An opinion democracy

Each of our independent data protection bodies has to report every year to the highest State authorities on its work and activities. Depending on national traditions, such authorities can be the President of the Republic, the Parliament or the Head of Government. But the "annual report" is also a way of being accountable to the public, i.e. our fellow citizens, who are increasingly sensitive to privacy protection issues and naturally demanding, and even critical of us. Meeting the public is decisive. At stake is the idea everyone has of our influence and independence, without which the trust placed in the control system would be undermined. That is why we should be satisfied that the European Charter of Fundamental Rights requires independent control. That is also why we have been prompted to give a lot of place to privacy protection associations, Human Right associations, consumer associations, employee associations and health associations at the 23rd International Convention in Paris. In addition, except for the traditional meeting reserved for data protection authorities, all sessions will be open to the national and international press.

It is only legitimate that everyone may judge the way in which our authorities attempt, case after case, to find the right balance between "data processing" and "liberty". Max Weber mentioned the "belief ethics" and the "liability ethics". The compromise between both ethics is not a matter for specialists. It should be a matter for everyone.

Yesterday, you had to be "in". Today, everything is "e". In healthy competition with the countries which preceded it on the royal road of the "e", it is now Belgium's turn to propose a novelty, namely, e-government. It is the intention of the current real, not virtual, Belgian government to use this avant-garde expression to announce its ambition for administrative simplification.

A single identifying number

Each individual, each company or entity will be given an official document, the only one to be used in all contacts with the administration, listing the single identification number, in order to avoid errors, and readable both by the naked eye and electronically, thanks to a micro-chip.

A network of interconnections between different administrations

Belgium is a federal state composed of linguistic communities, regions, provinces, and communes. It is, therefore, appropriate to ensure optimal use of information by interconnecting systems at all these different levels of the administration. Belgian citizens and companies will, thus, be offered the guarantee that the public services will no longer request data already in the possession of another public service.

The control

Certainly, the lawfulness of electronic data exchanges between public services must be ensured by controlling that the principles of privacy protection are respected. Here, Belgium has also innovated, or almost. A committee for the social security sector has been in place since 1990, another is planned for police data banks. A third will, therefore, be desirable to specify which services should have access to which data, and which data may be exchanged between which services while respecting the principles of purpose and proportionality.

Does this mean that the personal data protection Commission will become a structure? Not entirely. It will keep its competences parallel to those of the new agencies. Is it not, rather, a question of administrative simplification?

Portal web sites at the service of the citizens

E-government intends to make available, to duly identified and authenticated citizens and companies, portal web sites whose conviction will be ensured by judicial keywords. They will receive, in an interactive manner, numeric declarations, that of VAT, those of social risks (industrial injuries, unemployment, industrial disablement), etc.

Remarks

The project does not provide for either pilot experience or evaluation. Its perfection is such that the citizen will no longer find it possible to be satisfied with the more familiar, less electronic, procedures.

The risk of seeing the work held up by parliamentary delays is removed, as Parliament has not been referred to and is neither concerned nor involved.

Will e-government be a modern form of e-paternalism?

Only the future will tell.
Protection of the Individual’s Personal Data in the European Union

FOCUS For more than ten years the European institutions have been perfecting the foundations for the right to data protection, of which the directive guaranteeing personal data protection and free circulation on a European level is the central link. During the past year there have been three major developments that I would like to emphasize.

What are in your view the factors influencing data protection in Hungary?

The old political regime was overthrown in Hungary by a “constitutional revolution”. The changes did not occur violently, in the streets, but on the grounds of legality, in the souls and minds of people. Enforcing data protection and privacy, and freedom of information for transparency to government has been synonymous with giving up with the old omnipotent state.

What are the most important results of your action?

Data protection is in Hungary today not confined to mere letters on paper, but it is vital and living law, with a real influence unfolding before our eyes. Despite some attacks from politicians we have the support of the public. And last summer, the EU recognized Hungary as a country offering an adequate level of data protection.

