



HOMELAND SECURITY BIOMETRIC IDENTIFICATION & PERSONAL DETECTION ETHICS WORKSHOP

HIDE

We work to make the world a safer and freer place by promoting an open dialogue on liberty, security and democracy and by building confidence and improving understanding among key international actors.

Restrictions in the Implementation of EU Data Protection Directive for Public Interest, Security and Defence



**LJUBLJANA, SLOVENIA
17-18 September, 2009**

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HIDE Project
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Workshop Organizers

**Centre for Science, Society and Citizenship
Italy**

**University of Ljubljana
Slovenia**

Background



In the context of a European Commission funded project on Homeland Security, Biometrics Identification & Personal Detection Ethics – HIDE (www.hideproject.org), a problem-solving workshop is being organized which aims to bring together individuals and representatives from the European governmental and non-governmental organisations, with the emphasis on the New Member and Balkan States, to identify and discuss ethical and other issues related to the restrictions of the scope of rights in the implementation of EU data-protection principles when such restrictions constitute the necessary measures to safeguard important public interests, security and defence.

This workshop is part of the HIDE project activities, whose mission is to establish a platform devoted to monitor the ethical and privacy implications of biometrics and personal detection technologies. HIDE is a research collaboration between 11 partners from Europe, Singapore and USA, and is coordinated by Prof. Emilio Mordini, Centre for Science, Society and Citizenship (CSSC), Rome, Italy.

Rationale of the Workshop



Article 13 of *the directive 95-46/EC of the European Parliament and the Council on the protection of the individuals with regard to the processing of personal data and the free movement of such data* states that Member States may adopt legislative measures to restrict the scope of the rights provided for in this directive when such a restriction constitutes a necessary measure to safeguard:

- (a) national security;
- (b) defence;
- (c) public security;
- (d) the prevention, investigation, detection and prosecution of criminal offences, or of breaches of ethics for regulated professions;
- (e) an important economic or financial interest of a Member State or of the European Union, including monetary, budgetary and taxation matters;
- (f) a monitoring, inspection or regulation function connected, even occasionally, with the exercise of official authority in cases referred to in (c), (d) and (e);
- (g) the protection of the data subject or of the rights and freedoms of others.



It is well known that the existing practices and the legislative measures regarding the above article are not harmonised across the EU Member States. This is especially true for the New Member and Balkan States. The world economic crisis, organized crime activities, terrorist and health threats force Member States to adopt new legislative measures and deploy biometric and personal detection technologies used to safeguard public interests, security and defence. What each Member State wants to make in order to determine its level of security differs from state to state and their appreciation of what may constitute "a necessary measure" and an "important public interest" is, by its very nature, a major source of discrepancy among national legislations. The implementation of harmonising practices in this field as well as per Articles 25–26 (Transfer of Personal Data to Third Countries) thereby remains a vital issue.

Following the enlargement of the EU, the New Member States are now in charge of monitoring the external border of the EU. The enhancement of the European border-security level requires a better interoperability of the technologies deployed at borders, such as biometrics, but also poses some harmonisation problems. In particular, the application of the principle of proportionality has raised controversies in some New Member States. We need to reconcile two fundamental requirements: to effectively tackle threats to people's life in Europe, especially in security matters, and at the same time to protect fundamental rights, including data-protection rights.

Workshop Format

The workshop is designed to bring together individuals from different sides of the privacy vs. security conflict in a “safe” environment to address questions that are otherwise difficult to discuss. A few basic rules for the workshop are:

- The workshop is a dialogue, not a debate: participants are not being asked to defend their own views or to find the weakness in others’ positions, but to explain their own perspectives;
- Parties speak for themselves only, not as representatives of groups, institutions, governments, etc.
- Parties are expected to use the rich, multidisciplinary, context to identify small but meaningful steps to take; they are not expected to find one-shot resolutions of complex problems.

