EDPS

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EUROPEAN DATA PROTECTION SUPERVISOR

The EU's independent data protection authority

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Keynote speech by;

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EDEN Conference

Your Excellency Madam President

Madam Executive Director

Dear Colleagues

It is extremely difficult to have a keynote after Madam President even when you only want to focus on prediction what is the place of data protection in the future?

Madam Natasa Pirc Musar during her long career as the information commissioner of Slovenia – so ,also as the data protection authority – she was well known as a strong advocate of effective enforcement of data protection and a visionary of the legal and organisational reform brought by the General Data Protection Regulation. As the chairperson of the EUROPOL's Joint Supervisory Board she was also the ome of the best experts in processing data by law enforcement authorities.

I would like to start by talking about birthdays. Both Europol and the EDPS recently celebrated their birthdays, the EDPS being 20 and Europol being the five-year-older sibling at the blessed age of 25. And just recently, the EDPS published its 20 years anniversary ,book, reflecting on the lessons learned from 20 years as data protection authority.

One of the lessons is how crucial it is for a data protection authority to possess knowledge of the outside world that it engages with. The policing world, especially cross-border policing with its ever-changing technical and legal landscape, is a prime example of this. Each of these worlds has its own reality, its own interconnected web of laws that applies to it. Data protection is a fundamental right, but it is also is one area of law. An area that is part of the broader legal system that applies to you, to policing. As such, data protection needs to be able to engage with other fields; or we will miss the possibility to actually understand our world.

To say it differently in the spirit of the conference, as one corner stone, **we must know** the other corner stones on which this house, Europol, is built. And not only the corner stone of cybersecurity, which has been entangled with data protection for a long time, but also those
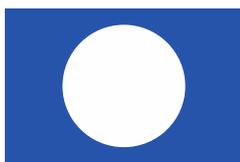
new stones that are placed today and tomorrow such as artificial intelligence and quantum computing.

As a society, we must embrace change and build further, as the architects of our future and our children's future. And we have to look at the house not brick by brick, that is to look at data protection as one sectorial application of the law, but we must critically look at how we can integrate policies and different fields of law in a way that builds a strong house.

How does data protection strengthen the house?

In my keynote, I want to emphasise two ways in which data protection strengthens the house.

The first way is that data protection is fundamentally human-centred. It is not just about technical safeguards, as even the most cybersecure system could be fundamentally unethical. Rather data protection is all about understanding and mitigating the harms that personal data processing can cause for individuals and their fundamental rights. Whether it is the victim of a deepfake or the police officer who submitted their palm print at the entrance this morning, adequate data protection safeguards are needed for everyone to ensure the effective protection of their basic rights and freedoms. This human-centred approach makes data protection a core tenet of policing in our democratic society. And I will be very interested to see how the panels in the next few days, especially the one on deep fakes, that really touches on something that is so core to our identities, will also bring the human aspect in the loop.

The second strength of data protection is that it is built upon fundamental principles (fairness, lawfulness) that by their nature can adapt to future developments in technology and society. Thanks to its wide scope, the EU data protection framework can act as a versatile safety net or mortar that can complement other regulatory instruments and make sure that no cracks exists between the bricks of the house. An example is the relationship between the AI Act and data protection regulation in data-driven investigations, which is another very interesting panel that will take place at this conference.

Deploying AI-based technologies such as enhanced filtering definitely has the potential to enhance the analytical and operational capabilities of law enforcement, but it also raises concerns, not only of the accuracy of the system, but also of its fairness and ultimately its lawfulness.
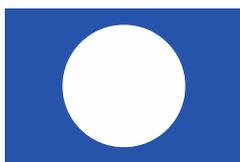
A wealth of evidence shows that, if not properly governed, AI systems can misidentify individuals, unduly discriminate against certain categories of individuals or societal groups, or be used for mass surveillance. And AI systems can do so, even if they are not part of an easily identifiable risk category such as remote real-time facial recognition. Clearly, police authorities need to know what can be lawfully achieved through the use of all of these new technologies, and need to have more certainty on how to do things 'by the book' as a DPO put it at our 20 year anniversary event. This will be a task of the data protection authority in the future, to ensure the deployment of such tools by the book, through guidance and supervision at the national and European level.

The importance of the cooperation with academics and scientists

Finally, I want to talk about the benefits of scientific rigour to our society and of the valuable role that academia and scientists play in creating ethical, fair and lawful AI. AI tech is being marketed more and more, even for use in law enforcement. But we must make sure we do not get carried away with the hype and that we continue to rely on scientific rigour to assess when to use an AI tool, and implement these technologies properly. And we have to acknowledge those cases where the empirical data, the science, leads us to conclude that there are no sufficient safeguards, that there are risks which simply cannot be mitigated and should not be accepted. We must work with scientists to make sure that new technology used in law enforcement respects data protection principles. Two weeks ago, EDPS and the University of Karlstad in Sweden hosted an event for the Internet Privacy Engineering Network (IPEN) on "Human supervision of automated decisions" to find ways to make human oversight more meaningful and quantifiable as one of different ways to reduce risks in semi-automated decision-making. These are the discussion we need to have today in order not to go blindly into the future. And the EDPS strongly supports any constructive engagements between Europol and the scientific community in the EU Innovation Hub.

Conclusion

As you will hear all of the exciting panels over the next two days, of which I already mentioned a few, I am sure the scope of the challenges will be impressive and at times it will feel that it is a maze that we cannot navigate. I would invite you to think about how we can integrate all the frameworks into one holistic one that makes sense. Let us think about how in
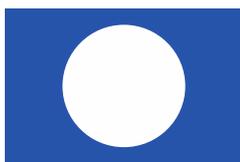
these topics, we can enable and bring data protection to the people. Let us think about how to build a house that lasts.

Thank you.