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28 January 2010

On the value of privacy and data protection

# The European Data Protection Day



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*Beste lezer*

*Op donderdag 28 januari 2010 viert Europa feest. Naar het model van dagen zoals de Wereldarmoededag of de Vrouwendag, wordt er een privacy dag ingericht: de Europese Privacy Dag. Gedurende een hele dag organiseren overheid, instellingen en het sociale middenveld activiteiten om aandacht te besteden aan de waarde van privacy en de bescherming van persoonsgegevens voor onze samenleving. Discussies over sociale netwerksites, kinderen op het Internet, en bodyscans bevestigen de dringende nood aan dialoog over deze kwesties.*

*Voorliggend programmaboekje - VUB CROSSTALKS zorgde voor de cross-disciplinaire input - wil de lezer laten kennismaken met enkele vooraanstaande privacy stemmen en een overzicht bieden van de activiteiten die op de Europese Privacy Dag in Brussel worden georganiseerd.*

*Ik hoop u op die dag te kunnen begroeten.*

*Professor Paul De Hert (Vrije Universiteit Brussel)*

*Dear reader*

*On Thursday, January 28, 2010 Europe celebrates privacy. Following the model of similar events (Women's Day, Poverty Day, Aids Day), a European Privacy Day is launched. A whole day of events, organised by governmental and other institutions and civil society will focus on the value of privacy and data protection for our society. Discussions on social networking sites, children on the Internet and body scans at airports confirm the urgent need for dialogue on these issues.*

*The present program folder - VUB CROSSTALKS provided some cross-disciplinary input - introduces the reader to some prominent privacy voices and contains an overview of the activities of the European Privacy Day in Brussels.*

*I hope to welcome you on that day.*

*Professor Paul De Hert (Vrije Universiteit Brussel)*

*Cher lecteur*

*Jeudi, le 28 Janvier 2010, L'Europe célèbre « la fête de la vie privée ». Suivant le modèle des jours tels que le Jour de la Pauvreté Mondiale, la Journée Internationale de la Femme, nous vous convions à participer à la Journée Européenne de la Confidentialité. Une journée organisée par les institutions publiques et la société civile afin de mettre l'accent sur la valeur de la vie privée et la protection des données personnelles. Des discussions sur les sites de réseaux sociaux, les enfants sur l'Internet, et les scanners corporels affirment le besoin social urgent d'un dialogue sur ces sujets.*

*Ce programme-ci - VUB CROSSTALKS a prévu quelques contributions interdisciplinaires - contient certains auteurs connus sur le sujet et un aperçu des activités pendant la Journée Européenne de la Confidentialité.*

*En espérant de vous-y accueillir.*

*Professeur Paul De Hert (Vrije Universiteit Brussel)*

*Prof. Paul De Hert*

*Law Science Technology & Society Research Group (LSTS)*

*Vrije Universiteit Brussel*

*<http://www.vub.ac.be/LSTS/>*

# Opportunities and challenges

Peter Hustinx, European Data Protection Supervisor

■ Every year brings its own challenges and opportunities. The start of a new decade is also an occasion for reflection on long time challenges and opportunities. What are the challenges and opportunities for privacy and data protection in January 2010?

The protection of personal data is increasingly relevant. Respect for private life and protection of personal data have been recognised as separate fundamental rights in Article 7 and 8 of the EU Charter of fundamental rights. The Charter became binding when the Lisbon Treaty entered into force. The protection of personal data was also enhanced by the Treaty in other ways.

This was a historic step in which a legal development of the last decades in Europe was confirmed. The right to data protection has been developed during that period as a system of rules and principles that allows a more structural approach to the issues of an Information Society. This is supported by public opinion in most member states.

At the same time, our societies are increasingly dependent upon the widespread use of information and communication technologies. This inevitably also leads to a massive processing of personal data in almost all fields of life. The privacy consequences of this development are now becoming more visible.

In other words, while data protection as a *fundamental right* is increasingly relevant, it is also a key challenge to ensure an *effective protection* of personal data in practice. This sounds like a paradox, but fundamental rights are not for easy situations only.

So, how should we deal with this situation? First, it seems to me, we should build on our strengths. That involves highlighting of the reasons why the fundamental right to data protection was created. This was certainly not an obsession with technical details, but recognition that privacy is a pre-condition for many other fundamental rights and in need of structural protection and support in an ICT driven information society.

Second, we need to increase efforts to raise awareness of the ways in which everyone may be *directly* affected by a lack of safeguards for privacy and data protection in his or her daily life. That involves creativity and imagination, and realistic stories told in a convincing way. Good information about how everyone can contribute to a solution of these problems in his or her own way should also be part of that exercise.

Third, we should resist the temptation to accept one-way solutions for problems that attract a lot of attention in the media and threaten to reduce the scope for privacy and data protection. That means not denying the problems, but applying the fundamental standards that were designed

to provide protection in difficult circumstances and to work towards solutions. The recent discussion about body scanners is an example of this phenomenon.

Fourth, we should invest in improvements of existing legal frameworks for privacy and data protection in order to make them more comprehensive and more effective in practice. The European data protection authorities have replied to this challenge with a substantial joint contribution on "The Future of Privacy" which is available on the European Commission's website.

The new Commission will be in the position to demonstrate from 2010 on whether it is ready to stand up for more privacy and come up with convincing initiatives for more effective data protection.

## **BIO PETER HUSTINX**

*Peter J. Hustinx (1945) has been European Data Protection Supervisor since January 2004 and was re-appointed by the European Parliament and the Council for a second term of five years. He has been closely involved in the development of data protection legislation from the start, both at national and at international level. Before entering his office, Mr. Hustinx was President of the Dutch Data Protection Authority since 1991. From 1996 until 2000 he was Chairman of the Article 29 Working Party.*

# Right to privacy and data protection : mission impossible ?

Manuel Lambert, Legal advisor Human Rights League (Ligue des Droits de l'Homme)

## Introduction

What could be the common point between transsexuality, CCTV, noise pollution in the vicinity of an airport and DNA collection? It's the notion of the right to respect for private life, a particularly vague concept which has been the subject of extensive interpretation by the European Court of Human Rights (ECHR).

Indeed, the concept of the right to privacy, which is a constitutional and fundamental right protected by a multitude of international human rights instruments, is nowhere to be defined in those instruments. It therefore devolved to the case law to give some content to this concept.

That explains how the ECHR had to take a stand on different issues concerning, among others, transsexuality (Van Kück vs. Germany, 12th of September 2003), CCTV (Perry vs. the United Kingdom, 17th of October 2003), noise pollution in the vicinity of an airport (Hatton I vs. the United Kingdom, 2d of October 2001 and Hatton II vs. the United Kingdom, 8th of July 2003) and DNA collection (S. and Marper vs. the United Kingdom, 4th of December 2008). In those cases, the ECHR had to determine the extent of the protection granted by the right of privacy of/under article 8 of the European Convention on Human Rights.

## Data collection

Today, in Europe, the biggest threat to the right to privacy comes from the development of new technologies

and their use by public and private actors. If those new technologies unmistakably bring some positive aspects, they also raise important questions regarding the respect of fundamental rights in a democratic society.

For example, questions related to the respect of the right to privacy are raised following the introduction of radio frequency identification (RFID) and biometric technology in ID cards and passports; the anarchic development of CCTV in public and private space; the multiplication of databases used by law enforcement agencies to fight criminality and databases used by private actors for commercial purposes, not to mention the development of social networks on the internet by individuals that tend to become a huge recording information system for multiple use ; etc.

These evolutions seem to grow extensively each day, without any, or too little, reflection on their impact on the respect of the right to privacy.

## Can we give up our right to privacy ?

Traditionally, it is considered that our fundamental rights are inalienable. In other words, we cannot give up the protection of our individual liberties, being for a lucrative purpose or not. However, exceptions to this basic principle can be tolerated, some human rights being absolute while others aren't.

Considering the extensive notion that covers the right to privacy, can we admit that some people choose

to give up part of their protection? Isn't that what we hear when we deal with the most common public opinion; *"I don't have anything to hide, so I can admit an interference in my right to privacy"*?

Sure. But what this opinion tends to hide, is that by admitting more and more restrictions to our basic human rights, we could one day, slowly but surely, wake up in a surveillance society, where the right to privacy is reduced to its minimal demarcation. Now, without the right to privacy, other basic and fundamental human rights cannot exist: freedom of thought, conscience and religion, freedom of expression and freedom of assembly and association could also be dangerously reduced.

*Is that what we want?*

## BIO MANUEL LAMBERT

*After completing a Master's degree in Law at the Brussels University (Université Libre de Bruxelles) and a Complementary Master's degree in Human Rights Law at the Saint-Louis University of Brussels (Facultés universitaires Saint-Louis), Manuel Lambert has been working as a legal advisor for the Human Rights League (Ligue des Droits de l'Homme) for the past 5 years. He is also teaching an introduction to law course (Introduction au droit et à la méthodologie juridique) at the Brussels University (Université Libre de Bruxelles) as a university assistant in the bachelor's degree in law.*

# CPDP - Commuters, Publicity and Dada Protection

Alok Nandi, Architempo & Pecha Kucha Night Brussels

■ In the very transdisciplinary essence of this publication, we shall proceed to a performative exercise which is triggered by a sort of alliteration applied to the meaning of CPDP, the acronym of the Conference on Privacy and Data Protection. This allows a d-ambulation (digital ambulation) where we jump from definitions to citations, ambulating on the web.

First, let us clarify that Performativity as a concept has been appropriated (and thus redefined) by various disciplines over the last several decades, leading performance studies scholar Richard Schechner to declare it "A Hard Term to Pin Down". He says that as a noun, a performative – which is no longer necessarily spoken – "does something"; as an adjective – such as what Peggy Phelan calls performative writing – the modifier "inflects... performance" in some way that may change or modify the thing itself; and as a

broad term, performativity covers "a whole panoply of possibilities opened up by a world in which differences between media and live events, originals and digital or biological clones, performing onstage and in ordinary life are collapsing. Increasingly, social, political, economic, personal, and artistic realities take on the qualities of performance."

