

Serge Gutwirth · Ronald Leenes  
Paul de Hert · Yves Poullet *Editors*

# European Data Protection: Coming of Age

 Springer

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# Foreword

The present book is one of the results of the 5th edition of the yearly Brussels based international conference *Computers, Privacy and Data Protection 2012 – CPDP2012*. Held on 25, 26 and 27 January 2012 under the title *European Data Protection: Coming of Age* the conference welcomed 692 participants at the venue, while another 500 people were reached through free public events organized in the evenings. The 3 day conference offered participants 25 panels and several workshops and special sessions, with 237 speakers from academia, the public and private sectors, and civil society.

Indeed, this year, the conference, which is traditionally organized around 28 January – ‘Privacy day’ – already had great momentum as it kicked off on the precise day (25 January 2012) that the European Commission presented its new ‘Data protection package’ consisting of a new ‘Proposal for a Regulation on the protection of individuals with regards to the processing of personal data and on the free movement of such data’ (the so-called General Data Protection Regulation) and a ‘Proposal for a Directive on the protection of individuals with regards to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data’. These proposals for the amendment of the current EU data protection framework were not only impressive in volume – together they comprise of no less than 155 articles (and 172 pages) – but are also wide-reaching and ambitious in scope. The Regulation in particular is a detailed document, each provision of which invites discussion in terms of aim, effectiveness and proportionality. All participants will remember the packed *Grande Halle* in the late afternoon of Wednesday 25 January 2012: the attendees absolutely focused – so focused one could hear a pin drop – listening to the presentation of the Data Protection Package by Françoise Le Bail, EC Director General for Justice, and the first comments by highly qualified commentators. Many participants saw the effects of their scientific work, or stakeholder action, taking form (or not...) in the Commission’s elaborated proposals. With a number of clearly new, or re-considered, directions put forward, this, undoubtedly was the starting shot for a probably long,

but still highly challenging, process of discussion, negotiation and lobbying, which will take place in the year 2012 and probably beyond.

*European data protection: coming of age?* has definitely been a good choice of title for CPDP2012. The Data Protection Package can indeed be described as a turning point, a rebirth of European data protection, and perhaps, its passage from an impulsive youth to a more mature state. The Commission tried to analyze, digest and 'reboot' data protection on the basis of almost 20 years of experience, stakeholders activity, scientific research and political decision making in the field. As such, this was no small achievement. However, the debate is open, and in the few months that followed, proposals had already been thoroughly commented and criticized, and amendments had already been proposed. Indeed, this encompassing renewal process of European data protection will be at the very heart of CPDP2013 which will take place on the 23, 24 and 25 January 2013 under the motto *Reloading data protection* (<http://www.cpdpconferences.org/>).

This book brings together chapters originating from two tracks. On the one hand, some chapters originate from responses to the conference's call for papers and have thus already been presented during the conference; on the other hand, some papers were submitted by invited speakers in the months following the conference. All the chapters of this book have been peer reviewed and commented on by at least two referees with expertise and interest in the subject matter. Since their work is crucial for maintaining the scientific quality of the book we would explicitly take the opportunity to thank them, *ad nominatim*, for their commitment and efforts: Antoinette Rouvroy, Anton Vedder, Cecile de Terwangne, Charles Raab, Catherine Flick, Claudia Diaz, Colin Bennett, Daniel Le Métayer, Daniel Lopez Gomez, Dara Hallinan, Ebeneser Paintsil, Eleni Kosta, Els De Busser, Eva Lievens, Gabriela Bodea, George Carlisle, Gerrit Hornung, Gloria González Fuster, Hans Hedbom, Ivan Szekely, Julien Jeandesboz, Joerg Daubert, Johann Cas, Joseph Savarimuthu, Karim Hadjri, Katja De Vries, Laura Tielemans, Lee Andrew Bygrave, Leonardo Martucci, Lothar Fritsch, Marc Langheinrich, Marc van Lieshout, Marit Hansen, Mathias Beckerle, Mathias Vermeulen, Michael Herrmann, Michel Arnaud, Mireille Hildebrandt, Pedro Bueso Guillen, Philip Schütz, Rachel Finn, Raphaël Gellert, Rob Heyman, Rocco Bellanova, Ronald Leenes, Ruddy Verbinnen, Seda Gürses, Serge Gutwirth, Simone Fischer-Hübner, Steve Paulussen, Tal Zarsky, and Wouter Steijn.

This volume brings together some 19 chapters, offering conceptual analyses, highlighting issues, proposing solutions, and discussing practices regarding privacy and data protection. In the first part of the book, conceptual analyses of concepts such as privacy and anonymity are provided. The second part focuses on the contrasted positions of digital natives and ageing users in the information society. The third part provides four chapters on privacy by design, including a contribution from the mother of privacy by design, Ontario Information and Privacy Commissioner Ann Cavoukian, as well as discussions on roadmapping and concrete techniques. The fourth part is devoted to a recurring CPDP theme, surveillance and profiling, with illustrations from the domain of smart metering, self-surveillance and the

benefits and risks of profiling. The book concludes with case studies pertaining to communicating privacy in organisations, the fate of a data protection supervisor in one of the EU member states, and data protection in social network sites and online media.

We hope this book will meet the reader's appetite!

Serge Gutwirth, Ronald Leenes, Paul De Hert, and Yves Poullet





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# **Part I**

## **Concepts**

# Chapter 1

## Seven Types of Privacy

Rachel L. Finn, David Wright, and Michael Friedewald

### 1.1 Introduction

Theoretical and legal conversations about the relationship between technology and privacy date back to the 1890s with the advent of portable photography equipment accessible to the general population.<sup>1</sup> As technologies continue to develop, conceptualisations of privacy have developed alongside them, from a “right to be let alone” to attempts to capture the complexity of privacy issues within frameworks that highlight the legal, social-psychological, economic or political concerns that technologies present. However, this reactive highlighting of concerns or intrusions does not provide an adequate framework through which to understand the ways in which privacy should be proactively protected. Rights to privacy, such as those enshrined in the European Charter of Fundamental Rights, require a forward-looking privacy framework that positively outlines the parameters of privacy in order to prevent intrusions, infringements and problems. One such framework is presented by Roger Clarke, who, in the mid-1990s, identified four different categories of privacy, which

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<sup>1</sup> Samuel Warren and Louis D. Brandeis, “The Right to Privacy,” *Harvard Law Review* 4 (1890).

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