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für Datenschutz und Informationsfreiheit

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Closing Remarks

It is truly a daunting task for me to sum up this Conference particularly in view of the fact that I missed half of it. So I will not try to do the summing up like a judge at the end of the trial for two reasons: first, it seems to me there is no trial at stake here. But secondly, if there is a trial going on when we talk about emerging technologies and privacy then its not over yet, so it is too early for the summing up.

But let me make some closing remarks after this two day conference.

As a lawyer initially I have tended to view privacy and data protection problems primarily as legal problems. I have come to realize that legal concepts and rules are a necessary but not a sufficient condition for a society in which individuals retain or regain their role as autonomous subjects instead of being turned into mere objects of data processing operations. Legal norms should be followed but they can also be disregarded especially if the likelihood that someone takes notice or that sanctions will be imposed is slim or if the sanctions are negligeable. Law has to be supplemented and underpinned by technology. Intelligent technology can reduce the likelihood that rules on the protection of personal data and privacy are violated.

The relationship between law and technology is important for another reason: law can only react to technological advances and very often this reaction is either too late or inadequate. It is therefore of utmost importance to design technology in such a

way that privacy and data considerations are taken on board at the earliest possible moment. This is why the concept of privacy by design has found its way into all modern legal instruments on privacy protection. The European Commission has included a provision to this effect in its proposal for a General Regulation which hopefully will be given some more granularity and precision during the legislative process.

However, technology in turn on its own does not provide for the silver bullet, the "privacy button" which solves all problems. We need an ethic vision of the information society in which we would want to live.

As Philippe Quéau, the Director of UNESCO's Information and Informatics Division wrote in 1998,

"the protection of privacy has become one of the most important tasks in the human rights field at the end of the (last) century. It is linked to the basis of human dignity and the holy essence of the human person which are under threat of being dangerously invaded for commercial and political ends… Will we citizens and consumers, exposed to the predatory appetite of electronic inquisitors, be able to work out the ethical framework, which will guarantee the integrity of personal identity in the age of global surveillance and universal eavesdropping ?"[1]

Emergent technologies are not happening like earthquakes, they are man-made. They can and should therefore be designed in a privacy enhancing and ethically acceptable way. We have to ask ourselves in which kind of Information Society we want to live. Not only controllers, but also manufacturers, app developers ("Fred in the shed") and scientists have an ethical responsibility in this field. I welcome the openness with which the PRESCIENT project has been conducted and which is highlighted by this Conference. This is in positive contrast with other EU-financed projects such as INDECT[2]. I hope that the PRECIENT project and all other research projects which have been presented and discussed in the last two days will lead to legally and ethically acceptable results. The discussions I followed today make me confident that this will be the case.

[1] Cf. http://www.heise.de/tp/r4/artikel/2/2539/1.html

[2] Cf. the Resolution passed by the German Conference of Data Protection Commissioners on 21./22.3.2012 on publicly funded research projects, text in German available at <http://datenschutz-berlin.de/content/deutschland/konferenz>