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# Computers, Privacy and Data Protection: an Element of Choice

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# Preface

Privacy and data protection have never been static. On the contrary, the history of the last 40 years shows the reverse. Even if some important parts of the legislative framework – such as the EC Data Protection Directive of 1995 – have remained unaltered, new issues and challenges continue to emerge, requiring an ongoing process of interpreting their effect in terms of reach, objectives and their deeper significance. Such new issues do also trigger the elaboration of more specifically targeted legislative interventions that do not always fit seamlessly into the pre-existing framework. But this is not a surprising picture, since the developments, which resort under the denominators of privacy and data protection are generating and challenging the concerns of numerous different stakeholders who effectively use their voices and power to transform those concerns into political issues. Moreover, the number of factors and actors that sensibly impact upon privacy and data protection are manifold. Indeed, the consequences of technological applications due to unprecedented storage, processing and transmission capacities and by the possibilities of miniaturisation, convergence, interoperability and ubiquity, represent powerful triggers and challenges of emerging developments, but they are not the only determining factor. The current developments in the field are also linked to many other sources of action and change, such as business models, security policies, population management, police work and law enforcement, leisure, culture, health policies, practices in the “real” and in the “virtual” world and so on. Through its large variety of issues discussed, this book indeed evidences such complex cartography of issues related to privacy and data protection.

From the first edition on, in 2007, the annual international *Computers, Privacy and Data Protection* or “CPDP”-conferences<sup>1</sup> held in Brussels have taken these dynamic and multi-faceted features of privacy and data protection seriously and have upheld those at the core of their concept and organisation. The conferences are conceived as lively and interactive meetings where academics, practitioners, policy-makers, business representatives, data protection authorities, lawyers, activists and artists come together to exchange ideas and discuss emerging and/or hot issues related to privacy and data protection. Since the program is built up around an

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<sup>1</sup> For more information about the CPDP-conferences: see <http://www.cpdpconferences.org>

important number of panels, sidetracks and side events with a high autonomy, the conference is a fertile soil for the prospering of debates and the taking form of new issues, questions and ideas, as is indeed evidenced by the rich collection of chapters that were published in the books made after the first and second editions of the conference, namely *Reinventing data protection?* (S. Gutwirth, Y. Pouillet, P. De Hert, C. de Terwangne en S. Nouwt, Eds, Springer 2009) and *Data protection in a profiled word* (S. Gutwirth, Y. Pouillet and P. De Hert, Eds, Springer 2010).

Like the two books we just mentioned, this book is again a sequel of a CPDP-conference. It has been made in the wake of its, again successful and inspiring, third edition, which was held in Brussels, in the famous *Kaaaitheater*, immediately after “Privacy Day” on the 29th and 30th January of 2010.<sup>2</sup> This edition of the conference had *An element of choice* as title, and the editors decided to keep it as the title of the book, because the notion of “choice” expresses the wish to individual and societal control and channel evolutions and change in a direction that matches our both individual and collective projects and dreams. For sure, and as we suggested already, the developments and changes concerning data protection and privacy are the resultant of complex interplays and articulations of pertinent, but sometimes very heterogeneous, factors and actions, in which the moments and locations of choices and decisions are diverse, disseminated and difficult to identify. Hence, our focus upon “choice” as the overarching concept of this collection of peer reviewed chapters which focus on privacy and data protection from the perspective of conceptual changes (part 1), of counterforces and drawbacks (part 2), of inventive and singular practices (part 3) and of the emergence of the transversal technological development of cloud computing (part 4), must be read as a claim, or even stronger, as a reclaim.

In the face of the developments affecting privacy and data protection, “choice” unambiguously evokes both the need to collectively take responsibility and direct those developments in a desirable direction, providing the ambit to influence and steer the course of things in a way that matches our expectations related not only toward privacy and data protection, but also more broadly, to the kind of world we are building up. This challenge is not an easy one since all “big” policy choices we might be willing to make are conditioned by a myriad of “small” decisions and bifurcations that already have set many switches changers in irreversible positions. In one or another way, all the contributions to this book do express the complexity of

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<sup>2</sup>The CPDP2010 was The CPDP2009 conference was organised by the Research Centre for Law, Science, Technology & Society (LSTS) at the Vrije Universiteit Brussel, the *Centre de Recherches Informatique et Droit* CRID at the University of Namur, the *Tilburg Institute for Law and Technology* at Tilburg University, the *Fraunhofer Institut für System- und Innovationsforschung* (ISI) in Karlsruhe, the *Institut National de Recherche en Informatique et en Automatique* (INRIA) in Grenoble, the *Vlaams-Nederlands huis deBuren* and the *VUB instituut voor PostAcademiche vorming* (iPAVUB). The Brussels Capital Region, the Fonds voor Wetenschappelijk Onderzoek (FWO), Microsoft, Google, the European Privacy Association, Hunton & Williams and Stibbe, further sponsored it. The conference was also supported by crucial players and stakeholders such as the *European Data Protection Supervisor*, the *Dutch College Bescherming Persoonsgegevens*, the *Belgian Commission for the protection of the private sphere* and both the Belgian Flemish and French speaking Human Right Leagues.

the making of choices regarding to the issues of privacy and data protection which interest and concern their authors. May this book relay the interests, concerns and commitment of its authors to as many possible readers and may this, in turn, lead to the making of good choices with regards to matters we believe to be important for the future design of our societies. This is all the more relevant since the revision of the 1995 EC Data Protection Directive, the centrepiece of European data protection, is being revised as these sentences are written.

Brussels, Belgium  
Namur, Belgium  
Brussels, Belgium  
Tilburg, The Netherlands  
October 21, 2010

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**Joep Ruiter** recently finished the MSc. Information Sciences at the VU University Amsterdam. He will receive his graduation in the near future. Currently Joep participates in a second MSc. in Business Administration until August 2011, also at the VU University Amsterdam.