So, as a "spectator", you are expected to go through the four "define:..." paragraphs and then welcome to send comments and/or questions which came to your mind to [nandi@architempo.net](mailto:nandi@architempo.net)

"define:stuff" is part of the jargon when searching for the definitions of the word "stuff" for example via search engines. So let's see what is coming up with the new meaning of CPDP ...

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## define:commuter

The Commuter is a science-fiction short story written by Philip K. Dick.

[en.wikipedia.org/wiki/The\\_Commuter](http://en.wikipedia.org/wiki/The_Commuter)

A person who regularly travels from one place to another, typically to work; A piece of transportation equipment used for the transportation of ...

[en.wiktionary.org/wiki/commuter](http://en.wiktionary.org/wiki/commuter)

The relevance of the publicity concept becomes apparent in the context of cross-border migration, describing migrants entering the domain of an unexplored public sphere. Its definition has evolved against a background of interpreting new institutionalism and can be extended by replacing person by agent.

## define:publicity

Publicity is "the response from public institutions a private person is able to elicit" (Veldboer 2004, pp. 42). This concept is commonly understood as the opposite of privacy. This is only true however, in case both concepts relate to one and other in an equilibrium of mutually exclusive bipartition.

## define:dada

a nihilistic art movement (especially in painting) that flourished in Europe early in the 20th century; based on irrationality and negation of the accepted laws of beauty [wordnetweb.princeton.edu/perl/webwn](http://wordnetweb.princeton.edu/perl/webwn)

Dada or Dadaism is a cultural movement that began in Zürich, Switzerland, during World War I and peaked from 1916 to 1922.

... [en.wikipedia.org/wiki/Dada](http://en.wikipedia.org/wiki/Dada)

a movement in visual art, literature, dance, and theatre that flourished in various urban centers around Europe (including Zurich, Berlin and Paris) following the First World War and that cultivated an "Anti-Art" aesthetic and more generally an absurdist stance designed to question and ... [www.shimer.edu/greatbooks\\_greatart/Glossary.cfm](http://www.shimer.edu/greatbooks_greatart/Glossary.cfm)

A movement in art and literature, founded in Switzerland in the early twentieth century, which ridiculed contemporary culture and conventional art ... [www.ackland.org/tours/classes/glossary.html](http://www.ackland.org/tours/classes/glossary.html)

An art movement which often tried to shock the public into realizing the destruction and inhumanity so apparent during WWI. [gigaweb.brigantine.atlnet.org/ARTiculationFinal/MainPages/A-DVocabulary.htm](http://gigaweb.brigantine.atlnet.org/ARTiculationFinal/MainPages/A-DVocabulary.htm)

Anti-art movement which emerged in Europe in 1916 as a reaction against the inhumanity of World War I; interpreted irrational and nihilistic, or ...

[www.artsconnected.org/artsnetmn/environ/envocab.html](http://www.artsconnected.org/artsnetmn/environ/envocab.html)

An anti-establishment artistic movement that emerged in Europe during the First World War. The provocative and frequently nonsensical work of the ...

[www.saffronart.com/sitepages/glossary.aspx](http://www.saffronart.com/sitepages/glossary.aspx)

## define:protection

To make climbing as safe as possible, most climbers use protection to prevent injury to themselves and others.

[en.wikipedia.org/wiki/Protection](http://en.wikipedia.org/wiki/Protection) (climbing)

"Protection" is a collaboration between Massive Attack and Everything But the Girl singer, Tracey Thorn, that appeared on Massive Attack's album Protection on CD and 12" in 1995. It reached #14 in the UK Singles Chart, staying on the charts for only four weeks. ... [en.wikipedia.org/wiki/Protection](http://en.wikipedia.org/wiki/Protection) (song)

In poker, protection is a bet made with a strong but vulnerable hand, such as top pair when straight or flush draws are possible. The bet forces opponents with draws to either call with insufficient pot odds, or to fold, both of which are profitable for the betting player. ... [en.wikipedia.org/wiki/Protection](http://en.wikipedia.org/wiki/Protection) (poker)

Protection is a song written by Bruce Springsteen for Donna Summer. It was originally featured on the 1982 Donna Summer album which was produced ...

[en.wikipedia.org/wiki/Protection](http://en.wikipedia.org/wiki/Protection) (Donna\_Summer\_song)

Protection (1994) is Bristol-based trip-hop collective Massive Attack's second album.

[en.wikipedia.org/wiki/Protection](http://en.wikipedia.org/wiki/Protection) (album)

The process of keeping (something or someone) safe; An instance of a security token associated with a resource (such as a file.)

[en.wiktionary.org/wiki/protection](http://en.wiktionary.org/wiki/protection)

protect - shield from danger,

injury, destruction, or damage; "Weatherbeater protects your roof from the rain"

protect - use tariffs to favor domestic industry [wordnetweb.princeton.edu/perl/webwn](http://wordnetweb.princeton.edu/perl/webwn)

Dada is an attitude.

So let's shake all these definitions or quotations.

Commuters can be software agents, initially programmed by human coders, but running now with their own set of emerging rituals, completing the imposed routes by the software developers.

Where are the boundaries between privacy and publicity, assuming that the equilibrium is utopia ?

Commuters will take over the systems.

So one of the big players will ask "Where are you climbing today ?"

Welcome to the 21st century - questions time is on. Dada 2.0 will be needed soon ... questioning and requesting protection.

This was the CPDP manifesto revised.

Alok b. Nandi  
January 2010

[www.aloknandi.net](http://www.aloknandi.net)

# Security and privacy in cyberspace: a personal view

Alexander Seger, Head of Economic Crime Division, Council of Europe.<sup>1</sup>

■ In 1983, the government of the Federal Republic of Germany intended to carry out a population census to serve primarily statistical but also other purposes. This raised suspicions among many of us and triggered a protest movement which led to the widespread refusal of citizens to be “counted”. The census was also challenged before the Constitutional Court which ruled that it was indeed unconstitutional and which established the basic right of informational self-determination. This was in December 1983, that is, a few weeks before “1984”.

Like many, I had read George Orwell’s vision of a totalitarian state where “big brother is watching you” at any time, and where the aim of the Party is to “extinguish once and for all the possibility of independent thought”. A major challenge for the Thought Police is “how to discover against his will what another human being is thinking”.

This helps us understand that data protection is more than the right to be left alone. It is essential for the development and fulfillment of one’s personality, for protecting the freedom of expression, for protecting human dignity and for preventing control and manipulation. In short, it is a precondition for freedom and democracy. For that reason, the right to privacy is enshrined

in Article 8 of the European Convention on Human Rights, and European countries have agreed on a binding set of principles in the Council of Europe’s data protection convention that was opened for signature on 28 January 1981 that now marks the data protection day.

Today, the risks to privacy and our personal data have increased dramatically. Most of what we do, with whom and what we communicate, what we like or dislike, where we are and where we go, and even what we think is stored on computer systems, mobile phones and other devices that connect and link up our data. And increasingly our data is not stored on our personal computer at home but flows across borders and is located on servers somewhere in the “clouds”.

If we think of Sigmund Freud’s psychic model of the conscious “ego” that is struggling with the “super-ego”, that is, the norms, morals and expectations of family and society, and the unconscious “it”, that is, the desires and emotions that drive much if not most of our conduct, we may come to the conclusion that with computer systems knowing more about us than our conscious “ego”, the “it” will soon stand for “information technologies” that determine most of what we are doing and who we are.

Data protection is therefore essential and the confidentiality, integrity and availability of computer data and systems is a basic right, as stated by the German Constitutional Court in 2008.

At the same time we need to be concerned about security. Our data is not only sought after by governments and private sector corporations but also by criminals for phishing and other types of identity-related fraud. Attacks against data and the confidentiality, integrity and availability of computers are threats to our rights. Hence, security and data protection must go hand in hand. With the Council of Europe’s Budapest Convention on Cybercrime we have a framework for globally harmonized measures against cybercrime.

We should pursue a similar approach to data protection. The treaty of 1981 offers a simple but solid basis, and the “International Standards on the Protection of Personal Data and Privacy” adopted by the recent international conference of data protection and privacy commissioners (Madrid, November 2009) could be a first step towards a globally trusted data protection policy, that ensures that our data is protected in any country.

<sup>1</sup> The views expressed here are not necessarily those of the Council of Europe.

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**BIO ALEXANDER SEGER**

Alexander Seger has been with the Council of Europe (Strasbourg, France) since 1999. He is currently the Head of the Economics Division and responsible for the Council of Europe's cooperation programmes against cybercrime, corruption

and money laundering. From 1989 to 1998 he was with what now is the United Nations Office on Drugs and Crime in Vienna (Austria), Laos and Pakistan and a consultant for German Technical Cooperation (GTZ) in drug control matters. Alexander Seger is from

Germany and holds a PhD in political science, law and social anthropology after studies in Heidelberg, Bordeaux and Bonn.

**The man who  
trades freedom  
for security does  
not deserve nor  
will he ever  
receive either.**

*Benjamin Franklin, American inventor, journalist, printer, diplomat, and statesman.*

## Well, well

Rob van Kranenburg, The Internet of Things Council

■ Warren Buffett's biographer, Alice Schroeder, has penned a piece for Bloomberg entitled "Arming Goldman With Pistols Against Public"; this is the intro:

<http://www.accountr.co.uk/2009/12/goldman-bankers-swap-montblancs-for-guns/>

*Dec. 1 [Bloomberg] — "I just wrote my first reference for a gun permit," said a friend, who told me of swearing to the good character of a Goldman Sachs Group Inc. banker who applied to the local police for a permit to buy a pistol. The banker had told this friend of mine that senior Goldman people have loaded up on firearms and are now equipped to defend themselves if there is a populist uprising against the bank.*

<http://www.bloomberg.com/apps/news?pid=20601039&sid=ahD2WoDAL9h0>

*I called Goldman Sachs spokesman Lucas van Praag to ask whether it's true that Goldman partners feel they need handguns to protect themselves from the angry proletariat. He didn't call me back."*

<http://www.boingboing.net/2009/12/01/goldman-sachs-banker.html>



Things the Grandchildren Should Know (Eels)

Eels says:

"It is neither good nor bad, life that is.

