

The EU Data Protection Directive revised: New challenges and perspectives

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Abstract

Our society undergoes fundamental changes due to the rapid technological developments and globalization that have given rise to the processing of data on a worldwide scale and an increase in international cross-border data transfers.

The expansion of social networking services (SNS), the growing demand for cloud based services (IaaS, Paas, SaaS) and the broad use of behavioral advertising trigger new perspectives but also new practical data protection challenges.

Although it is accepted that widely applauded principles of the EU Data Protection Directive 95/46/EC for the protection of personal data still remain valid, it is equally acknowledged that the existing EU legal framework needs to be revised in order to cope with the evolutions.

This paper aims to analyze the new data protection and privacy challenges, examine how the current data protection rules address these issues and identify the possible solutions in the light of the current reviewing process of the EU Data Protection Directive.

The key issues to be examined are: a. the evolving context of the notion of privacy within SNS in relation to the newly codified “right to be forgotten” and the principles of “data portability” and “data minimization”, b. the applicable law “in the cloud” under the current legal framework and the possible review of the relevant EU rules, c. the strengthening of data controllers responsibilities with the introduction of the “Accountability Principle”, the Personal Data Breach Notification, the Privacy Impact Assessment, the Data Protection Officers, as well as the “Privacy by Design Principle” and the use of Private Enhancing Technologies (PETs), e. the overcome of limitations on data transfers with the increase of harmonization of data protection laws between the EU Member States and the improvement of the current procedures for international data transfers.

Keywords: EU Data Protection Directive, European Commission, Security Breach Notification, Accountability, Privacy by design, Right to be Forgotten.