In my mind the most important topic deals with drawing a line of demarcation between the freedom to information and data protection and privacy in research archival material and the protection of Holocaust victims’ personal data, the enforcement of the informational rights of victims of the secret services under the former communist regime, questions on the extent to which politicians can be held accountable and are entitled to their own privacy. In one case in this latter category, I have argued that the salaries of ministers are subject to disclosure as a state of public interest.

We are also active in protecting the rights of the most helpless citizens, drug addicts, psychiatry-patients, and HIV victims.

See our recommendations in english on www.obh.hu.

The Charter of fundamental rights

Among the fundamental rights that the European Union has undertaken to guarantee, proclaimed in the form of a Charter during the summit in Nice on December 8, 2000, the most promising for the future of the information society is certainly the recognition of the specific right to personal data protection. This right is, particularly, based on the fact that having an independent control at the time of an increase in the processing of personal data linked to complex and continuously improved electronic exchanges, it was essential to ensure such a recourse for everyone.

Institutions guaranteeing this recourse already exist in all the Member States. At the European level they meet in the Article 29 Group and offer precious advice to the European Institutions.

Data protection in the community institutions and bodies

A cornerstone was missing in the structure. The regulation of application to community institutions and bodies and the regulation of application to community institutions and bodies was adopted on November 30, 2000, and a European data protection controller should be appointed in the near future.

Exchanges with third countries

The Commission has also been very active in the domain where it has the particular responsibility of ensuring a common policy, facilitating both the protection of individuals in respect of data processing and the pursuit of international exchanges. In this framework, the Commission has recognised as appropriate the level of protection offered in Hungary, in Switzerland, and, thanks to the joint efforts by Europe and the American administration, that offered by the American 'Safe Harbor' measure.

On June 14, 2001 the Commission further adopted a model for standard contractual clauses aiming at establishing a framework for data flows in all economic sectors and on a worldwide level.
European personal data commissioners spring conference: Athens, 10-11 may 2001

Konstantinos DAIFEROMS,
President of the Hellenic Data Protection Authority

Spring Conference is always something more than an official meeting. It has always been a very important occasion for European Commissioners, Members and Scientific staff of European Commissions, to proceed to scientific approaches on important matters concerning data protection policy and implementation of the relevant legislation, exchanging views and trying to find common solutions on these matters.

I would like to thank once more our European colleagues for their fruitful cooperation that made this Conference possible and successful. The Conference runs around seven major topics:

Cybercrime and protection of personal data
A general approach of the major problem of the contradiction between facing computer related crime - commonly known as cybercrime - and protection of personal data was given in this first topic. There was underlined the necessity of functioning of the relevant working group. The Commissioners declared their willingness to cooperate in order to support the important task of this working group.

Data protection in telecommunication field and Internet
Recent developments in the telecommunication field were presented, especially under the terms provided in the relevant European Directive 97/66 and its amendment and there was a detailed presentation of this amendment.

The Stakes: Retention of traffic data by Internet Service Providers for criminal research: the declaration adopted during the spring conference in Athens.

In the same time, we presented the Report of the Internet Task Force adopted by Art. 29 Working Group, as well as the Report on the work of Berlin Group.

Protection of workers' data
Data protection in employment area is a very sensitive domain with specific needs. The German and the Greek approach to the matter were presented, as well as an analysis of the problem of workers' use of e-mail control.

PETs
Recent developments on Privacy Enhancing Technologies (PETs) were presented in this topic. There was a presentation of the PISA project on Private Incorporated Software Agent and an analysis of the role of intermediaries as a privacy-enabling method and technology.

Notion of "consent" and "enforcement"
The consent of the data subject is fundamental in the data protection system provided by the Data Protection Directive. The relation between consent and informational self-determination as well as consent as a sufficient guarantee are some problems raised in this season. Finally, it was presented the case of the Greek Identity Cards, where the conflict between the principle of proportionality and consent was crucial.