Don't believe everything you read or hear.

I'm the only one who knows what it is like.

so I thought I'd better tell you before I leave

I go to bed real early.

and whatever happened the day before, every morning looks new. It feels new."

Finally I've come to realize that there is no matching to lust for love and harmony. As it finds no real situations to actualize its potentials, it will start feeding on itself. Inevitably. As there is no limit to the stupidity of people, the self-referentialities of the systems they build, the craziness of their continuity scenarios, what rests is some sense of selfrespect built on negating immediates. But hey! This we know. Learning as we are so say hello without too much trouble (Eels). What a great line. Let's rejoice in the few lines we got left then and better start hiding them well. It seems things are geared for conflict, as they should. We should not feed them with our words, the remaining ones not gobbled up by marketing, advertising and politicians. I know where the door is to the room where they lay dormant. On days like these, cold days, too much information on the smallness of the so called world leaders dreams I feel them shuddering softly somewhere deep inside my home land. I lull them back to sleep. For the time being. For the time being.

<http://www.theinternetofthings.eu/>

## Avatars out of Control. Gazira Babeli, Pose Balls and 'Rape' in Second Life.

Katja De Vries, LSTS Researcher Vrije Universiteit Brussel

Speaker Pecha Kucha  
Night Brussels



<http://katjadevries.webs.com>

Privacy - yes. Data Protection - yes. But also: avatar autonomy. While walking around in, e.g., Second Life we tend to forget that it is a scripted and coded world. It is all about who controls the code. But also: how the code is used. An artist like Babeli makes us aware of the fact that the possibilities for which code and computer graphics allow are quite different from those in our 'real world'. She shows us how we can fool around with these specific allowances.

# Who is in control of our data? The role of academics in a changing world where privacy matters

Paul De Hert & Serge Gutwirth, Law, Science, Technology and Society, Vrije Universiteit Brussel

■ Privacy is all around us. It is in almost every news item on new technology and about new initiatives taken by our governments and others to improve security. News items abound and professors in law have a hard time reading them all. Here below follows a brief selection of issues that caught our interest in recent months:

- Biometrics is about using fingerprints or iris scans and machines to check people at borders. You can falsify your passport, but you cannot change your fingers. That is the reason governments turn massively to biometrical scans. Recently however, according to an article in the Register, a 27 year-old Chinese woman named Lin Ring has been arrested during an attempt to illegally gain entry into Japan. Having her fingerprints of her right hand surgically removed and switched with those of her left hand she tried to fool the Japanese government (and the biometric database collection on non-citizens entering Japan). Lin is not the only one being caught for fingerprint surgery by Japanese authorities. Japan reports that eight others have been caught between January 2009 and October 2009 with similar surgeries.

- In October the news about a new reality game, known as Internet Eyes, came out: all 'players' (those having gone to the

website) will be cast as 'remote snoopers' and will get paid cash for spotting real crimes via CCTV cameras installed in shops and shopping centres throughout the UK. Internet Eyes will be rolled out worldwide in 2010, and pay up to a purported £1,000 to users reporting crimes via SMS, seen via live CCTV streams streamed directly via the Internet Eyes site (<http://interneteyes.co.uk/>).

- By the year 2020 Intel Corp. researchers claim that we will no longer need keyboard and mouse to control computers. Instead, users will open documents and surf the Web using nothing more than their brain waves. A new technology based on the reading of human brain waves will be used to operate computers, television sets and cell phones. The brain waves would be harnessed with sensors implanted in people's brains. The scientists say the plan is not a scene from a sci-fi movie - Big Brother won't be planting chips in your brain against your will. (<http://www.computerworld.com/s/article/9141180/>)

When researchers refer to the idea of Big Brother they acknowledge that some technological developments have implications on society and its values. Freedom and privacy are central values in today's society.

The objective of the Data Protection Day is to inform and educate the

public at large as to their day-to-day rights, but it may also provide data protection professionals with the opportunity to meet data subjects. On the website of the Council of Europe there is a call to organise events all over Europe to raise awareness on data protection and inform citizens of their rights and of good practices, thereby enabling them to exercise these rights more effectively.

We, academics from the Vrije Universiteit Brussel - specialised in working on law & technology issues - have taken up this task organising a large public event on Thursday 28th, in Brussels. Grey academics as we are (all academics are), we asked a team of creative people to put together a Pecha Kucha evening, a public debate formula sweeping through the world landscape as an ideal format for today's global citizens to discuss and interact. We invited artists, intellectuals, policy makers, designers and even some academics to take the floor at the Kaaitheater. Afterwards, at the Botanique, privacy will ring through the air, with the vibes of a dub-step party organised with Belgian Human Rights NGOs that support privacy-values. We will not select the music, nor today's fashion requirements, but we will provide some good visuals and input to the party so people can dance with their brain tuned in.

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In collaboration with four other academic institutions we organise an international conference again at the Kaai, on Friday 29th. It targets academics, computer technologists, ICT firms and policy-makers to discuss data protection issues such as just mentioned above. This time we are driven by the larger ambition of bringing all responsible actors together in one physical space to build a(n) (interpretive) community on the principles of data protection. Such a community is yet starting to develop, consisting of different actors responding differently to data protection challenges. What they already have in common is a shared terminology and method of data protection. We will need many more of these conferences to find out whether ultimately common responses are possible.

#### **BIO PAUL DE HERT**

*Paul De Hert is an international human rights expert. The bulk of his work is devoted, but not limited, to criminal law, technology and privacy law. In Brussels, Paul De Hert holds the chair of 'Criminal Law', 'International and European Criminal Law' and 'Historical introduction to eight major constitutional systems'. In the past he has held the chair of 'Human Rights', 'Legal theory' and 'Constitutional criminal law'. He is Director of the VUB-Research group on Fundamental Rights and Constitutionalism (FRC), Director of the Department of Interdisciplinary Studies of Law (Metajuridics) and core member of the internationally well-accepted VUB-Research group Law Science Technology & Society (LSTS) (see: [www.vub.ac.be/LSTS](http://www.vub.ac.be/LSTS)). At Tilburg he holds a position as an associated-professor in the internationally renowned Institute of Law and Technology at the Tilburg University (<http://www.tilburguniversity.nl/faculties/frw/departments/tilt/profile/>).*

#### **BIO SERGE GUTWIRTH**

*Serge Gutwirth is full-time Professor of Human Rights, Comparative Law, Legal Theory and Methodology at VUB's Faculty of Law and Criminology. Since October 2003 he is holder of a ten-year research fellowship in the framework of the VUB Research Contingent for his project "Sciences and the democratic constitutional state: a mutual transformation process". He has written three books, is the co-editor of 12 other publications and has published more than 100 articles in Dutch, French and English. He founded and chaired the VUB Research group on human rights (HUMR) (until 2003) and LSTS (from 2003), which he is currently leading. His interests include privacy and data protection and more generically, the role of law amongst other practices such as science, technology, politics and ethics.*

# Privacy as a liberating force and a challenge: human rights and the market. Why youngsters should decide and negotiate....

Willem Debeuckelaere, President of the Belgian Data Protection Authority

■ The inventors of human rights are the companions of scientists, encyclopaedists, philosophers, they are the children of the Enlightenment craving for knowledge and insight.

It is about an idea. About wishing and ideals. It is not something you can weigh or measure.

Human rights were born when the market came into being. Where free people felt the need to have something to hold on to in free trade.

The first privacy idea in our modern world was that of freedom of religion: the liberation of imposed beliefs and ways of thinking. And it will probably not be a coincidence that one of the first fundamental treaties, the Pacification of Ghent (1576), proclaimed freedom of conscience after the Spanish fury in the mercantile city of Antwerp. In other words, commerce and free will need each other.

Until today, this market and merchant culture is to be taken into account in privacy land.

At a time when international privacy standards are being worked on (eviva Madrid!), there should also be some serious reflection on the market, the capitalist transaction model, human rights and fundamental rights.

They have always had much to do with each other. But a choice must be made: is the right to privacy a service on offer, or is it a fundamental right that has to be ensured no matter what?

And at this particular moment: how shall we deal with the (new) central concept of "accountability"?

At present:

- marketing rights can have a regulatory effect, but this must be subordinate to the basic principles supporting fundamental rights, including the right to privacy.
- Personal data are personality rights. They are not merchantable or negotiable stuff. They are not involved in the market.

But

They are negotiable.

And therefore, on the 28th January, will the Belgian DPA concentrate on the empowerment of youngsters - giving them tools, skills, tricks and tips to act on the market of their personal data by negotiation and bargaining. They must know that they decide. "I decide" is the motto of the campaign that will be launched on the next privacy day: look at [www.ikbeslis.be](http://www.ikbeslis.be) or [www.jedécide.be](http://www.jedécide.be). Just pay a visit to the website and this confused introduction will become crystal clear.

## **BIO WILLEM DEBEUCKELAERE**

*Willem Debeuckelaere is a law graduate of the University of Ghent, Belgium. He worked as a lawyer from 1977 till 1995 and was head of the cabinet of the Belgian Minister of the Interior from 1995 till 1998. He was then appointed judge at the Court of First Instance, and in 2002 he became counsellor at the Ghent Court of Appeal. From 2004 till March 2007, he was Vice-President of the Belgian data protection authority (DPA), the Commission for the Protection of the Privacy. In April 2007 he was designated President of the DPA, a position he still holds.*

23 December 2009

Picture on the right page:  
© Marleen Wynants



## False positives

Jaromil, Software Artist, Rastasoftware

■ In mathematics the errors grow exponentially when we increase the number of dimensions.

$$SE_{\bar{x}} = \frac{s}{\sqrt{n}}$$

In statistics, as we focus samples to an increasing precision, the probability of errors recurring still affects a full sample. A full integer. A subject.

