

MISSION REPORT: 7th Workshop: Data protection within international organisations

EDPS Participant(s)	Wojciech Wiewiórowski, [REDACTED] Petra Candellier and [REDACTED] [REDACTED]
Type of activity	Workshop.
Organisers	Office of the United Nation High Commissioner for Refugees and EDPS
Where/When	UNHCR Global Service Centre, UN City, Copenhagen, Denmark - 12 & 13 July Morning.
Subject(s) covered	GDPR and international organisations
Objective(s) of the mission + assessment	<p>Support international organisations in their efforts to develop their own data protection frameworks and to share knowledge and experience with one another. An important part of this work takes place as part of a workshop, an initiative launched by the EDPS in 2005.</p> <p>The EDPS co-organised the workshop including the moderation of two panels (by Wojciech Wiewiórowski and Petra Candellier).</p> <p>With around 70 participants representing 38 organisations from across the world, this workshop was a good opportunity to discover the realities faced by international organisations in the field of Data Protection and their strong interest and concerns for the GDPR (as well as the level of misunderstanding on the territorial scope of the GDPR). It was also an opportunity to establish first contacts which might be useful at a later stage.</p> <p>Throughout our discussions, one could note a common determination to make data protection part of the working culture of international organisations and to ensure that these organisations are held accountable.</p> <p>It was especially interesting to learn about new initiatives to organise independent control mechanisms for the data processing activities of international organisations. This is very promising as independent supervision is a key component of a strong data protection regime, and it could also play an important role as a safeguard in international transfers to and from international organisations.</p>
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MAIN ISSUES DISCUSSED

A roundtable of the recent data protection developments in international organisations was the opportunity to highlight:

- the effects of the entry into application of the GDPR on International Organisations although this piece of EU legislation is not directly applicable to them. Many of them took indeed that opportunity either to update existing Data Protection Policy or to establish one.
- the position taken by the European Commission on the applicability of the GDPR to International Organisations, in a note date 3rd July 2018.
- main concerns from the international organisations on the way to be “GDPR compliant”, in particular with regard to the legal remedies for data subject (how to combine them with the privileges and immunities of International Organisations), cloud usage or the request for adequacy decision or administrative arrangements foreseen in the GDPR.

A first panel dealt with privacy standards and oversight mechanisms for international organisations.

Leena Van der Made, Compliance & Data Protection Officer, and *Gisela Süß*, Head of the Institutional Law Division, Legal Services Department, European Space Agency, presented their new data protection policy and in particular the new Authority put in place so as to offer a legal remedy to the data subjects.

Gerald Page, Chair of the review board, International Committee of the Red Cross, explained the functioning of the review board, in the light of ART. 6 ECHR criteria.

Florence Audubert, Secretary of the Commission for the Control of Interpol's Files, Interpol, gave the main outlines of Interpol data protection policies, including explanation on the functioning of Commission for the Control of Interpol's Files.

A second panel was dedicated to accountability in practice.

Daniel Drewer, Data Protection Officer, Europol (by video conference) shared its best practices (e.g. ensure that the internal audit includes data protection issues and that the DPO is assisted by an IT expert dedicated at least part-time to the DOP office).

Leonor Vilas Costa, Legal Officer, Legal Affairs Unit, International Telecommunication Union, presented a UN system-wide initiative for strengthening and integrating access to physical spaces (Global Identity Management) and using the fingerprints of visitors (to be stored in the card only and not in a database). Implementing measures still need to be adopted.

Veronica Jarnskjold Buer, Senior Engineer, Norwegian Data Protection Authority, gave some tips on how to ensure privacy by design and by default.

A third panel was on legal grounds for processing personal data in the international organisations context

Christina Vasala Kokkinaki, Legal Officer, International Organization for Migration, gave an overview of regional international standard in Data protection matters, other than the GDPR.

Massimo Marelli, Head of Data Protection Office, International Committee of the Red Cross, underlined that IOs may rely rather on public interest than consent, as a legal basis for transfer.

The difficult situation where a processor falls under the GDPR but the controller (an IO) falls outside the GDPR was raised by NATO as an issue.

The fourth panel focussed on international transfers from and to International organisations.

Christopher Kuner, Professor, Vrije Universiteit Brussel (VUB) and Co-Director Brussels Privacy Hub, recalled that in general there is no agreement on how EU law interacts with international law and that the GDPR is supposed to have influence around the world. He underlined that the privileges and Immunities of States are different from privileges and immunities of IOs. The EU institutions, including the EDPB, must help in clarifying the interaction between the GDPR and IO (cf Art 50 and 60). A possibility could be to clarify that one cannot expect from IOs the same as from private companies or to prepare model clauses to be used when dealing with a partner falling under the GDPR. Wojciech Wiewiórowski indicated that he will draw the attention of the secretariat of the EDPB on these issues.

Tristan Burnett, Head, Preparedness and Response Division, Department of Operations and Emergencies, International Organization for Migration, presented the main changes in the GDPR compared to the 1995 Directive. She also underlined the difficulty for IO's to apply for adequacy decision or standard clauses as they would impact on their independence by putting them under the EU Jurisdiction so that the best way

forward according to her is to rely on the derogations foreseen in the GDPR.

Anne Schilmoller, Policy Officer, DG JUST, European Commission, confirmed that the GDPR does not apply to IOs and advertised for the setting up of administrative arrangements with IOs so as to provide a stable framework taking into account their specificities.

IOM and ICRC mentioned their disagreement on the interpretation given to the derogations (Article 49 last paragraph) by the EDPB guidance on derogations.

FOLLOW UP (Conclusions/Ideas to Take Home/Further steps)

Taking into account the concerns raised by the international organisations vis-a-vis the GDPR and the appeal for quick solutions, the attention of the secretariat of the EDPB should be drawn on these issues.

The workshop should be organised next year to maintain such forum of discussion and support to international organisations. The OECD has already expressed its will to welcome the 2019 Workshop in Paris.