An important goal in this workshop is strengthening the perception that further dialogue among the participants is going to be fruitful due to increased insights into each other’s perspectives, and the sense that conversation is of value. This workshop is thus designed to reach two parallel and coordinated results:

- First, it should encourage an analytical approach to joint problem solving that will be conducive to the emergence of creative win-win solutions;
- Second, it should also alter stereotyped, negative, and rigid images and thereby pave the way for a constructive approach to debated issues.

Organizers

The main organizers of the workshop are the Centre for Science, Society and Citizenship (CSSC), Rome, Italy, and the University of Ljubljana, Slovenia, in collaboration with HIDE partners like: Sagem Sécurité (France), International Biometric Group (USA), The Hastings Center (USA), Eutelis Consult Italia & Associates (Italy), Centre for Biomedical Ethics (Singapore) etc. The co-directors of the workshop are Prof. Emilio Mordini (CSSC) and Prof. Nikola Pavešić (University of Ljubljana).

For more information and queries about the workshop, please contact Mr. Simon Dobrišek by email simon.dobrisek@fe.uni-lj.si or by phone +386 1 4768 839.

Workshop Programme

Thursday, 17 September 2009

08.30 – 09.00 *Registration and Welcome Refreshment*

09.00 – 09.20 *Welcome Addresses*

E. Mordini – Coordinator of the HIDE project, CSSC, Italy

N. Pavešić – Co-director of the workshop, University of Ljubljana, Slovenia

09.20 – 09.50 *Opening Lecture*

“I have a gun so I have the right to shoot!” - Law, IT and personal data protection - legislative framework lags behind the IT development

N. P. Musar - Information commissioner of the Republic of Slovenia

Workshop Programme - Continued

Thursday, 17 September 2009 - Continued

Session I

09.50 – 12.30

The circumstances that may lead to the restriction of EU data-protection principles

Member States may restrict data protection principles under certain circumstances, as stated in Article 13 of the directive 95-46/EC, when such a restriction constitutes a necessary measure to safeguard important public interests. *What are these circumstances and who defines them as such? What may constitute "a necessary measure" and an "important public interest"? What about the ethical considerations of such "circumstances" and their implications on data-protection rights?*

09.50 – 10.00 *Chair's Introduction*

R. Rizman – Professor of Sociology and Political Science, Faculty of Arts, University of Ljubljana, Slovenia

10.00 – 10.20 *"Title to be announced"*

N. Robinson – M.Sc. in Information Systems and Technology, B.A. in War Studies and History, RAND Corporation, UK

10.20 – 10.40 *"Title to be announced"*

C. W. Crews – Director of Technology Studies, Competitive Enterprise Institute, USA

10.40 – 11.00 *"Ombudsman and Similar Institutions as Guarantors of Citizens Rights in Circumstances that Lead to the Restriction of EU Data-Protection Principles"*

S. Janković – Ombudsman of the Republic of Serbia

11.00 – 11.30 *Coffee Break*

11.30 – 11.50 *"Title to be announced"*

J. A. Cannataci – Director of the Centre for Law, Information & Converging Technologies, UK

11.50 – 12.10 *"Title to be announced"*

V. Zvanovec – The Office for Personal Data Protection, Czech Republic

12.10 – 12.30 *Discussion and Questions*

12.30 – 14.00 *Lunch Break*

Workshop Programme - Continued

Thursday, 17 September 2009 - Continued

Session II
14.00 – 17.10

The impact of counter-terrorist border-control legislative measures on privacy protection

Terrorist and other threats force Member States to adopt new legislative measures and deploy biometric and personal detection technologies for safeguarding border security. These measures and technologies greatly interfere with data-protection principles. *What is the impact of counter-terrorist border-control EC packages, like the so-called Frattini package, on the implementations of the data-protection directive?* The New Member States are now in charge of monitoring the external border of the EU. *Are EU borders safe? What privacy price do EU citizens pay for this safety?*

14.00 – 14.10 *Chair's Introduction*

I. Prezelj – Professor of Defence and Security Studies, Chair of Defence Studies, Faculty of Social Sciences, University of Ljubljana, Slovenia