*"Urbanism — city planning — is capitalism's method for taking over the natural and human environment. Following its logical development towards total domination, capitalism now can and must refashion the totality of space into its own particular decor." (Guy Debord)*

Most development of public infrastructures nowadays is commissioned to private ventures and designed to serve an ideal representation of society that treats participation as a commodity and, in doing so, regards as negative any criticism to its particular decor.

Modern perspectives of social spaces are artificially constructed, sanitised and pure, while the nature of grass-root agency is often regarded as criminal, those who live the spaces and intervene on them are regarded as vandals by top-down planning hierarchies.

Speaker Pecha Kucha  
Night Brussels

Modernist city planning, urged by a streamlined imaginary of fear, has designed places for the monitoring and imprisonment of citizens, while those who have problems relating with this world are regarded as failing humans, as subjects to be corrected, assimilated, de-subjectivated, imprisoned, eliminated.

Cities planned for central domination, as stages of total control, ultimately have to deal with their excess of efficiency in framing all the unpredictable instances generated by human life.

All uses of public infrastructures, from transport to assembly spaces, are regarded as potential sources of danger, while the use of open spaces is restricted by complex codes and constantly monitored.

*"Thus they use death to cover the secret that they must resign themselves to acknowledging: that even life in its nakedness is, in truth, improper and purely exterior to them, that for them there is no shelter on earth." (Giorgio Agamben)*

<http://false-positives.f1x.eu>

## Je m'en fish VZW

Bart Dujardin, General Coordinator



Je m'en fish, literally a wordplay meaning 'we don't care', strives to float upstream against cultural and socio-cultural boundaries that are ever-present in both the Belgian scene but also in their hometown Brussels, and organises a number of events, workshops, and infessions to promote young producers, DJ's, audiovisual artists. After the Pecha Kucha Night session, it will organise the 'privacy party - identity still under control?' event at 'Botanique', the botanical garden of Brussels, inviting young artists together with English and Scottish established artists (Appleblim, Headhunter and Gravius) and incorporating an interactive audiovisual show 'INTR@KTIV'.

[www.jemenfish.be](http://www.jemenfish.be)

# A collective awareness effort to save our digital environment – THINK PRIVACY

Julie Inman-Grant, Director of Privacy and Internet Safety, Microsoft Corporation and Cornelia Kutterer, Senior Policy Manager, Microsoft EMEA

■ “I know much now, but all I fain would know” Johan Wolfgang von Goethe, Faust

Citizen privacy has many facets but we need to understand privacy first and foremost as a human right to secure human dignity, freedom and democracy. Where privacy is not respected – this is what is at stake. Consumer privacy is equally important where information about individuals is used by businesses. While this is done to provide consumers with enormous benefits, the same information can be used to harm consumers through unwarranted intrusion. Technologies multiply data storage capacity each year and citizens of all ages and backgrounds are sharing more of their lives through social networks, micro-blogging, photo sharing and other online services. As our use of the Internet and related technologies evolves, so do too our privacy needs and concerns. Whilst once we were concerned about sharing too much information online, today we tend to use social media to share with the world more about our lives and what we do.

Much of the current and future policy discussion in Europe will have to address how to improve the regulatory framework to be more effective and how to incentivise companies to invest in privacy enhancing technologies and transparent processes that ensure greater consumer confidence

and control over their data. But what does it take for citizens and consumers to be privacy literate and make use of the rights, opportunities and choices provided for them? As a case in point, reputations can take years to build yet can be lost in minutes. We make online decisions every day that can have long-lasting consequences for the way the world perceives us. Understanding that using the Internet in the Web 2.0 world leaves a trail of personal online information for everyone to see will help empower users to take proactive steps and better manage and control how they are represented online.

Like any educational program, we need to start raising awareness about the issues at-stake. Just like we have learnt to make the necessary steps to leave a smaller ecological footprint in order to save our planet because we are aware of what is at stake. We can help people to leave a smaller digital footprint by making privacy and data protection a priority amongst the broader public audience. Each year, on 28 January, we celebrate Data Protection Day in Europe and other continents to raise awareness on privacy and data protection amongst citizens. The commemorating date was first initiated in 2007 and goes back a quarter of a century, when the Council of Europe’s Convention 108 for the Protection of Individuals with regard to Automatic Processing

of Personal Data was opened for signature. It is not surprising to mark that today in a data-driven society: familiarizing citizens with a largely unknown, yet major facet of our everyday lives in a world of gigantic data flow, is more than ever an important cornerstone of effective data protection.

As one of the awareness initiatives around the globe, we partner with European Schoolnet, Coface, VUB, Channel 4 and Telefonica to run the European Think Privacy campaign ([www.dataprotectionday.eu](http://www.dataprotectionday.eu)), supported by key privacy agencies, institutions, trade associations and civil society. The awareness campaign targets young adults between 15 and 19 years. Digital natives explain what they think about privacy, security and data protection in Manga images and stop motion techniques; and become acquainted with the thought of their very own digital dossier that they are building with each click. Microsoft has also conducted a set of studies that compare people’s online behavior and attitude about the importance of online reputation with how HR professionals and hiring managers use online information when considering applicants. Galvanized by the range of activity around Data Protection Day, we hope to raise awareness in particular on online reputation and to empower European users with specific guidance to better manage it.

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Certainly, raising awareness is not the only pillar to ensure a privacy-friendly digital ecosystem but it is one we can use to reach the broadest possible audience. The THINK PRIVACY campaign is starting to become a platform in which all stakeholders – from institutions to grassroots advocates, business, academics – can participate and engage to make citizens privacy literate and lower their digital footprint.

#### **BIO JULIE INMAN-GRANT**

*Julie Inman Grant is Microsoft Corporation's Director of Privacy and Internet Safety Outreach. In this global role, she works with a range on industry and government officials on policy and consumer outreach initiatives. Prior to this role, Ms. Inman Grant served for 4 years as Asia Pacific Regional Director of Internet Safety, Privacy and Security, based in Melbourne, Australia. In that capacity, she drove Microsoft's policy outreach and citizenship campaigns for privacy, security and online safety issues across Asia and worked closely with government, law enforcement, multilateral and non-governmental organizations and the consumer sector in helping to drive key outcomes in these areas. From August, 2000 until January, 2005, Inman-Grant was based in Sydney, where she developed and managed Microsoft's government relations, industry outreach, community affairs programs*

*for Australia and New Zealand. Inman Grant has been with Microsoft for 14 years and was hired as one of the Company's first government affairs professionals in Washington, DC. Prior to joining Microsoft in 1995, she spent 2 ½ years as Policy Analyst and Public Communications Manager of the National Council for Languages and International Studies (NCLIS), a non-profit educational association based in Washington, D.C. and began her career in government as Legislative Assistant to U.S. Representative John Miller (WA) during the 102nd Congress. While both an Australian and US citizen, Inman Grant is a native of Seattle, Washington, USA, and graduated magna cum laude with a B.A. in International Relations from Boston University in 1990. She went on to the American University School of International Service where she received her M.A. summa cum laude in International Communication.*

#### **BIO CORNELIA KUTTERER**

*Cornelia Kutterer is Senior Policy Manager for Microsoft EMEA, responsible for technology policy, child online safety, (data) security and regulatory consumer laws. Her experience in Information Society policies at EU level, IP and competition policies, as well as data protection and consumer laws, makes her a strong advocate dedicated to increasing trust in the Internet. Previously, Cornelia was Head of Legal Department at BEUC, the European Consumer Organisation, driving the policy agenda for consumers' digital life. She has also gained experience in a top 10 law firm in the fields of competition law, EU regulatory policies, intellectual property and e-commerce and in a German trade organization focusing on the freedom of services in the EU. She started her professional career in the European Parliament as an assistant to a MEP in 1997. Cornelia Kutterer is a qualified German lawyer (registered at the Frankfurt bar) and holds a master's degree in information technology and communication laws (with distinction). She studied law at the Universities of Passau, Porto, Hamburg and Strathclyde (Glasgow, Scotland) and passed the bar exam at the Higher Court of Rostoc.*

For more information  
[www.microsoft.com/privacy](http://www.microsoft.com/privacy)

# Digital technology has changed our notion of identity

Ben Schouten, European Biometrics Forum



■ The extreme empowerment of the control-state, which is a generic argument against any conceivable technology in the use of power holders and policy makers, is often heard in the context of biometrics. These concerns include Big Brother scenarios (the feeling of control and less freedom), privacy and security aspects like the storage of personal data in [central] databases etc.

The extreme empowerment of the control-state however is not as scary as the reality-shift scenario, as the latter implies a wholesale and invisible reconstruction of meaning. This, in itself, may be seen as natural, since there is an inevitable momentum and slow but continuous morphing of the culture, as new cultural artifacts are generated and absorbed into the public consciousness. Some of these changes are necessarily detrimental to the existing set of values, a snapshot of which is a static picture of the culture. Yet, once absorbed, these changes are seen from a different and more favorable perspective. The development of camera, for instance, is the primary enabler of most surveillance technologies, although this was not a foreseen result at the time of its conception. Once accepted, it has changed the culture fundamentally.

In our new notion of technology, a crucial role is for the end user, the environment and sustainability. Much of the fear for technology originates from the lack of meaning that can be extracted from applications. According to Mordini<sup>1</sup>, present technology is developing without a sound cultural framework that could give technology a sense beyond mere utilitarian considerations.

