devices containing personal data. The principle of **"privacy by design"** or, in this area, "security by design" should also be included in the proposal to ensure that privacy and security safeguards are integrated by default into the design of electrical and electronic equipment.

> ***It is important to take into account the potentially damaging effects of WEEE disposal on the protection of personal data stored in used equipment. Respect for security measures and "privacy by design" should be seen as essential pre-conditions to effectively guarantee the right to the protection of personal data.***
> ***Peter Hustinx, EDPS***

Reiterating that the Data Protection Directive 95/46/EC is applicable at the disposal stage of any WEEE containing personal data, the EDPS recommends that the legislators:

- integrate privacy and data protection into the design of electrical and electronic equipment "by default" as far as possible, in order to allow users to delete − using simple, free of charge means – personal data that may be present on devices in the event of their disposal.
- prohibit the marketing of used devices which have not previously undergone appropriate security measures, in compliance with state-of-the-art technical standards, in order to erase any personal data they may contain.

☞ EDPS opinion (pdf)

> EDPS opinion on privacy in the digital age

The EDPS opinion on "Promoting trust in the information society by fostering data protection and privacy" was adopted on 18 March 2010 as an input to the European Commission's new European Digital Agenda. The opinion discusses the measures that could be either undertaken or promoted by the European Union to guarantee individuals' privacy and data protection rights when making use of information and communication technologies (ICTs). Radio Frequency Identification (RFID), social networks, eHealth and eTransport are just a few examples.

The opinion emphasises that **trust is a core issue** in the emergence and successful deployment of ICTs. These technologies offer great opportunities and benefits but they also carry **new risks**. Ensuring that the use of ICTs does not jeopardise individuals' fundamental rights to privacy and data protection is a key factor to secure users' trust in the information society.

Although the EU has a strong data protection regulatory framework, in many instances ICTs raise new concerns that are not accounted for within the existing framework. **Further action is therefore necessary** to strengthen this framework. The EDPS believes that such action should include the need to provide for the principle of "**Privacy by Design**" whereby ICTs are designed and developed taking

privacy and data protection requirements into account from the very inception of the technology and at every stages of its development.

> ***The potential benefits of ICT can only be enjoyed in practice if they are able to generate trust. Such trust will only be secured if ICTs are reliable, secure, under individuals' control and if the protection of their personal data and privacy is guaranteed.*** ***Peter Hustinx, EDPS***

In order to further strengthen the European data protection legal framework, the EDPS calls on the European Commission to follow the following courses of action:

- **Privacy by Design general approach**: Privacy by Design needs to be explicitly included as a general binding principle into the existing data protection legal framework. It should also be fully endorsed by the European Digital Agenda and become a binding principle in future EU policies;
- **Privacy by design in particular sectors**: in three ICT areas presenting specific risks to privacy and data protection, the EDPS recommends the implementation of Privacy by Design based on the following approach: a) **RFID**: to propose legislative measures regulating the main issues of RFID usage in case self-regulation does not deliver the expected results; b) **Social networks**: to consider legislation that would provide for the need for mandatory privacy by default settings; c) **Browser settings and targeted advertising**: to consider legislation that would require browsers to be provided with privacy by default settings to facilitate obtaining users' consent to receive advertising;
- implementing the **accountability principle** in the existing Data Protection Directive and starting work towards the adoption of the **implementing measures of the security breach provisions** of the ePrivacy Directive, and extending them to apply generally to all data controllers.

☞ EDPS opinion (pdf)

> EDPS contribution to the negotiation of an EU-US agreement on the protection of personal data

The EDPS is contributing to the discussions on the drafting of an international agreement on data protection between the EU and the US. This agreement would provide for high level safeguards applicable to the exchange of personal data in the field of police and judicial cooperation in criminal matters. Since 2007, the EDPS has closely followed the work of the High Level Contact Group involving EU and US representatives, and has actively contributed to the different phases of the preparatory work. He previously issued an opinion in November 2008 (pdf), and has taken part in the meetings and public consultation organised by the Commission. Now that a mandate for negotiations is being drafted, the EDPS has supported the inclusion of essential data protection requirements in the draft, such as a clear purpose and scope of application, provisions on enforceable rights for data subjects and independent supervision.