Black lists
The problem of black lists is a major one, especially under rapidly developing economies. Belgian, Austrian and French view on the problem were presented, concerning especially the sectors of credit, telecommunications, insurance and house rentals.

E-commerce
Electronic commerce and related electronic trading of personal data involve some very important aspects of data protection matters. Among them spamming, public files on Internet, massive use of e-mail for political purposes and profiling were some of the items analised in this topic.

In addition to the above, during the Conference we had the opportunity to hear some very interesting recent developments about the action of the Virtual Privacy Office based in Germany and of the Complaints workshop. New efficient means of cooperation is always welcome.

Two declarations adopted:
A Declaration on Article 8 of the EU Charter of Fundamental Rights and a declaration on Retention of Traffic Data by Internet Service Providers (ISP's).

Retention of traffic data by Internet Service Providers (IPS's)
The Spring 2001 Conference of European Data Protection Commissioners notes with satisfaction that Article 8 of the Charter of Fundamental Rights of the European Union strengthens the provisions on data protection that have been issued in the past few years so that the right to data protection is finally recognized as a fundamental human right.

A veritable "European model" has been established for data protection. This model is shaping discussions in the international community and should positively influence the diffusion of an approach considering data protection as a fundamental human right and a basic component of e-citizenship.

This personal data protection model should serve as a guideline for all European Union's institutions in revising the existing legislation and developing new rules as well as in shaping their relationships with third countries. The Conference would like to draw the Commission's and Parliaments' attention to this important requirement.
Hong Kong held its first-ever Privacy Week

A one-week event aiming to raise further awareness of personal data privacy protection in Hong Kong was recently organised and held by the Office of the Privacy Commissioner for Personal Data ("PCO"). with a wide range of activities targeted at different sectors of the public.

M Stephen LAU
Privacy Commissioner for Personal Data

Privacy Week kicked off on 26 March with a privacy conference, entitled "E-Privacy in the New Economy". Held at the impressive Hong Kong Convention and Exhibition Centre, the seminar was instructed by the Privacy Commissioner for Personal Data. Mr Stephen Lau, Secretary for Information Technology and Broadcasting of the Hong Kong Government, Mrs Carrie Yau, and the US Federal Trade Commissioner, Mr Mozelle Thompson.

The second day of the Privacy Week saw privacy officials from the Asian region gathering in Hong Kong to exchange views and share experiences in respect of privacy protection. The meeting also presented an opportunity for these privacy representatives from 10 Asian cities to discuss the future trend of privacy protection in their jurisdictions.

Two large-scale consumer roadshows, targeted at the general public, took place at two popular malls during Privacy Week. Local and overseas experts discussed privacy issues including Consumer and E-Privacy, cross-border data flow, workplace surveillance, legal issues of e-commerce and privacy impact assessment. A full house of 300 participants listened with great enthusiasm to the speakers and their presentations.

At the conference, the PCO also launched a Management Handbook entitled "A Policy Approach to Building Trust and Confidence in E-Business", describing the policy approach to building customers' trust and confidence in e-commerce. This is the first of a series of PCO handbooks about online business practices that involve personal data collection. The PCO will subsequently publish handbooks on the implementation aspects of privacy and e-commerce, including privacy impact assessment.

With the Code of Practice for Human Resource Management coming into effect in Hong Kong from 1 April, the PCO organised two public seminars, providing opportunities for the public to learn more about the new requirements in relation to personal data privacy in every stage of the employment process. Advertisements were broadcast widely on radio to encourage public awareness.

The closing event of Privacy Week attracted the greatest number of audiences throughout the week - a variety entertainment television show broadcast live on the most popular Hong Kong TV channel.

The PCO is pleased that Privacy Week was so well received by the community, and it plans to hold a similar large-scale activity next year.