Digital technology has also changed our notion of identity. Current (biometric) practice favors governmental applications and strengthens a centrally controlled identity. In contrast and in a more fluid process we currently see within virtual communities (e.g. facebook) identity being established

and negotiated. The striking difference between biometrical identity and this social identity is the role of the end-user (citizen).

To empower the end-user in ID management systems, their meaning and mechanisms must be communicated to the user. One way of leaving control in the hand of individuals is to introduce negotiation into the authentication process. This may contribute to keeping a reasonable balance of power between citizens. We foresee a future situation where people will carry certain identity tokens (e.g. in a handheld phone, an identity card, or possibly an implanted chip) constituting partial identities by which they would present themselves, enabling them to communicate with their environment through different applications.

The creation of different identities with different levels of security and channels of communication, which do not need to be centralized organized is not only a challenging, but deeply necessary idea.

## BIO BEN SCHOUTEN

*Prof. Dr Ben A.M. Schouten worked for many years as a computer artist and his art has been exhibited in many places in the Netherlands and abroad. In 1996 he founded Desk.nl, an Application Software Provider (ASP), providing innovative internet related solutions to a wide range of customers. Currently he is professor in 'Playful Interaction' at the University of Technology Eindhoven The Netherlands and a director of the European Biometrics Forum.*

<sup>1</sup> Mordini, E (2007). Technology and fear: is wonder the key?. Trends in Biotechnology Vol 25, No 12, 2007.

## CREW/art, science and new technology

Eric Joris, Performance Artist

Speaker Pecha Kucha  
Night Brussels



A temporary amoral zone

How may the performing live arts evolve in a technological future far away?

The characteristics of the stage, the arena, the forum... will drastically change. Maybe it will be our body itself, our intestines or our mouth that will 'stage' the action... Thanks to technology our senses, our nerve strings will be able to directly connect to (the nerves strings) of other bodies. I can taste the salt another mouth is tasting...

Further away we will be able to experience a situation out of another person's consciousness, implying that for that length of time our own consciousness is on hold.

The moment of reflection during the performance itself may disappear. This will therefore create a temporary amoral space. The ethics, the reflection will be outside, after the performance when one becomes conscious of one's own performed, thought and wanted (desired) actions.

<http://www.crewonline.org/>

# Let's Use Data Protection: Please, Bring Back Politics!

Rocco Bellanova, LSTS-VUB and CReSPo-FUSL

■ The debate surrounding technology, individual and social life is not new, but is live and well, continually evolving. Within it, privacy and data protection have progressively emerged as important rights and instruments. Their contribution to the debate is different from the one offered by other discussions, especially the technophile and technophobe positions. In fact, even if these positions are easy to assume and seem useful to defend, they mostly contribute to eluding issues and downsizing any kind of debate. On the contrary, privacy and data protection have already provided insights on the presence and definitions of the issues at stake. This seems especially the case, and one of the core aims, of data protection: highlighting the relations among actors and technologies and providing principles and rules to channel them.

But, is this enough? Is data protection the golden solution to solve once and for all the debate on the role and effects of technologies on individuals and societies? Is the Data Protection Day just the celebration of the end of the debate?

No, I should not think. Fifteen years after the adoption of the data protection directive in Europe, more than thirty years after the first legislations on personal data were passed, data protection is still needed more than ever. If we really care about the intertwining of relations between actors and technologies, we have to use data protection both as a fundamental

right (and thus an active form of protection) as well as an instrument to be put to the forefront issues, and start to create a real space for discussion and decision. In short, we just need to “use” data protection to re-vitalize the public debate and thus to “bring back politics” and to take dominion over our present lives and societies, and not only run behind, or be run by, pre-established practices.

This statement is stark, but it is not a form of *per se* criticism or technophobia. Behind it, there is the recognition of the relevance and usefulness of technology, and also the will to analyze and scrutinize it, in the same way in which we have learned to consider other crucial elements for human beings.

This approach has motivated me to contribute to the organization of the Think Privacy Conference that will be hosted at the European Parliament the 28 January 2010. Indeed, if politics have to be brought back, which better occasion and location not only to celebrate, but to actively use data protection?

This debate will see the participation of several actors, coming from different fields of experience and expertise: policy-makers, data protection authorities, academics, journalists and media experts, NGOs representatives, private companies and European institution officials. Last but not least, young students that use technologies in their daily lives and have employed them to represent their perceptions and understandings of privacy and

data protection. The topics are also crucial: social media, privacy literacy, the future and function of privacy... all issues that require attention, deep analysis and choices. “Bringing back politics” also implies this thought and evaluation, and I am sure that this is a probably small, but real step to use data protection (and thus legal and technological knowledge) to provide an effective space of debate.

## **BIO ROCCO BELLANOVA**

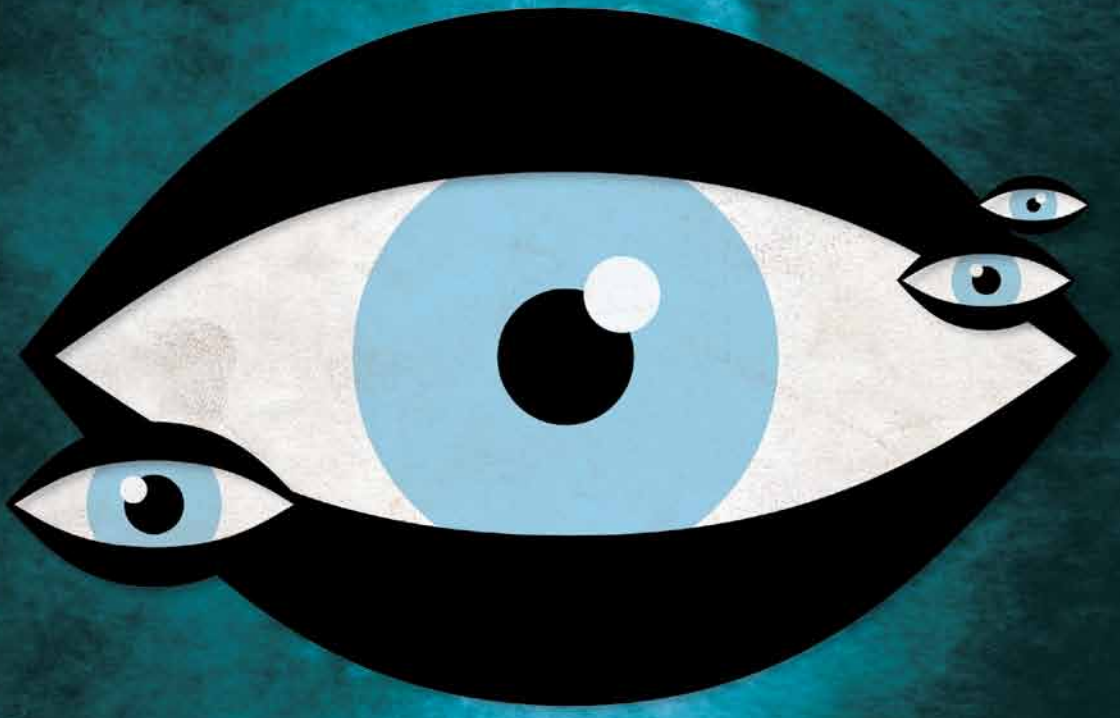
*Rocco Bellanova is currently researching data protection applied to security measures at both the Vrije Universiteit Brussel (VUB) and the Facultés universitaires Saint-Louis (FUSL). He is member of the interdisciplinary Research Group on Law Science Technology & Society or LSTS ([www.vub.ac.be/LSTS](http://www.vub.ac.be/LSTS)) and of the Centre de Recherche en Science Politique, or CReSPo (<http://centres.fusl.ac.be/CRESPO>). At FUSL, he also works as assistant in international relations, political science and contemporary political issues. He takes part in the organization of the Computers, Privacy and Data Protection conferences (2009-2010) and some of the Data Protection Day activities. He previously obtained a master degree at the University of Bologna and he completed a master research then at Sciences-Po Paris. His research interests are: European and transatlantic security policies based on data processing, data protection and fundamental rights, the development of the European Area of Freedom, Security and Justice.*

AT BOTANIQUE

# PRIVACY PARTY

THU 28.01.10

'Identity still under control?'



## HEADHUNTER

UK - TEMPA

## APPLEBLIM

UK - APPLEPIPS & SKULL DISCO

## GRAVIOUS

UK - HOTFLUSH

## MEZZDUB B2B PHONETICS

BE - 54KOLAKTIV

## SHINEONE B2B SKAR B2B SLIM-T

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INTERACTIVE AUDIOVISUAL SHOW IN THE BAR AREA



# Intention Attention

powered by  iChoosr



crosstalks

**Imagine** being able to take charge of your information and data, notes and records about past transactions, your purchase history, future plans and ideas, preferences and knowledge about areas of your life ...

At the moment you are the last person to be able to benefit from all this accessible only via various platforms. Your 'Digital Me' is not yours, it is information that others harvest and use for their own purposes.

**Imagine** to be able to do that with the same ease as checking email, posting to a blog, adding a bookmark to del.icio.us, searching Google, commenting on an article, uploading a photo to Flickr, managing your google ical calendar, leaving a review on Amazon, adding an application on Facebook. All this whilst protecting your privacy to the degree you find comfortable, sharing your activity or data as you wish, not as mandated by the platform providing some functionality in exchange for your data (Facebook, Amazon etc).

**Imagine** having your customers share with you what *they* like, want and think of you. At this moment, you are dependent on market research, which is like looking through a keyhole at the rich 'user-generated' world.

**Imagine** to manage your own data, to analyze it, and so having a better picture of your Digital Me. You will decide yourself what, when and for how long you share it.

**Imagine** *you* start from your "Intention", and not from the "Attention" initiated by the market place ...

The above is the grand vision of iChoosr, based on Project VRM.