> EDPS new inventory of legislative consultations

Within a few days, the fourth public inventory of the EDPS as an advisor on proposals for EU legislation and related documents will be published on the website. Due to the publication of the Commission Work Programme 2010 and the Stockholm Action Plan in March and April respectively, the EDPS inventory is published later than usual, namely in May instead of December.

The inventory forms part of the annual work cycle of the EDPS. Once a year the EDPS reports retrospectively on his activities in the Annual Report. In addition, the EDPS publishes an inventory of his intentions in the area of consultation for the next year. The inventory is accompanied by a document which lists the developments the EDPS will follow with priority. For 2010, these are the new legal framework for data protection, proposals relating to data processing and exchange in the field of police and judicial cooperation, including agreements with third countries on data transfers, and initiatives taken in relation to the digital agenda for Europe.

☞ EDPS inventory

S U P E R V I S I O N

> News on EDPS prior checking of personal data processing

Processing of personal data by the EU administration that is likely to result in specific risks for the people concerned is subject to a prior check by the EDPS. This procedure serves to establish whether the processing is in compliance with the Data Protection Regulation (EC) No 45/2001, which lays down the data protection obligations of Community institutions and bodies.

>> Collection of names and certain relevant data of returnees for joint return operation - FRONTEX

On 26 April 2010, the EDPS adopted an opinion on the processing of personal data by FRONTEX as concerns the "Collection of names and certain other relevant data of returnees for joint return operations (JRO)".

The purpose of the processing is the preparation and realisation of JROs assisted by FRONTEX under the FRONTEX Regulation (EC) No 2007/2004 in order to:

- have exact knowledge of number and identification of returnees taking part in the JRO;
- provide airlines with a passenger list;
- know the risks linked to the returnees and for the security of the JRO;
- know the health state of returnees in order to secure appropriate medical assistance during the JRO;
- know if any minors take part in the JRO.

FRONTEX informed the EDPS that personal data have not been processed for operational activities so far, but that this processing activity would be necessary in the near future: 1) to better fulfill and further develop the Agency's task in the context of the JRO; 2) to assist an organising MS/SAC (Member State/Schengen Associated Country) in compiling passengers lists and updating them during the course of the JRO's preparation on the basis of information received from participating States; 3) to have a constant overview of which participating MS/SAC have (or have not) provided the required data to the organising State which regularly asks FRONTEX ROS (Return Operations Sector) to contact that State and to provide the data in due time; 4) to increase the effectiveness and efficiency of FRONTEX assistance in organising JRO of MS/SAC.

Particular attention was given by the EDPS to the legal basis of the processing. The EDPS understands that some processing of personal data may be necessary for a proper execution of the Agency's task in the context of the JRO, in which case the Agency should be seen as a controller. He however considers a more specific legal base than Article 9 ("Return cooperation") of the FRONTEX Regulation as preferable, if not required, due to the sensitivity of the data and the activities concerned with regard to a vulnerable population.

The EDPS therefore considers that Article 9 of the FRONTEX Regulation and Article 5(a) of the Data Protection Regulation 45/2001 ("Lawfulness of the processing") could only serve as a provisional legal base for the envisaged processing activity, subject to a careful review of the need for a more specific legal basis.

The EDPS also requested that FRONTEX implement the necessary **procedures to guarantee the rights of the data subjects** and implement the **obligation to inform** before the processing activity takes place. Furthermore, the EDPS called on FRONTEX to inform the EDPS about the particular implementation measures taken in this regard.

☞ EDPS opinion (pdf)

>> European Administrative School - BELBIN Self perception inventory - European Commission

The purpose of the processing is to allow participants in European Administrative School (EAS) training courses to obtain feedback in the form of a report on their preferred role in a team. The data is not to be used for any form of appraisal on the individual concerned.

The EDPS concentrated on two aspects:

- **the relationship between the controller, the processor and the sub-contractor**: even if the EAS has no access to the data processed by the sub-contractor, the sub-contractor must act according to the instructions given by the EAS to the contractor. The EAS is the data controller of this processing activity because it determines the purposes and the means (the use of the web-based tool). The three contractors responsible for providing the training courses for the EAS, as well as the sub-contractor responsible for the web-based self assessment (BELBIN Self Perception inventory), must be all considered as processors of personal data acting on EAS's behalf. The sub-contractor is not authorised to carry out any further processing activity beyond what is determined

by the EAS and specified in the contract between the subcontractor and the contractor in accordance with the contract between the EAS and the contractor.

