Privacy Aware Internet Development Initiative 2014

Position paper for STRINT meeting, Achim Klabunde, EDPS

Problem Statement:

DPAs, including the EDPS, other regulators and legislators invest considerably in defining and interpreting legal rules for the protection of individuals' fundamental rights of personal data protection and privacy. At the same time, developers of internet tools and applications develop and deploy new data collection and processing mechanisms without awareness of privacy and data protection, and without proper safeguards in place. If these two trends continue to diverge, there is an increased risk that the actual privacy of individuals will become substantially less protected, despite all efforts of DPAs.

Background:

The International Conference of Data Protection and Privacy Commissioners endorsed in 2006 its London Initiative "Communicating Data Protection and Making it More Effective", which recognised the challenges to privacy and data protection resulting from the technological development. It identified the need for effective communication between data protection authorities and those driving the technological development in research and industry and called on data protection authorities to build the technological expertise and capacity to effectively intervene in technology oriented discussions.

Many DPAs have followed up on these objectives in the meantime and have established technology expertise in their organisations by employing staff trained on information technology. Communication and cooperation between DPAs in this area has been improved, e.g., with the International Working Group on Data Protection in Telecommunications, also known as the Berlin Group[1], or the Technology subgroup of the Article 29 Working Party. Representatives of the data protection community have engaged in international standardisation organisations, such as ISO and the W3C, in order to bring their expertise and practical experience into the creation of international standards, and have cooperated in the context of international research projects with academic and industrial researchers and developers in finding privacy friendly technical solutions to specific problems.

Despite all these efforts, the International Conference in Warsaw recognized in its declaration on the "appification" of society that "App developers are often unaware of the privacy implications of their work and unfamiliar with concepts like privacy by design and default." Similar observations are made for other areas of Internet development and some industry managers state that privacy aware developers are not on the market. Technical explanations of privacy and data protection sometimes demonstrate a profound lack of understanding of these concepts by technical designers. These observations illustrate that the efforts to communicate data protection and privacy which DPAs announced in their 2006 Declaration need still to be reinforced and enhanced.

[1] http://www.privacycommission.be/en/berlin-group

Time for cooperation!

The 2013 revelations and discoveries regarding efforts compromising internet security and performing pervasive surveillance have also acted as a wake-up call for the Internet development community. Internet engineers have accepted responsibility for privacy and security of the protocols and products they develop and provide to the world and have expressed the willingness to review their design and development approaches to that end. The outcome of the Vancouver meeting of November 2013 clearly states that pervasive surveillance represents a cyber-attack and should be treated as such at design level.

The Internet engineers' current attention to privacy issues and awareness of the need for a more privacy aware approach to Internet design creates a window of opportunity for data protection authorities' technology experts to reinforce the dialogue with this community, to spread understanding of the methods, tools and safeguards to protect personal data and to work on developing a common language and establish communications channels between the two communities.

In recent years, DPAs have increased their technical expertise and capacity, but this trend must continue and be reinforced for the fuller realisation of technological data protection. DPAs are encouraged to further their understanding of the technical elements of the internet, and hence increase their capacity to make accurate recommendations regarding data protection that are comprehensible to the technology community and be able to contribute to the development of practical data protection tools.

The new initiative:

The ultimate goals of this initiative include triggering the development of privacy friendly solution patterns for common engineering problems, enabling developers to recognize situations where technical choices have an impact on privacy at a later stage and facilitating an exchange on technical solutions for privacy issues between engineers and privacy experts. One condition for the success of the initiative is to develop a common language that is clear, descriptive and technically accurate to both the DPA community and the technology community which allows meaningful discussions between the two groups.

Simultaneously, it is also encouraged that the technology community understand both the context and content of DPAs' concerns in order to implement data protection protocols and safeguards into design of technology presently being developed.

Possible elements should aim at awareness raising and education for both communities, exchanges of experience, systematic development and promotion of template solutions, contributions to the standardisation processes and the development of components and solutions, design guidelines for specific technical contexts etc.

A first step should be a workshop with selected representatives of both communities.