The name stands for Vendor Relationship Management and it originates from 'flipping' CRM -customer relationship management.

This opportunity is not rooted in us vs. them emotionally-driven arguments, but in creating a more efficient and balance relationship between business and their customers, markets and companies, demand and supply.

[www.ichoosr.com](http://www.ichoosr.com)

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**Relying on the  
government to  
protect your  
privacy is like  
asking a peeping  
tom to install  
your window  
blinds.**

John Perry Barlow,

Founder of the Electronic Frontier Foundation

# The Confidant Award

Dorian van der Brempt, Director of Flemish/Dutch Huis deBuren

SECRECY, by John Hayden

Come closer,  
Closer still,  
I need to tell you,  
About big Bill,

I saw him,  
The other day,  
Did you know,  
I don't like to say

I think he's doing,  
I only think,  
Well I seen him,  
Dressed in pink,

Did you hear,  
Of a fancy dress,  
Maybe not,  
He's gay I guess,

Don't tell no one,  
I might be wrong,  
About the clothes,  
That he had on,

If big Bill hears,  
What I said,  
My life wont be worth living,  
He'll smash my head,

Shush, shush, here he is  
Hello big Bill,  
Are you wearing pink,  
No my shirt is covered in ink

■ He called himself Princess Diana's confidant, 'the hub' of her world, the keeper of all her secrets... (Jumana Farouky, Time, 14.01.2008)

Privacy and intimacy are becoming increasingly difficult to protect. Chip cards, mobile phones and emails now play a major part in our daily lives - and Big Brother seems to be breathing down our necks all the time. Of course, the powers that control our privacy are subject to strict rules as to what may or may not be done with this information. Of course, it is illegal to read private emails/texts without a court order, but the doors are wide open to abuse. By their very nature, man-made systems are not watertight; otherwise there would be no room for improvement.

Technological developments, but also commercial innovations threaten our privacy and intimacy. I, for one, was hugely disappointed when soon after Princess Diana's death, Paul Burrell's book came out, describing his time as her butler in considerable detail. How wicked do you have to be to make an intimate working relationship the object of a book?

I have always looked upon geishas, private secretaries and butlers as some sort of safe in which intimate information is kept. They are, indeed, the keepers of memories, the protectors of their employers' secrets. And because they are so 'close' to them, secrecy is essential. Personal and political advisors as well as captains of industry must be able to keep secrets. They are today's court jesters. The latter not only made the king laugh, they also had the king's ear. The monarch could confide in them about his mistakes; while they could safely inform the king about the queen having an affair - without their necks ending up on the block.

Today, abuse is in the statute books and has legal consequences. Abusing intimate information inherent in a confidential assignment is equally unacceptable. Cultural civilizations inherently respect other people's freedom, their secrets and personal integrity. Breaking into another person's intimacy is like breaking into that person's soul.

The ARTISTIC AWARD of the 2011 EUROPEAN CIVIL SOCIETY DATA PROTECTION will go to the author of a short story (3000 to 4500 words) that revolves around this theme. The piece of fiction must be legally underpinned yet be understandable to non-experts. The call for stories will be posted on [www.deburen.eu](http://www.deburen.eu) at the end of the year 2010 and the winning story will be given pride of place on the site. Its author will also receive a € 5000 award.

## BIO DORIAN VAN DER BREMPT

*Dorian van der Brempt Was the director of [boek.be](http://boek.be) and advisor to the Flemish Ministers of Culture Van Grembergen and Ancliaux. He is a lecturer at the Design Academy in Eindhoven and until 1999 was a partner in Enthoven Associates Design Consultants. He is a government-appointed director of the Flemish Literature Fund. He studied Romanic Philology. 1986 saw publication of 'Monologues with Jan Hoet', which he edited with Marc Van Dyck (published by Kritak).*

Picture on the right page:  
© Marleen Wynants



## Waiting for the Knock

Richard Stallman, software freedom activist and founder of the Free Software Foundation.

■ Imagine that you are afraid of a knock on the door.

Imagine that the knock could be the police, coming in secret to interrogate you. Imagine that they can demand you decrypt files for them, and demand you tell them your code keys, even to get evidence to use against you. In effect, they can force you to testify against yourself, and it is a crime to refuse.

Imagine that for these offenses you are effectively considered guilty unless you can prove your innocence: mere failure to comply is the crime. If you do not have the key they demand, you will be imprisoned unless you can prove it.

Imagine that they can behave arbitrarily, because their actions are secret. They do not need to get a court's authorization to demand your testimony. And if you tell anyone--your friends and associates, a news reporter, even in most circumstances an open courtroom--that you have been forced to testify, they will imprison you just for telling.

Imagine that the only judicial control over these actions is a special secret court, with no jury, where decisions are made by judges chosen for their sympathy to the prosecution. Imagine that they can hear evidence from the prosecutors in secret, so you do not even have a chance to deny it.

Unfortunately, there is no need for imagination. This is a real proposal--not in China or Iraq, as you might expect, but in Britain. It was proposed as part of the draft Electronic Communications bill, but has been withdrawn from there, probably to be reintroduced shortly in a separate "Regulation of Investigatory Powers" bill. (Proposals to extend government power are often secreted in bills with opposite-sounding names.) The country that gave the world the concept of the rights of citizens, of protection from abuse of government power, of the right to remain silent and not be compelled to testify against yourself, is tearing up the concept and throwing it away.

The rot in the British legal system began under the previous Conservative government, which passed an "anti-terrorist" law saying that--for certain crimes--if you refuse to answer questions, that can be held against you. Thus the first stone was thrown at the right to remain silent.

As a supposed protection against abuse, this law said that courts must not convict based on silence alone; they must have some other basis as well. But the same law established that an official accusation of membership in a prohibited organization can also be held against you. This, too, is not sufficient by itself--which only means that the two together are needed for a conviction. If you are accused of belonging to a prohibited organization, and you refuse to answer police questions, you go to prison.

Of course, every law that undermines the rights of citizens has an "urgent" justification. For this law, the justification was IRA terrorism; but the cure is far worse than the disease. A century from now, IRA bombing will be just a chapter of history, but the painful effects of the "cure" will still be felt.

The "New Labor" government of Prime Minister Blair which replaced the Conservative government is eager to extend this policy to other areas. I was not greatly surprised to learn that the same government also plans to eliminate the right to a jury in criminal trials (see *The Guardian*, November 20 1999, page 1). These policies would gladden the heart of an Argentine general.

When you speak with British officials about the issue, they insist that you can trust them to use their power wisely for the good of all. Of course, that is absurd. Britain must hold to the tradition of British law, and respect the rights of citizens to a fair trial and non-self-incrimination.

When you try to discuss the details, they respond with pettifoggery; for example, they pretend that the plan would not really consider you guilty until proven innocent, because the official forms that demand your

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code keys and your silence are officially considered the proof of guilt. That in practice this is indistinguishable from requiring proof of innocence requires more perspicuity than they will admit to.

If you live in Britain, what can you do?

- Take political action now. Tell all the political parties that this issue is of great concern to you, and invite each to be the one you will vote for to prevent such laws. Look at [www.stand.org.uk](http://www.stand.org.uk) for further advice.
- Write to your MP, the e-Minister Patricia Hewitt ([e.minister@dti.gov.uk](mailto:e.minister@dti.gov.uk)), the Home Secretary, and the newspapers, stating your firm opposition to these measures.
- Talk with your Internet Service Provider's management about the importance of this issue.
- Start using encrypted mail, using the GNU Privacy Guard or another suitable encryption program, and use it as widely as possible and with as many people as possible. The more people are using encryption, the harder it will be for governments to stamp it out. The GNU Privacy Guard is Free Software (you are free to redistribute and change it), and is available on [www.gnupg.org](http://www.gnupg.org).
- Once you have read an encrypted message, if you don't need to save it, get rid of it. Don't just delete the file; copy several other files of junk into the file, one by one, so that the old bits cannot be recovered. (The GNU Privacy Guard will soon provide a convenient command for doing this.)
- If you need to save an encrypted message, use steganography (hiding information by embedding messages within other harmless messages) so that it is impossible for anyone to be sure that encrypted data is present. You can use steganography for transmitting messages as well.
- Anyone, even you, could be a target of this law. Don't assume that you are safe just because you are "not a criminal"; almost everyone breaks some laws, but even if you do not, you could still be suspected. Your friends and correspondents are likely to be next after you. So arrange innocent-sounding "code phrases" with them now, things like "Agnes has a bad cold" (but don't use this one!), as a way you can inform them that you were interrogated by

the secret police, without giving the police a way to detect that you did so.

You never know what might lead the secret police to your door. Take the necessary precautions now, because the only thing worse than fearing the knock on the door is being oblivious to the danger.

**A version of this article was published in the Guardian, a London newspaper, on 25 November 1999.**

As of March 2000, the R.I.P. was under active consideration in Parliament. One minor protection has been added: to imprison you for failing to produce a key, the government must prove you once had it. This provision seems designed to protect the Home Secretary, who is championing the bill, from a campaign of sending him encrypted email which he had no way to read. The change is a slight improvement, but the bill remains unworthy of a democratic country.

[Update in October 2007: this month the UK government enacted the regulations, authorized by this law, to put these powers into effect. This shows that Gordon Clown is no better than B'liar where human rights are concerned. Of course, the US and the UK have both made far worse attacks on human rights since this article was published.]

For more information, consult the Foundation for Information Policy Research, or FIPR - <http://www.fipr.org/>  
<http://stallman.org/>

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# The Madrid Declaration: Standing Up for Freedom

Marc Rotenberg, Executive Director of the Electronic Privacy Information Center

■ When advocates gathered in Madrid for the annual meeting of the privacy commissioners in November 2009, there were many new challenges: behavioral targeting, databases of DNA, the fusion of data between the public and private sectors, and new systems of mass surveillance, including facial recognition, whole body imaging, biometric identifiers, and embedded RFID tags.