- **the anonymous nature of the data**: the report given to the participants cannot be considered as "anonymous" because the sub-contractor is able to link the answers with the data subjects as the participants usually use an e-mail address which indicates their name and forename.

The EDPS made recommendations on these two aspects, particularly that the contract should include clauses on all mandatory items, notably **confidentiality and security relating to the processing** between the contractor and the sub-contractor. The EAS must also be informed by the sub-contractor that, where requested and appropriate, it has provided access to and rectified the data. Finally, the choice of the contractor's direct or indirect subcontractors should be subject to EAS approval.

☞ EDPS opinion (pdf)

>> Early Warning Response System ("EWRS") and contact tracing - European Commission

The EWRS is a **communication tool** used by the Commission, the European Centre for Disease Prevention and Control ("ECDC") and EU Member States **for the exchange of information for the prevention of communicable diseases** - such as tuberculosis, measles, SARS, H1N1 and others - to allow cross-border action. The EWRS is used, among others, for "**contact tracing**". Contact tracing is a procedure used to identify and reach persons who may have come into contact with an infected person. Once contacts are traced, they may be diagnosed and receive care. Contact tracing also serves general public health interests by reducing or preventing the further spread of the disease.

In his recommendations the EDPS focused on the need to **more clearly establish the roles, tasks and responsibilities** of the parties involved in operating and using the system, in particular, the roles of the Commission and the ECDC. Controllers and processors must be clearly designated in a way which corresponds to the effective role as well as the legal status of the organisations involved. It must be specified who is responsible for what, and how data subjects can exercise their rights. In the short term, **adoption of a set of data protection guidelines** for the EWRS is recommended. The Commission is also encouraged to promote a **revision of the legal framework** to ensure a more secure legal basis and clear allocation of responsibilities.

The EDPS also emphasised the need to implement the principle of **Privacy by Design**, and to integrate data protection into the training provided to users. A clear mechanism should be provided for data subjects to exercise their **right of access**. Finally, to ensure consistency and transparency, the operator of the EWRS should provide **comprehensive and user-friendly information** to data subjects on its website. This should be complemented by notice provided by Member State contact points in accordance with national data protection laws.

☞ EDPS opinion (pdf)

> EDPS Guidelines

The EDPS issues guidelines on specific themes in order to provide guidance for EU institutions and bodies in certain fields relevant for them, such as recruitment, processing of disciplinary data and video surveillance. These guidelines also facilitate the prior checking by the EDPS of processing operations in the EU agencies as they served as a reference document against which agencies could measure their current practices.

>> EDPS Guidelines on administrative inquiries and disciplinary proceedings

On 23 April 2010, the EDPS issued Guidelines concerning the processing of personal data in administrative inquiries and disciplinary proceedings by European institutions and bodies. These Guidelines are part of the EDPS horizontal thematic approach with a view to **harmonising good practice** within all European institutions, bodies and agencies, and facilitating compliance with the provisions of the Data Protection Regulation (45/2001).

The Guidelines present in a concise way the outcome of the EDPS positions and recommendations regarding each fundamental principle as they have been analysed in the prior checking opinions on the processing operations carried out by most European institutions and bodies. Furthermore, the EDPS emphasises the necessity to carry out **further reflection on the specific issue of interception of communications** with particular emphasis on the legal basis of the tapping of voice communications and the possibility of doing this without a judicial warrant or authorisation.

In accordance with the procedure followed for a thematic approach, the Data Protection Officers of all agencies have been invited to use the Guidelines as a practical reference and notify to the EDPS the procedures in this field for prior checking, including a cover letter highlighting specific aspects *vis à vis* the position of the EDPS in this area. The EDPS will then issue a joint opinion.

☞ EDPS guidelines (pdf)

>> EDPS Video-surveillance Guidelines

The EDPS has issued a practical set of Guidelines to European institutions and bodies on **how to use video-surveillance responsibly** with **effective safeguards** in place. The Guidelines set out the principles for evaluating the need for resorting to video-surveillance and give guidance on how to conduct it in a way which minimises the impact on privacy and other fundamental rights.

