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Privacy / Data Protection and smart meters



Dieter Verhaeghe

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CBPL
Commissie voor de bescherming
van de persoonlijke levenssfeer

CPVP
Commission de la
protection de la vie privée

ASP
Russschuss für den
Schutz des Privatlebens

CPP
Commission for the
protection of privacy

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1. Introduction



(“privacy”)

surveillance : infringement in private life ≠ breach

No absolute protection

Legal basis+ Legitimate purpose+ necessity in a democratic society

- 22 Belgian Constitution
- 8 ECHR
- 7 EU Charter

Data Protection (“data privacy”)

- **GDPR : deadline of 25 May 2018**
- Directive 1995/46/EG + EC Recommendations on DPIA
- Belgian Law 8 december 1992
- 8 EU Charter
- Convention 108

1. Introduction



“processing” “personal data” (article 1 WVP)

= relating to natural persons, (in)directly identifiable

= “single out”, also on basis of technical list of variables / EAN number

Correlation / Profile applied to data subjects (not only households)

Opinion WP 29 nr. 04/2007 WP 136 of 20 june 2007

2. Challenges



- Readyness for GDPR Compliance
- Political will to check the big data risks ? See expert reports 2016 in US & NL.
- Transparency + obligation to inform vs Algorithmic Opacity
- Will there really be “GDPR consent” / quality of legal basis / necessity for contract ?
- “big data” downsides of smart meters
 - more privacy invasive functionalities (algorithms)
 - more data breaches (NL, 09/2016)
 - more surveillance (EANDIS BE, 09/2016)

2. Challenges



- **Risk of discrimination (use of algorithms for social stratification and prediction)**
- **Independant Data Management / authentic source / Third trusted party OR validated data in the free market ?**
- **GDPR requires new Continuous Risk Assessment : impact on rights & freedoms vs. impact on companies**
 - > **Security**
 - > **high risk DPIA**
 - > **notification of (telecom / all) data breaches**

3. New GDPR Measures



- **High sanctions : up to 4 % of annual turnover**
- **Privacy by design / by default**
- **Accountability (reversed burden of proof re data protection compliance)**
- **Stocktaking (image of data flows)**
- **DPO**
- **Role of Certification / Codes of Conduct ?**

4. Conclusion