The advocates understandably made clear their objections to these new systems of social control. They noted “the dramatic expansion of secret and unaccountable surveillance, as well as the growing collaboration between governments and vendors of surveillance technology that establish new forms of social control.”

They said, “privacy law and privacy institutions have failed to take full account of new surveillance practices.” And they warned that “the failure to safeguard privacy jeopardizes associated freedoms, including freedom of expression, freedom of assembly, freedom of access to information, non-discrimination, and ultimately the stability of constitutional democracies.”

But the argument of the privacy advocates did not end with this inventory of new threats. Privacy challenges do not arise outside of social and legal norms, or apart from the history and political understanding that has helped to shape modern privacy law. In a

Constitutional democracy there are principles of transparency and accountability, fairness and due process, that frame an analyses and produce a conclusion. In such discussions, one does not engage in the pointless “balancing” of privacy and security, which might as well be trying to balance liberty and tyranny.

And so, the Madrid Declaration reaffirms privacy as a fundamental human right and reminds governments of their obligations to safeguard the privacy rights of their citizens and residents, to uphold national law and international human rights. The Declaration notes with anticipation the entry into force of the Lisbon Treaty and the Charter of Fundamental Rights, including the right to informational privacy. And the Madrid Declaration sets out ten specific steps, from the development of a global framework for privacy protection to the need for “a full and transparent evaluation by independent authorities and democratic debate” about the new systems of mass surveillance.

The Madrid Declaration is a substantial document that reaffirms international instruments for privacy protection, identifies new challenges, and recommends specific actions.

In the realm of literary interpretation, George Orwell’s 1984 can be read as prophesy or as challenge. As prophesy, it is a depressing tale. As challenge, it is an invitation to action, a warning of

the world that exists when people fail to act, a reason to rally behind initiatives such as the Madrid Declaration.

The Madrid Declaration is available online in twelve different languages at <http://thepublicvoice.org/madrid-declaration/>. As of 1 January 2010, more than 100 organizations and 100 experts have endorsed the statement.

## **BIO MARC ROTENBERG**

*Marc Rotenberg is Executive Director of the Electronic Privacy Information Center (EPIC) and Adjunct Professor at the Georgetown University Law Center. He frequently testifies before the US Congress and the European Parliament on emerging privacy and civil liberties issues. He often litigates US privacy cases as a “friend of the court.” He has served on expert panels for the OECD, UNESCO, ITU, and the European Commission. He chairs the ABA Committee on Privacy and Information Protection. He is editor of many books, including “Privacy and Human Rights” (EPIC 2008), “The Privacy Law Sourcebook” (EPIC 2008), “Information Privacy Law” (Aspen 2006 with Daniel J. Solove and Paul Schwartz), and “Technology and Privacy: The New Landscape” (MIT Press 1997 with Phil Agre). He is a graduate of Harvard College and Stanford Law School. He is an ABA Fellow and the recipient of several awards, including the World Technology Award in Law.*

[stopdigitalstripsearches.org](http://stopdigitalstripsearches.org)



[stopdigitalstripsearches.org](http://stopdigitalstripsearches.org)

## Chaos Computer Club

Tim Pritlove, Personal Media Creator, Co-Coordinator of Project Blinkenlights & member of the Chaos Computer Club

■ In Hamburg you can do anything you want, if you can pay for it. In Berlin, you can do almost everything, even if you cannot pay for it. Come up with a project, and people will go along. If you have 5 Germans in one room, they will probably start a club. Berlin has a very open atmosphere for doing something absolutely new and crazy. Even the straight and normal people live with it – where in other cities the latter play a very dominant role and anything against the tradition just cannot be.

The wall came down, the love parade was founded, 50% of the East part became unstructured and empty since most of the people left for the West or elsewhere. Nobody knew what was going on. So you could walk into any house in the East, look around and start living there. Some flats had connected telephones; we had a flat like that with a Stasi phone that kept working for many years after die Wende. People from all over Europe were moving in, the whole street was like one big youth hostel and cables from all over the street were connected to an active telephone line to make international calls. It's hard to explain to people from outside. The scenery was totally absurd but to those moving in, it was normal.

Germany is a surveillance state. We had the Nazi's, then the Cold War and the East German government who used even more technology. That's why people here are much more aware, more sensitive about the issue of data protection. We have a freedom and if we don't do anything to sustain it, technology will come up with total surveillance – cameras, computer networks, mobile phone networks, internet ... The surveillance pressure is high and data has to be stored to make the system work. Policymakers are very eager to get a hand on the data and the terrorist argument does not convince me. Hence the hacker movement here

is different from elsewhere and a constructive force about technology and society rather than a criminal movement it is often associated with in the US.

The German hacker movement is quite similar to the Chaos Computer Club which as a group has become highly visible to the media since it's founding meeting in 81. Since then some technological stunts drew the attention of the media like the hacking of the NASA network computers, the ActiveX hacking program to do money transfers omitting the normal password security systems of the accounting software package Quicken, information hacking about the German Nuclear Power Program... The Chaos Computer Club became the heroes of the digital revolution, knowing what computers meant and the media turned to the CCC as the ones who knew, who can explain and who have the trust of society to raise concerns about the opportunities in technology and the risks. The German hacker movement is different because Germany is different.

[www.ccc.de](http://www.ccc.de)

## A Pluricultural Reality

Ergün Erkoçu, architect and founder of architect office Concept 0031

■ During the last decades our originally monocultural society – consisting of mainly autonomous ethnic groups – has shifted to a multicultural model wherein regular intercultural exchanges take place. Current cultural, social, economic and demographic dynamics are leading us towards a pluricultural society. Ethnicity has become of minor importance and age, educational level and personal interests are predominating values. The situation is characterised by an abundance of partially or to a certain extent interacting and fusing ethnic groups.

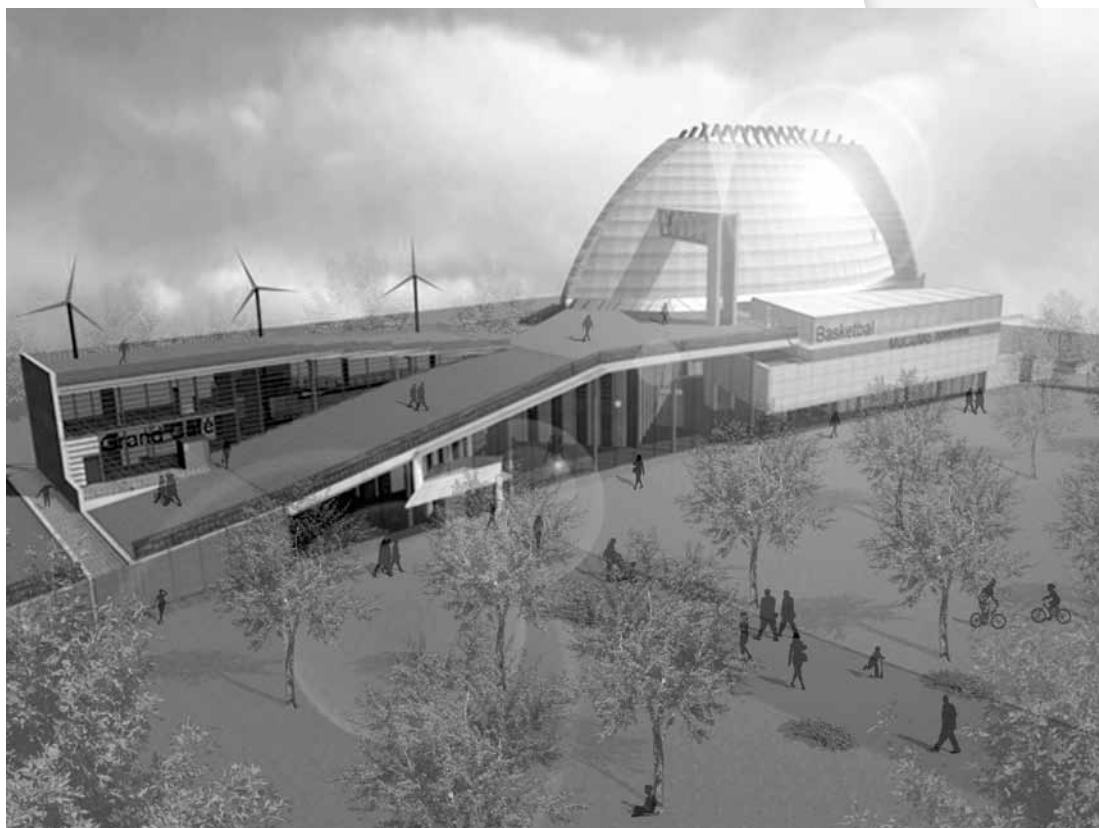
Urban planners should take this trend into account while designing transformation plans for neighbourhoods. In stead of polarising and exotising areas according to ethnicity, it is crucial that neighbourhoods keep their identity, inherent cultural dynamics and driving forces. It is key to explore our pluricultural reality and its invisible and untangible informal processes in depth with an eye on developing a feasible and contemporary urbanistic design.

Speaker Pecha Kucha  
Night Brussels

A newly designed urban area on the drawing table ultimately results in a real lived-in area with its specific supplies and facilities, activities and functionalities called to life by the needs of its inhabitants. By repeatedly and anonymously exploring an urban area during a certain amount of time, I learned that an alternative image of the city emerged. My research wasn't executed within the borders of any rigid time frame nor conceptual framework. Just by being there and spending time chit-chatting with locals and adopting to their codes and language, a new social dimension exposed itself. I discovered a little salsa school, Polish living room cafes and hiding mosques. That is how I came to the idea of the "Poldermoskee", a locally inspired mosque concept, equally accessible to muslims and non-muslims.