The Guidelines apply to existing as well as future systems: each institution has until 1 January 2011 to bring its existing practices into compliance. A consultation draft, published in July 2009, elicited feedback to improve the draft Guidelines and increase cooperation with stakeholders.

> ***There are fundamental rights at stake, such as the right to privacy in the workplace. Therefore, decisions on whether to install cameras and how to use them should not be based solely on security needs. Rather, security needs must be balanced against the fundamental rights of an individual.***
> ***Giovanni Buttarelli, Assistant EDPS***

Within the limits provided by data protection law, each institution and body has a margin of discretion on how to design its own system. The Guidelines are designed to allow customisation. This **flexibility** should prevent rigid or bureaucratic interpretation of data protection concerns from hampering justified security needs or other legitimate objectives.

At the same time, each institution must also **demonstrate** that procedures are in place to ensure **compliance with data protection requirements**. Recommended organisational practices include adopting a set of data protection safeguards that are to be outlined in the institution's video-surveillance policy and periodic audits to verify compliance. Impact assessments carried out by the institutions are encouraged, while prior checking by the EDPS will still be required for video-surveillance involving large inherent risks (such as covert surveillance or complex, dynamic-preventive surveillance systems).

Data protection should not be viewed as a regulatory burden, a "compliance box" to be "ticked off". Rather, it should be part of organisational culture and sound governance where decisions are made by the management of each institution based on the advice of their data protection officers and consultations with all stakeholders.

☞ EDPS guidelines (pdf)

> Consultations on administrative measures

Regulation (EC) No 45/2001 provides for the right of the EDPS to be informed about administrative measures which relate to the processing of personal data. The EDPS may issue his opinion either following a request from the Community institution or body concerned or on his own initiative. The term "administrative measure" has to be understood as a decision of the administration of general application relating to the processing of personal data done by the institution or body concerned.

>> IT administrator rights - European Investment Bank

On 26 March, the EDPS replied to a consultation from the European Investment Bank with recommendations regarding the management of IT administrators' access to personal data stored in IT systems and applications. The EDPS underlined the need to apply the **principle of segregation of duties**. The degree of segregation should be defined in light of the level of risk identified for the related process.

The management of IT administrator access rights should be addressed through a **balanced approach between organisational and technical measures**. The EDPS also recommended that these measures be properly documented in a **detailed security policy** established by the institution.

☞ EDPS recommendation (pdf) (FR)

>> Recording activities - European Economic and Social Committee

The case relates to a consultation regarding an administrative measure on a draft regulation on recording activities at the European Economic and Social Committee ("Committee"). The processing applies to all the sound, visual and broadcasting recordings made by the Committee, in whatever medium.

In principle, the recordings take place in the following situations: activities organised by the Committee and those taking place within the Secretariat of the Committee. The purpose is to ensure transparency of the modalities of recording of activities within the Committee.

Various letters were exchanged between EDPS and the Committee's Data Protection Officer. A final letter was sent by the EDPS on March 2010, which underlined the different comments made by the EDPS through his analysis:

- the purpose of the processing must be better defined by the Committee, in accordance with Article 4(1)(b) of the Data Protection Regulation ("Data quality"). Once the purpose has been defined, an evaluation of the quality of the data could be carried out;
- with regard to the retention period, the Committee should clearly explain its reasoning for determining which recordings should be retained for historical reasons and which for transcription purposes.
- the Committee should clarify the situation regarding storage of recordings as a means of proof, by clarifying for instance the situations in which such conservation may take place.
- the question of consent was also a concern of the EDPS. This consent needs to be free and explicit.

☞ EDPS letter (pdf)

>> Implementing rules concerning the Data Protection Officer

The Data Protection Regulation (45/2001) requires that further **implementing rules** concerning the tasks, duties and power of the **Data Protection Officer (DPO)** be adopted by each EU institution or body.

In addition to the rules implementing the function of the DPO, the draft submitted for consultation by the European Research Council Executive Agency (ERCEA) also covers the **role of controllers** and the **rules pursuant to which a data subject may exercise his rights**. The EDPS welcomes this inclusive approach all the more since ERCEA also took on board the **best practice** previously suggested by the EDPS, such as:

- keeping an anonymous inventory of the written requests from a data subject to exercise a right (access, rectification, blocking, etc.);
- collaborating with IT and Information Security services of the Agency to supplement the DPO sources of information.

