

Towards an Urgent Action Plan to Implement Global Privacy Standards for a Global World

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Panel: "Global Standards Linked to Global Values"

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European Digital Rights (EDRI) is an association of 28 non governmental digital rights organizations active in 18 European countries. This allows EDRI and its members to promote and defend fundamental human rights in the information society, including privacy and data protection, at the European level as well as at the national levels. At the global level, EDRI is a member of like-minded NGO coalitions, among them CSISAC (the OECD Civil Society Information Society Advisory Committee), the Public Voice, and, as part of the Internet Governance Forum Community, the Internet Rights and Principles Coalition.

In its own capacity or as a member of these coalitions, EDRI participates to numerous policy making processes, such as the Council of Europe group of experts on new media, the European Commission High Level Expert Group on the Internet of Things, the EU Fundamental Rights Agency Platform for NGOs, and of course the OECD Committee for Information, Computer and Communications Policy and its working groups. This activity makes EDRI particularly well placed to observe the national trends as well as the European and global trends, not only being able to get the big picture but also being well aware of the details of policy implementation and practices.

This conference has intensively discussed « big data » and addressed it as if this were a new issue. From our understanding, this is certainly not the case. We obviously agree that we have to deal with bigger sets of data, and that the collection, storage and processing of these data is now globally distributed ; but this evolution in scope doesn't fundamentally modify the challenges we've been facing for almost 30 years, since the enactment of earliest privacy and data protection legislations.

Consequently, the well established privacy and data protection principles remain valid, and it would be a huge mistake to give up on these principles in an attempt to adapt to the new circumstances of the Web 2.0 economic model or of real or constructed cybercrime threats. Actually, such approach would simply be a disaster for privacy and data protection.

Privacy is a fundamental human right, and personal data protection is becoming widely recognized as such. Human rights shouldn't be adapted to new technical developments or economic models, by any mean. This dialectic should be put back on its feet : it is rather the technical, economic and behavioral norms that should comply to international human rights standards, and obligations should be placed on those who collect and process personal data, while rights should be given to those whose personal information is collected.

Thus, let's get back to the basics : as over 170 governments reaffirmed at the Vienna World Conference on Human Rights in 1993, human rights are universal, indivisible, interrelated and interdependent, and their protection is the first responsibility of governments : they are accountable to their citizens for that. The protection of privacy, a human right enshrined in international law, although encountering specific challenges with the use of ICTS, remains a fundamental human right, and not an ethical or moral issue which protection should be left in the visible or invisible hand of the market or of so-called multistakeholder initiatives such as voluntary codes of conduct. An international framework for privacy protection could only be based on the rule of law, respect for fundamental human rights, and support for democratic institutions and governance.

It is exactly in this spirit that more than 200 NGOs and privacy experts adopted on 3 November 2009, exactly 2 years ago, the Madrid Civil Society Privacy Declaration on "Global Privacy Standards for a Global World", at the initiative of The Public Voice International Coalition. What we now need is an urgent action plan to implement such standards, and I'm going to identify some practical suggestions for such an action plan.

- One of the main provisions of the Madrid Civil Society Privacy Declaration urges countries that have not ratified Council of Europe Convention 108 together with its Protocol of 2001 to do so as expeditiously as possible. To this end, we invite the CoE to take a proactive role, in the same way as it has been promoting its Convention on Cybercrime. Training workshops should be organized in different countries and regions of the world to help develop, or assess when existing, privacy and data protection legislation for compliance or readiness to sign and ratify the Convention.
- Private sector, and especially companies operating worldwide, have a duty to participate to this process, if only by financing it. As a matter of fact, Microsoft participated to the funding of the CoE project to promote the Cybercrime Convention worldwide and to set up the European Cybercrime Training and Education Group. This model can perfectly be followed in the case of data protection and privacy training and education, at different regional levels.
- Such a process, together with the assessment of national and regional legislation, regulation, guidelines and implementation practices against the Madrid Civil Society Privacy Declaration provisions, should make profit of the broad NGOs and civil society network of data protection and privacy advocates, using their competences and experience to help understand specific concerns and find adequate solutions with respect to local context to improve these legislations.
- To help understand the practical translation of privacy and data protection principles in new and complex circumstances, it is important to provide practical guidelines on how they should apply in different frameworks. To this end, inspiration could be drawn from the pioneering work undertaken by the Council of Europe group of experts on new media, which has developed recommendations and practical guidelines to stakeholders, in their specific capacities: I'm referring here to the draft Council of Europe Recommendations on Measures to protect and promote respect for freedom of expression and the right to

private life with regards to both social networking services and search engines. Both documents should be adopted by the end of this year.

- Being myself an academic, I would also like to insist on the need to think ahead, and instill the principles of privacy by design and privacy by default in the education of new generations of architecture designers and software developers through the inclusion of privacy and data protection principles in computer sciences curricula, in addition to the general awareness raising of citizen and users.
- Finally, we need a global framework for continuous cross-information, exchange and cooperation, which could be implemented through a network of existing networks of different institutions and organizations: Governments, Intergovernmental organizations, Independent Data Protection Authorities, Civil Society Non Governmental Organizations, and Business Sector Companies.