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## EUROPEAN DATA PROTECTION SUPERVISOR

The EU's independent data  
protection authority

*“Protecting privacy on a continuous  
orbit”*

Computers, Privacy and Data Protection  
Conference

European Data Protection Supervisor,  
Wojciech Wiewiórowski

Dear colleagues, dear friends,

Today, I have the honour once more of delivering the closing remarks at this year's CPDP conference.

Delivering these remarks has been a longstanding tradition of the EDPS. I am grateful to be able to continue this legacy today.

Last year, when I delivered these remarks, I spoke to you about vulnerability.

I spoke about how there is an even greater need to address the vulnerability of individuals who are victims of the global pace of change. Whether that pace is technological, societal, or political.

I shared my thoughts on how vulnerability can be addressed by giving people choice and opportunity. Yet, the choices that data protection is meant to give to people are still too often seen as a privilege, rather than a right.

This feeling remains strong for me today. It is reinforced, for instance, by what we are witnessing worldwide when it comes to migration, where the vulnerability of people is even more harshly exposed.

This is the context that frames my closing remarks today. Because while we always say that data protection protects people and not data, people still continue to lack a real choice over how their data is used.

This narrative continues to emerge from the discussions at the CPDP conference this year. In exploring "ideas that drive our digital world", we have touched upon innovations such as Chat GPT and Generative AI. We discussed in depth their benefits and what risks to privacy can emerge.

There have been many "new" and "big" ideas over the last year that have driven technological innovation. Together with these new technologies, there have been new approaches.

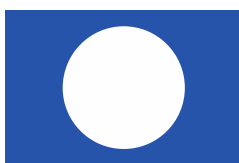
But, we must not forget about the fundamental concepts and values that underpin our aim to protect people.

I firmly believe that there is merit in the foundations of theoretical and practical approaches to privacy, which we have built together over the years.

It is some of these foundations to our thinking about privacy, which I would like to bring us back to today.

Starting with perhaps one of the most influential scholars on privacy: Alan Westin, whose "Privacy and Freedom" published in 1967, laid the philosophical groundwork for many current debates about technology and personal freedom.

In defining privacy, Westin presented privacy as the ability for individuals "to determine for themselves when, how and to what extent information about them is communicated". This of course has changed over time, particularly with reference to public interest or national security.



However, I believe it remains at the core of how we view our right to privacy, especially in the context of self-determination.

Yet, today we sometimes overlook that our “societal” boundaries of privacy and data protection are continuously shifting and orbiting.

What is deemed as respect for privacy in one situation can sometimes be deemed as its utter disrespect in another.

Context matters.

And the emerging ideas that drive our digital world are continuously changing the context in which we operate.

Today, our interactions with privacy are much more multi-faceted. From the perspective of Kant’s “Formula of Humanity”, privacy has become much more than merely a means.

It is indeed because privacy is not self-sufficient, as Westin acknowledges, that we must continuously strive to protect it. Especially given how quickly contexts change.

We see a dualism emerging: where privacy is a right that is fundamental on the one hand, yet subjectively perceived and increasingly contextually intertwined on the other.

And, we are beginning to see a push for such a dualistic approach to privacy in emerging legislation.

Take for instance the European Health Data Space initiative, in which the arguments for differentiating the use of health data for primary purposes from those of secondary purposes is very intertwined with the context of the patient-doctor relationship.

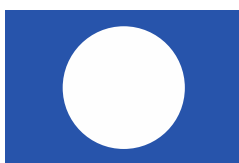
Take political advertising. Misuses in the handling of personal data in the context of political communication have proven to seriously impact our democracies, resulting in a specific context that justifies special attention from the legislator, which is in fact happening with the political ads law-making.

In a way, such emerging debates echo the outlines of Helen Nissenbaum’s theory of contextual integrity. Indeed the norms we are adopting for privacy are being increasingly tied to their contexts.

I make this effort to delve into the philosophy of data protection and privacy in order to illustrate that contextual privacy can actually be a slippery slope. Because whilst it can be both beneficial, it can be dangerous too. Particularly because norms can sometimes propagate societal behaviours in a way that do not have fundamental rights at their core interest.

This is where I believe that we, as data protection authorities and regulators in particular, have a duty to ensure that the actions we take are driven by our priority to protect people. If not careful, we can otherwise make individuals even more vulnerable.

As my good friend, Chris Kuner, puts it, the increasingly formalistic mechanisms through which we address data protection concerns run the risk of reducing this fundamental right to a series of complex and non-transparent procedures. When in fact this would result in the loss of the very essence of the right.



In order to protect the essence of the rights to privacy and data protection, we need to ask ourselves whether our current framework is delivering on the original ambitions of what these rights meant to us from the outset.

And, if, after this assessment, we continue to have doubts, which means that something needs to change.

Let me be clear here: when I speak about change, I do not necessarily mean legislative overhaul.

Instead, change can mean an increased open-mindedness in the way we set priorities for how we protect individuals.

Change can mean strong leadership and consistent action.

We need to be flexible in our mind-sets. Not only with reference to how we view data protection and privacy, but also with reference to how these rights form part of the larger digital ecosystem.

As we have heard multiple times over the course of the conference, the diverse enforcement architectures of our upcoming legislative Acts run the risk of uprooting certain privacy principles.

This is why the CPDP conference is so important: because it serves as an opportunity to discuss the intersection of so many different, emerging fields of digital regulation. And, to debate together how to best safeguard privacy in a way that embeds it as a cornerstone crucial to protecting our digital future.

So, to be ready for our digital future, we inevitably need to be ready for change. Because as I have said, the boundaries of privacy and data protection are continuously shifting. They will continue to orbit and oscillate.

And, we cannot remain static while they do so. We need to react, in one way or another. And when we react collectively, we empower not only ourselves, but also those that currently lack the oversight and control over their own digital footprints.

With this, I bring my remarks to a close.

Thank you very much to the entire CPDP team for this great event, and see you next year.