EVENTS

> Forthcoming events

>> Third Workshop on Data Protection in International Organisations (Florence, 27-28 May 2010)

The EDPS, in cooperation with the European University Institute (EUI), will organise the third Data Protection Workshop for International Organisations on 27 and 28 May 2010 at the Theatre Badia Fiesolana of the EUI. This workshop, bringing together various international organisations as well as professors in a separate academic session, aims to tackle some of the pervasive issues concerning privacy and data protection that exist today.

☞ More information

>> Biannual Conference on data protection and law enforcement (Trier, 31 May - 1 June 2010)

This year's biannual conference organised by the European Law Academy (ERA) in Trier, in cooperation with the EDPS, is entitled "Data protection in the age of SWIFT, PNR, Prüm and e-justice." This conference provides the opportunity to discuss a number of current issues concerning the protection, use and exchange of personal data, such as:

- the technology for the collection and exchange of data, also under the "EU information exchange model";
- the future of EU-US data exchange (SWIFT, PNR, general agreement on data protection);
- the impact of the European Court of Justice's judgment on the independence of data protection authorities in Germany, and of the judgment of the *Bundesverfassungsgericht* on data retention;
- data exchange under the "Prüm mechanism";
- the EU legal framework for data protection under the Lisbon Treaty.

A number of experts with an academic and/or practical background in the Member States and the EU institutions will address the conference. Involvement from the office of the EDPS is provided by Peter Hustinx, Supervisor, who will give the keynote speech and by Anne Christine Lacoste and Hielke Hijmans who will give presentations in other sessions.

☞ Conference programme (pdf)

>> Transparency and Data Protection: Cooperating or Conflicting Elements of Good Governance? (Maastricht, 3-4 June 2010)

The EDPS is organising in cooperation with the European Institute of Public Administration (EIPA) a seminar on "Transparency and Data Protection: Cooperating or Conflicting Elements of Good Governance?", which will be held in Maastricht on 3-4 June 2010.

In the course of the seminar, various experts from the EU institutions as well as from NGOs and the academic world will discuss the main aspects and developments of the EU legal frameworks relating to transparency and data protection, as well as how these two rights interact with each other.

While the first day will mainly focus on transparency, the second day will provide a closer look at the right to the protection of personal data, and in particular to the right of access to one's own personal data.

The seminar will also address some recent topics, such as the new legal and policy perspectives after the Lisbon Treaty, the recast of the access to document regulation as well as the developments of case law in these areas.

☞ More information on EIPA website.

>> ETUCE Closing Conference on Cyber-Harassment (Bratislava, 7-8 June 2010)

On 7-8 June 2010, the European Trade Union Committee for Education (ETUCE) will host a closing conference on cyber harassment of teachers. The conference will take place in Bratislava, and will gather participants from ETUCE member organisations in EU/EFTA and candidate countries. The results of the two ETUCE surveys on cyber harassment of teachers will be presented during the conference, and participants will discuss what further actions and policies are necessary to prevent and deal with the phenomenon of cyber harassment in schools.

☞ More information

>> European Security Round Table first debate on cloud computing (Brussels, 8 June 2010)

On 8 June 2010, the European Security Round Table (ESRT) will be initiating a series of debates on Cloud Computing. During this first event the opportunities and security considerations for moving toward cloud technologies in local governments, municipalities and cities will be analysed in a debate entitled "**Moving to the Cloud: Risks and Opportunities – Assessment for Local Entities.**"

The European Security Round Table is a neutral platform between the EU institutions, NATO and other relevant stakeholders to discuss European security and defence issues.

☞ More information and draft agenda (pdf)

>> The Lisbon Treaty Conference - Assessing the impact for UK law and policy (London, 15 June 2010)

The conference is intended to provide comprehensive analysis of the effects of the Lisbon Treaty on UK law. It will examine the substantive legislative changes, relevant case law and new mechanisms for bringing cases, and will consider the policy areas which the EU has identified for future action in the "Stockholm Programme" (Justice and Home Affairs work programme for 2010 to 2014).

The event will also address the following issues:

- Will EU law apply in more cases?
- How will the EU Charter of Fundamental Rights change the EU's approach to human rights?
- What are the implications for areas such as data protection, immigration, cross-border crime and family law?

