



Policy Forum – Outsourcing for Detection, Identification, Authentication

The Italian DPA's Views



**GARANTE
PER LA PROTEZIONE
DEI DATI PERSONALI**

London, 6 February 2009



Features of the Authority

- The Garante is an independent Authority set up by Act no. 675/1996, replaced by the Personal Data Protection Code (legislative decree no. 196/2003)
- It is a collegiate body of 4 members elected by Parliament for a four-year term (renewable only once)
- The members elect their President



Tasks and Powers - 1

- **Verifying compliance with the provisions enacted to safeguard private life**
- **Evaluating reports and complaints lodged by citizens**
- Prohibiting or blocking some processing operations where they may cause serious harm to individuals
- Controlling processing operations performed by the police and intelligence services
- **Carrying out inspections and directly accessing databases**



Tasks and Powers - 2

- Preferring information to judicial authorities on the most serious breaches of data protection law
- **Raising awareness of privacy legislation**
- Encouraging the adoption of codes of practice
- Issuing general authorisations to process certain categories of data
- **Contributing to Community and International activities and to the work carried out by joint supervisory authorities (Schengen, Europol ...)**



Public-Private Tension

- False problem ?
- Careful assessment of the interests at stake
- DPA as “regulator”, but steeped in reality
- Building trust, ensuring respect for fundamental rights
- Data protection can be a driver of technological development



The Role of the Italian DPA

- Providing guidance for the processing of biometric data by public / private bodies
- Prior checking (Article 20 EC Directive)
- Cases: Biometrics at workplace / in banks (Access Control)
- Purpose specification, proportionality (no blanket collection)
- Dialogue with industry



Outsourcing Issue

- Data controller / Data processor: Obligations
- Public bodies as data controller: authority based in law, no consent required
- Need for additional safeguards to prevent encroachments in data subjects' private lives (ECHR: Article 8)



Identity, Privacy, Data Protection

- Informational self-determination → What is part of one's "private sphere"
- New dimension of "identity"
- Empowerment of individuals (right to data protection vs. right to privacy)
- Human dignity: fallback procedures in biometrics



What Can A DPA Do?

- Basic DP tenets
 - Data minimization
 - Proportionality
 - Security of processing
- Application to processing of biometrics by public bodies (with and without involvement of private entities as “service providers”)



Biometric Passports

- Chip including biometrics (two-mode: facial image + fingerprints)
- Purpose limitation: verification of authenticity of document, authentication of holder (direct comparison)
- Data minimization: no other information to be used, no centralised database



National DNA Police Database

- Purpose limitation: identification of specific individuals on specific grounds
- Data minimisation: no mandatory, blanket collection of DNA data
- Security measures: access logging et al.



DNA for Family Reunion

- Authorisation by DPA
- DNA analysis as last resort (no alternatives)
- Security measures (encrypted, digitally signed data, electronic transmission via certified mail)
- Service providers:
 - Authorised by Ministry
 - Ad-hoc staff
 - Communication only to diplomatic/consular representations or such international bodies as are considered eligible by Ministry



Article 29 Working Party – WP80

- “A respect for the principle of **proportionality** [...] imposes, especially in the context of authentication/verification, a clear preference towards biometric applications that do not process data obtained from the physical traces unknowingly left by individuals or that are not kept in a centralised system.”



Common Consular Instructions – Visa Applications

- Debate in European Parliament
- WP 29 / LIBE Committee (2008):
biometrics as last resort; placing of
external providers under “diplomatic
protection”; contract with exact
responsibilities
- Draft Regulations (2009): Annex with
“minimum requirements”



Privacy by Design

- Involvement of private sector, dialogue
- Privacy by design → Design by privacy (?)



THANK YOU !

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