14.10 – 14.30 *"Title to be announced"*

G. Klemenčič – State Secretary of the Ministry of Interior, Slovenia

14.30 – 14.50 *"Title to be announced"*

F. Géré – Director of the Global Security Network, France

14.50 – 15.10 *"Title to be announced"*

V. Milošević – Director of the Center for Counter-Terrorism and World Peace, Belgrade, Serbia

15.10 – 15.40 *Coffee Break*

15.40 – 16.00 *"Social Aspects of Biometric Applications in Russia"*

A. G. Ivanchenko – Executive Director of the Russian Security Industry Association, Russia

16.00 – 16.20 *"Implementation of Integration Border Management in the Western Balkan Countries"*

S. Brajusković – Anti Trafficking Center, Belgrade, Serbia

16.20 – 16.40 *Discussion and Questions*

16.40 – 17.10 *General Discussion*

E. Mordini – Coordinator of the HIDE project, CSSC, Italy

17.30 – 18.00 *Workshop Reception*

19.00 – 22.00 *Workshop Dinner*

Workshop Programme - Continued

Friday, 18 September 2009

08.50 – 09.10 *Welcome Refreshment*

Session III

09.10 – 10.50

The application of the principle of proportionality in the restriction of data-protection rights

The principle of proportionality is a fundamental principle of the EU data-protection law. *How is this principle considered in the legislative measures involving the restrictions of data-protection rights for public interests? Can we find a balance between “an important public interest” and the data-protection rights? Which data-protection rights are more and which less important when compared to “an important public interest?”*

09.10 – 09.20 *Chair’s Introduction*

A. B. Munir – Professor of Law, Faculty of Law, University of Malaya, Malaysia

09.20 – 09.40 *“Title to be announced”*

H. Pecháčková – Legal Affairs and Policy, DG Justice, Freedom and Security, EC

09.40 – 10.00 *“Necessity and Proportionality in the Hungarian Theory and Practice of the Restriction of Data Protection Rights in the Frames of Biometric Identification”*

J. Zeller – Senior Lecturer, Faculty of Law, University of Pecs, Hungary

10.00 – 10.20 *“Title to be announced”*

J. Lodge – Co-director of the Jean Monnet European Centre of Excellence, University of Leeds, UK

10.20 – 10.35 *Discussion and Questions*

10.35 – 11.00 *Coffee Break*

Session IV

11.00 – 13.30

The implementation of harmonizing practices in the New Member and Balkan States

The appreciation of what may constitute “a necessary measure” and an “important public interest” is a major source of discrepancy among national legislations. The implementation of harmonising practices in this field is a vital issue. *What are the discrepancies that are related to the restrictions of data-protection rights? How can the legislative practices in this field be harmonized?*

11.00 – 11.10 *Chair’s Introduction*

G. Klemenčič – State Secretary of the Ministry of Interior, Slovenia

11.10 – 11.25 *“Title to be announced”*

M. Maručić – Director of the Directorate for Personal Data Protection, the former Yugoslav Republic of Macedonia, FYRM

Workshop Programme - Continued

Friday, 18 September 2009 - Continued

11.25 – 11.40 *"Title to be announced"*

F. Lacko – Director of the Croatian Personal Data Protection Agency, Croatia

11.40 – 11.55 *"Title to be announced"*

M. Zadro – External Relations Officer. The Migration, Asylum, Refugees Regional Initiative (MARRI) Project, FYRM

11.55 – 12.10 *Discussion and Questions*

12.10 – 12.30 *Coffee Break*

12.30 – 12.45 *"ECRN European Civil Registry Network"*

A. D'Amico – The Inclusion Alliance for Europe GEIE, Italy

S. Štefančič – Genis, Slovenia

12.45 – 13.00 *"Civil Registration System in Slovenia"*

S. Režek – Internal Administrative Affairs Directorate, Ministry of the Interior, Slovenia

13.00 – 13.15 *Discussion and Questions*

13.15 – 13.30 *General Discussion and Summary*

E. Mordini – Coordinator of the HIDE project, CSSC, Italy

13.30 – 14.30 *Farewell Lunch*