Giovanni Buttarelli; Assistant EDPS, will provide a contribution to the session on "Privacy and access to personal data".

☞ More information

> Outcome of past events

>> European Conference of Data Protection Commissioners (Prague, 29-30 April 2010)

This year the Spring Conference of Data Protection Commissioners was organised by the Czech Office for Personal Data Protection, under the banner "Weighing up the past, thinking of the future". The conference sessions were held on various issues, including: 1) Internet of things; ubiquitous monitoring in space and time - with a presentation by Giovanni Buttarelli, Assistant Supervisor; 2) Children in cobweb on networks; 3) Personal data protection at the crossroads - with a presentation by Peter Hustinx, Supervisor; and 4) Public sector: respected partner or privileged processor?

Not surprisingly, the future framework for data protection currently under preparation by the European Commission was a central theme of the discussions. Several resolutions were adopted, in particular on the envisaged agreement between the European Union and the United States of America on data protection standards in the area of police and judicial co-operation in criminal matters, on body scanners, on the protection of children and last but not least on the future of privacy. The resolutions will be made available on the website of the Czech Office for Personal Data Protection (www.uoou.cz).

>> EDPS - Data Protection Officers meeting (Brussels, 19 March 2010)

On 19 March 2010, the EDPS attended the **biannual meeting with the Data Protection Officers** (DPOs) of the EU institutions and bodies.

The EDPS took this occasion to present recent developments in data protection in general. The EDPS also highlighted some of the implications of the Lisbon Treaty for data protection and possible implications for the scope of Regulation (EC) 45/2001.

After receiving feedback from the DPO meeting of 18 March 2010, the EDPS presented some recent developments in the EDPS supervision area, such as the work taking place on a compliance monitoring and enforcement policy and the main points of the EDPS complaints procedure which are relevant to DPOs.

Discussions were also held on the principle of notification of security breaches. The principle of notification to the Data Protection Authorities and, in certain cases, to the users/data subjects, has been recognised in the recent reform of the e-privacy Directive 2002/58/EC. In parallel the Commission adopted in May 2009 the implementing rules of the 2006 Decision on the security of IT systems which also provide for the reporting of "Information systems security events" involving personal data to the DPO. Some of the Agencies and Joint Undertakings are bound to apply the same rules by way of their Service Level Agreement with the Commission. The EDPS therefore also invited the DPOs to set up a working party to discuss the implementation of the principle of notification of security breaches.

>> Case Handling Workshop (Brussels, 18-19 March 2010)

The Belgian Data Protection Authority hosted the 21st Case Handling Workshop on 18-19 March 2010. Case handling workshops, which take place twice a year, aim to bring together case officers from different data protection authorities to exchange ideas and good practice on relevant cases. Rosa Barcelo from the EDPS contributed to the workshop with a presentation on on-line behavioural advertising.

☞ More information

SPEECHES AND PUBLICATIONS

- "Internet of things: ubiquitous monitoring in space and time", speech (pdf) delivered by Giovanni Buttarelli at the European Privacy and Data Protection Commissioners' Conference (Prague, 29 April 2010)
- "The Strategic Context and the Role of Data Protection Authorities in the Debate on the Future of Privacy", speech (pdf) delivered by Peter Hustinx during the European Privacy and Data Protection Commissioners' Conference (Prague, 29 April 2010)
- "Data Protection and Cloud Computing under EU law", speech (pdf) delivered by Peter Hustinx at the Third European Cyber Security Awareness Day (Brussels, 13 April 2010)
- "A privacy Framework for the Stockholm Programme", speech (pdf) delivered by Peter Hustinx at the RISE - High Level Workshop on Ethical and Policy Implications of Global Mobility and Security (Brussels, 26 March 2010)
- "The case for responsible use of biometrics from the perspective of the European Data Protection Supervisor", speech (pdf) delivered by Peter Hustinx at the "Third Joint Parliamentary Meeting on Security" (Paris, 23 March 2010).

About this newsletter

This newsletter is issued by the European Data Protection Supervisor – an independent EU authority established in 2004 to:

- monitor the EU administration's processing of personal data;
- give advice on data protection legislation;
- co-operate with similar authorities to ensure consistent data protection.

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