

Data Protection and Confidentiality: Requirements, Challenges and Dilemmas in Transnational Cooperation

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In the Digital Age

- Children are growing up in *public*
- Majority of people want to protect their **privacy** (*on* and *off* line) and their **children**.

Our recent survey:

- Personal data is not secure neither in public nor private sector (56%).
- More surveillance should be provided in schools and primary schools (58%).
- Surveillance in workplace should be limited (supported by ~ 7%).
- Children should be educated on data protection at schools (83%).

Legal Instruments

- Charter of Fundamental Rights of the EU (Article 8)
- Council of Europe Convention 108
- Directive 1995/46/EC
- National Personal Data Protection Legislation

A need for a binding international legal instrument discussed along with the EU data protection reform.

Definitions

Personal data - any information related to an identified or identifiable natural person.

Personal data processing – any operations carried out regarding personal data, including data collection, registration, recording, storing, arrangement, transformation, using, transfer, transmission and dissemination, blockage or erasure.

Controller - a natural person or a legal person, State or local government institution who itself or together with others determines the purposes and the means of processing of a personal data.

Principles of Personal Data Processing

Personal data shall be:

- Processed fairly and lawfully;
- Obtained only for one or more **specified and lawful** purposes;
- Adequate, relevant and not excessive in relation to the purpose for which they are processed;
- Accurate and kept up to date;
- Not be kept for longer than is necessary for that purpose;
- Processed in accordance with the rights of data subjects;
- Adequately protected - appropriate technical and organizational measures ensured against unauthorized or unlawful processing of personal data.
- Not transferred to a country/territory outside the EU/ the European Economic Area without adequate level of protection for the rights and freedoms of data subjects.

Some Numbers

- Cases solved within 2014 – 335 (2013 – 667 investigations, 362 complaints)
- One case solved on average 1- 4months
- In 2014 administrative penalties in 37 cases – 15 warnings, 22 fines
- ~ 10 % of all the cases related to children
- Since 2001 - few transnational cases regarding children (mainly regarding divorce procedure)
- Seminars for social workers, orphan's courts, schools, etc.
- Number of employees in our DPA – 19.

Violations of Personal Data Protection Law

- Personal data of children published online.
- Obtainment and usage of personal data without legal ground.
- More personal data processed than necessary for the purpose.
- Consent from parents not asked/ parents not informed regarding processing of personal data of children.

Transfer to Third Countries

- Lack of data protection provisions encountered regarding personal data transfers.
- Usually a reference regarding confidentiality included.
- Not the same instruments used for transnational data transfers as in the private sector (ex., BCRs, contractual clauses).
- The level of privacy protection within public sector transnational data transfers should be enhanced (ex., standard approach to avoid discrepancies; Art. 29 WP currently considering this issue).

Challenges and Concerns

- The need to cooperate between different institutions on national and international level.
- Necessity to exchange the information quickly.
- Protection of privacy hard to ensure in the digital age.
- Need for more information on the issue of privacy protection.

Cooperation with Other DPAs

- The role of the Article 29 Working Party
- Contact person in each DPA
- Pro-active approach to cooperation necessary
- Exchange of best DPA practice
- Strengthened cooperation with the Baltic DPAs (including joint investigations)
- Limited resources allocated to international and EU level cooperation

**For more information do not hesitate to
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