<http://concept0031.com/>

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# *PechaKucha Night*

# { 20 \* 20 }

IMAGES SECONDS

**Volume #11 on Jan. 28th 2010  
in Brussels will take place at Kaaaitheater !**

**Pecha Kucha Brussels Vol. 11**  
**Tempo, story, tension, show-and-tell.**  
Spread the word. Share the world.

## **The list of speakers planned for Pecha Kucha Night Brussels**

- Marie Brouchet-Hus - Kanker Barak
- Katja De Vries - virtual environments, second life
- Guy Dittrich - Wallpaper\* CityGuide Brussels
- Bart Dujardin - Je m'en fish VZW
- Ergün Erkoçu - Poldermoskee
- Jaromil - computer coding and art, Amsterdam, dyne.org
- Eric Joris - CREW, Double U, technology, art and theatre
- Marianne Kirch - singer-performer, theatre maker, Den Haag
- Rob van Kranenburg - council / The Internet of Things
- Pierre Portevin - C-Bridge
- Hugo Puttaert - addmagazine
- Marc Rotenberg - Electronic Privacy Information Center
- Ben Schouten - gaming
- Bart Stevens - social software/ichoosr

Start at 20:20

We recommend that you arrive half an hour early.

Kaaaitheater, 1000 Brussels

Register at <http://pechakucha.architempo.net/>

## Data Protection Day: Presentation of the Events

### ***Privacy Platform: Awareness and Empowerment: the Role of Users in Privacy Protection***

Mrs. Sophie In 't Veld, Member of European Parliament, will organize a Privacy Platform on the theme: "Awareness and Empowerment: the Role of Users in Privacy Protection". The purpose of the meeting is to get better insight in the possibilities to raise awareness among consumers and their role in privacy protection. A panel of experts will, after shortly introducing their viewpoints on the theme, have a debate with the audience.

Main organizer: Mrs. Sophie In 't Veld (Member of European Parliament, ALDE).

When: 27th January 2010, 12:30-15:00 (sandwiches will be served).

Where: European Parliament, Brussels.

Admission: It is possible to attend this Platform and require a badge to enter the European Parliament, by sending name, date of birth and place of residence to: [sophie.bots@europarl.europa.eu](mailto:sophie.bots@europarl.europa.eu) by 20th January 2010.

### ***Workshop: How are data subjects informed about the processing of their data and the exercise of their rights?***

The European Commission will organize a closed workshop on the theme: "How are data subjects informed about the processing of their data and the exercise of their rights?". More specifically, speeches will address the following topics: information and rights of data subject in the medical sector; how can data subjects be the primary actors in defending their own privacy; privacy and data protection in the workplace; the practice of the European Commission concerning information and rights of data subjects; data protection and privacy rights in the electronic communications sector.

Main organizer: European Commission.

When: 28th January 2010, 9:30-11:30.

Where: European Commission, Brussels.

Admission: closed workshop.

### ***Over lunch: Think Technology at the Crossroad of Privacy***

Supporters, partners, speakers and friends of the THINK PRIVACY campaign will meet over lunch to

celebrate Data Protection Day. David Smith, UK Deputy Information Commissioner will provide his thoughts about the privacy policy discussion ahead of us. Thomas Myrup, Senior Director for EU Policy at Microsoft, will give an inside view on how an ICT company puts privacy in the DNA of its technology.

Main organizer: Microsoft Corporation.

Where: Stanhope Hotel, Rue du Commerce 9, 1000 Brussels.

When: 28th January 2010, 12:00-13:30.

Admission: by invitation only.

### ***Talk: An engineer's vision on Internet privacy***

The Internet's rapid evolution raises new challenges to designing data protection into new products and services. How to put the user in control of his or her data and find solutions to inject this principle into products? A software engineer specialized in security and privacy related engineering, Dr. Alma Whitten, will discuss several case studies illustrating how she helped find technological solutions to protect privacy - while continuing to offer users access to the net's full power.

Main organizer: Google.

When: 28th January 2010, 12:00-14:00 (a sandwich lunch will be provided).

Where: Google, Chaussée D'Etterbeek 180, 1040 Brussels.

Admission: entry is by invitation. If interested, please send an email with your name and position to: [techtalkbrussels@gmail.com](mailto:techtalkbrussels@gmail.com).

### ***Lunchtime Conference: Privacy and data protection: how does it affect you?***

Peter Hustinx, European Data Protection Supervisor (EDPS), will provide a lunchtime debate entitled "Privacy and data protection: how does it affect you?". The presentation, followed by a questions and answers session, is aimed at staff from the European institutions, and in particular from the European Commission.

Main organizer: EDPS.

When: 28th January 2010, 12:30-13:30.

Where: European Commission, Brussels.

Admission: closed session.

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### **Think Privacy Conference**

"Think Privacy" is the name of the artistic competition and campaign for European high school students aiming at raising awareness on the fundamental rights of privacy and data protection ([www.dataprotecionday.eu](http://www.dataprotecionday.eu)). The Think Privacy Conference will be both the accomplishment of these two activities and an occasion for a public, political debate hosted at the European Parliament. The event includes the awarding ceremony of the think Privacy Competition and the presentation of the best students' artworks. Next to that, it will host a debate on the present and future challenges for privacy, pooling together policy makers, data protection authorities' and European institutions' officials, academics, media experts, private companies' and civil societies' representatives (<http://dpd.eun.org/web/guest/award-event>).

Main organizers: European Schoolnet, Microsoft, LSTS-Vrije Universiteit Brussel, COFACE. Hosted by Sophie In't Veld MEP and Alexander Alvaro MEP.

When: 28th January 2010, 14:00-17:30.

Where: European Parliament.

Admission: registration mandatory.

### **Pecha Kucha Night Brussels**

Pecha Kucha was conceived in 2003 as a platform for young designers. Each presenter is allowed 20 images, each shown for 20 seconds, giving 6 minutes 40 seconds of fame before the next presenter is up. This keeps presentations concise, the interest level up, and gives more people the opportunity to present their work or project. The Brussels format was launched by Alok Nandi (Architempo) and VUB CROSSTALKS and is extended to scientific researchers, fashion designers, photographers, musicians and creative entrepreneurs. Speakers on January 28th will range from dance, music and architecture to graphic design, coding and gaming.

Main organizers: Architempo, VUB CROSSTALKS and Vrije Universiteit Brussel-LSTS.

When: 28th January 2010, 20:20-22:20.

Where: Kaaitheater, Square Sainctelette 20, 1000 Brussels.

Admission: free entrance, registration mandatory at: <http://pechakucha.architempo.net/>.

### **The European Civil Society Data Protection Award**

2010 will see the first edition of the European Civil Society Data Protection Award, a new project aiming at rewarding positive initiatives contributing to the visibility and effectiveness of the right to privacy and to the protection of personal data in Europe (<http://www.edri.org/ecsdpa>). The awarding ceremony will be held during the break of the Pecha Kucha Night session (see above).

Main organizers: Association Européenne pour la défense des Droits de l'Homme (AEDH) and European Digital Rights (EDRI). With the support of Vrije Universiteit Brussel-LSTS and deBuren.

When: 28th January 2010, 21:20-21:40.

Where: Kaaitheater, Square Sainctelette 20, 1000 Brussels.

Admission: free entrance, registration mandatory at: <http://pechakucha.architempo.net/>.

### **Privacy Party: Identity Still Under Control?**

Music, dance, fun and a question: is our "Identity Still Under Control?". This year, the Privacy Party will pay attention to the many possibilities, benefits, and risks of security measures and "big brother" issues that may be present and may or may not be evident to the public eye. An audiovisual team and several cameras and computer-based tracking will make the party into a bold concept where members may be tracked and traced, and projected on-screen or otherwise come under scrutiny. This event will have a deeper look into privacy implications of modern technologies and present an original dubstep view of the Brussels nightlife experience.

Main organizers: Ligue des droits de l'homme, Liga voor de rechten van de Mens, Vrije Universiteit Brussel-LSTS and Je M'en Fish.

When: 28th(-29th) January 2010, 22:00-05:00.

Where: Botanique, Rue Royale 236, 1210 Brussels.

Admission: Presale 4 euro. Doors 8 euro (excl. costs). Presale available at Botanique.

### **Computers, Privacy and Data Protection – CPDP 2010: An Element of Choice**

Computers, Privacy and Data Protection – CPDP 2010 is a two-day-conference with the ambition of becoming Europe's most important meeting for academics,

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practitioners, policy-makers and activists to come together, exchange ideas and discuss emerging issues of information technology, privacy, data protection and law. The CPDP conference hosts panel-sessions on stakeholders' agendas and sessions devoted to selected issues of information technology, privacy, data protection and law. Next to that, parallel sessions focus on topics such as cloud computing, ambient intelligence and data protection in justice and home affairs. The final program of CPDP 2010 can be found at: [www.cdpconferences.org](http://www.cdpconferences.org).

Main organizers: Vrije Universiteit Brussel, Université de Namur, Tilburg University, Institut National de Recherche en Informatique et en Automatique and Fraunhofer Institut für System und Innovationsforschung.

When: 29th-30th January 2010, 09:00-17:30.

Where: Kaaithheater, Square Sainctelette 20, 1000 Brussels.

Admission: registration mandatory:  
[www.cdpconferences.org](http://www.cdpconferences.org).

### ***Information Stand in Main EU Institutions***

The European Data Protection Supervisor (EDPS) and the Data Protection Officer (DPO) of the concerned institution will hold an information stand on three consecutive days in the Council of the European Union (26 January), the European Commission (27 January) and the European Parliament (28 January).

The aim is to raise awareness among the EU staff about their rights and obligations regarding data protection.

Main organizer: EDPS/DPO.

When: 26th-27th-28th January 2010, 12:30-13:30.

Where: Council (26/01): Justus Lipsius Building, Atrium; European Commission (27/01): Berlaymont Building, main entrance hall; European Parliament (28/01): ASP Building, main street.

Admission: entry badge needed to have access EU institutions buildings.



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