Consultation on the legal framework for the fundamental right to protection of personal data

Dear Ladies and Gentlemen,

Please find attached a contribution with regard to the Consultation on the legal framework for the fundamental right to protection of personal data.

Particular reference is given to the publications of the Legal and Security Issues Network of the Council of European Professional Informatics Societies (CEPIS LSI) and the results of a number of European Research Projects namely “Future of Identity in the Information Society” (FIDIS), “Privacy and Identity management for Community Services” (PICOS), “Privacy and Identity management for Europe” (PRIME), and “Privacy and Identity Management in Europe for Life” (PrimeLife).

Yours sincerely

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European Commission Consultation on the legal framework for the fundamental right to protection of personal data

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1. Please give us your views on the new challenges for personal data protection, in particular in the light of new technologies and globalisation

The biggest challenge is balancing the benefits that technology can bring, with the need to protect individuals’ rights to privacy and confidentiality. New technologies have brought increased focus to the debate around who should control access to personal information, and what limits should be placed on this control. This presents a challenge because, when using technology, the same qualities that bring benefits (fast, accessible, searchable, remotely available, small, and handy) also make data vulnerable to unauthorised or inappropriate access.

A typical example is the issue of Social Networks, which enable and encourage the sharing of personal information, often without offering adequate advice or safeguards for people who actually publish very personal information there.

The Legal and Security Issues Network of the Council of European Professional Informatics Societies (CEPIS LSI) has developed a relevant statement on “Social Networks – Problems of Security and Data Privacy” that was endorsed by the whole of CEPIS and can be found on www.cepis.org/index.jsp?p=942&n=963#social_networks.

The EU funded project “Privacy and Identity management for Community Services” (PICOS, www.picos-project.eu) is researching the area and has (among other publications), issued relevant documents on a Contextual Framework, Requirements, and a Platform Architecture for privacy enhanced social networks, that can be found under www.picos-project.eu/Public-Deliverables.29.0.html.

Another example is Identity Management, which can easily lead to an international and sector-overarching unification of identifiers (often misnamed “Identities”) of people. This unification is not only a risk for privacy but also eases identity theft. What is needed and may well need support by legal actions is the opportunity for citizens to establish and manage differentiated identifiers and related profiles for different situations in life (often called “Partial Identities”).


Some of the issues are discussed under the headlines of “Trust in the Information Society”.


2. In your views, does the current legal framework meet these challenges?

There is probably not a new directive needed at this time, but a better implementation of it through better linking to technology and sector-related regulation, resulting in a better understanding, why things such as data scarcity, parsimony and management are of importance. This should include interpretations of the directive for new and upcoming technologies (see
Question 1) as well as sector-specific rulings, e.g. for the banking sector and for police and judicial cooperation.

The Legal and Security Issues Network of the Council of European Professional Informatics Societies (CEPIS LSI) has developed a relevant statement on “Privacy-Consistent Banking Acquisition” that was endorsed by the whole of CEPIS and can be found on www.cepis.org/index.jsp?p=942&n=963#Privacy-consistent, and one on Authentication approaches for on-line banking, that can be found on www.cepis.org/index.jsp?p=942&n=963#online_banking.

CEPIS LSI has also issued a letter of support on data protection in the framework of police and judicial cooperation in criminal matters to the European Data Protection Supervisor Peter Hustinx (www.cepis.org/index.jsp?p=942&n=963#Letter)

3. What future action would be needed to address the identified challenges?

Some of the relevant activities can be derived from the contribution to Question 2. Moreover it is useful to support the global standardisation on Privacy and Identity Management, especially in the ISO/IEC system, where JTC 1/SC 27/WG 5 “Identity management and privacy technologies” (www. the framework projects on Privacy and Identity Management on Standardisation.

Technology Development would profit a lot from application of the “Privacy-by-Design” paradigm (see e.g. www.privacybydesign.ca), which reaches beyond the use of privacy-enhancing technologies (PETs) to address specific privacy issues. “Privacy-by-Design” supports the consideration of privacy requirements in early development phases of ICT systems and thus can help avoiding privacy failures later. This does not only improve the privacy of the involved stakeholders, but also saves a lot of resources, mainly time and money, as usually the fulfilment of requirements gets the more expensive the later the requirements show up.