



# HOMELAND SECURITY BIOMETRIC IDENTIFICATION & PERSONAL DETECTION ETHICS WORKSHOP

## HIDE

We work to make the world a safer and freer place by promoting an open dialogue on liberty, security and democracy and by building confidence and improving understanding among key international actors.

## Restrictions in the Implementation of EU Data Protection Directive for Public Interest, Security and Defence



**LJUBLJANA, SLOVENIA  
17-18 September, 2009**

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HIDE Project  
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**Workshop Organizers**

**Centre for Science, Society and Citizenship  
Italy**

**University of Ljubljana  
Slovenia**

## Background



In the context of a European Commission founded project on Homeland Security, Biometrics Identification & Personal Detection Ethics – HIDE ([www.hideproject.org](http://www.hideproject.org)), a problem-solving workshop is being organized which aims to bring together individuals and representatives from the European governmental and non-governmental organisations, with the emphasis on the New Member and Balkan States, to identify and discuss ethical and other issues related to the restrictions of the scope of rights in the implementation of EU data-protection principles when such restrictions constitute the necessary measures to safeguard important public interests, security and defence.

This workshop is part of the HIDE project activities, whose mission is to establish a platform devoted to monitor the ethical and privacy implications of biometrics and personal detection technologies. HIDE is a research collaboration between 11 partners from Europe, Singapore and USA, and is coordinated by Prof. Emilio Mordini, Centre for Science, Society and Citizenship (CSSC), Rome, Italy.

## Rationale of the Workshop



Article 13 of *the directive 95-46/EC of the European Parliament and the Council on the protection of the individuals with regard to the processing of personal data and the free movement of such data* states that Member States may adopt legislative measures to restrict the scope of the rights provided for in this directive when such a restriction constitutes a necessary measure to safeguard:

- (a) national security;
- (b) defence;
- (c) public security;
- (d) the prevention, investigation, detection and prosecution of criminal offences, or of breaches of ethics for regulated professions;
- (e) an important economic or financial interest of a Member State or of the European Union, including monetary, budgetary and taxation matters;
- (f) a monitoring, inspection or regulation function connected, even occasionally, with the exercise of official authority in cases referred to in (c), (d) and (e);
- (g) the protection of the data subject or of the rights and freedoms of others.



It is well known that the existing practices and the legislative measures regarding the above article are not harmonised across the EU Member States. This is especially true for the New Member and Balkan States. The world economic crisis, organized crime activities, terrorist and health threats force Member States to adopt new legislative measures and deploy biometric and personal detection technologies used to safeguard public interests, security and defence. What each Member State wants to make in order to determine its level of security differs from state to state and their appreciation of what may constitute "a necessary measure" and an "important public interest" is, by its very nature, a major source of discrepancy among national legislations. The implementation of harmonising practices in this field as well as per Articles 25–26 (Transfer of Personal Data to Third Countries) thereby remains a vital issue.

Following the enlargement of the EU, the New Member States are now in charge of monitoring the external border of the EU. The enhancement of the European border-security level requires a better interoperability of the technologies deployed at borders, such as biometrics, but also poses some harmonisation problems. In particular, the application of the principle of proportionality has raised controversies in some New Member States. We need to reconcile two fundamental requirements: to effectively tackle threats to people's life in Europe, especially in security matters, and at the same time to protect fundamental rights, including data-protection rights.

## Workshop Format

The workshop is designed to bring together individuals from different sides of the privacy vs. security conflict in a “safe” environment to address questions that are otherwise difficult to discuss. A few basic rules for the workshop are:

- The workshop is a dialogue, not a debate: participants are not being asked to defend their own views or to find the weakness in others’ positions, but to explain their own perspectives;
- Parties speak for themselves only, not as representatives of groups, institutions, governments, etc.
- Parties are expected to use the rich, multidisciplinary, context to identify small but meaningful steps to take; they are not expected to find one-shot resolutions of complex problems.

An important goal in this workshop is strengthening the perception that further dialogue among the participants is going to be fruitful due to increased insights into each other’s perspectives, and the sense that conversation is of value. This workshop is thus designed to reach two parallel and coordinated results:

- First, it should encourage an analytical approach to joint problem solving that will be conducive to the emergence of creative win-win solutions;
- Second, it should also alter stereotyped, negative, and rigid images and thereby pave the way for a constructive approach to debated issues.

This workshop brings together stakeholders of the areas biometrics, data protection and privacy as well as security. Public institutions, research organizations as well as companies will represent their branches. This is a good opportunity to discuss current open issues within the mentioned areas. For this reason the project HIDE organizes a **Brokerage Event** during the Workshop. It takes place in parallel to Session III on Friday, September 18, 2009 and is free of charge. It is possible to only participate in the Brokerage Event. Please register informally by sending an email to Nicolas Delvaux ([nicolas.delvaux@sagem.com](mailto:nicolas.delvaux@sagem.com)) and Alexander Nouak ([alexander.nouak@igd.fraunhofer.de](mailto:alexander.nouak@igd.fraunhofer.de)).

## Organizers

The main organizers of the workshop are the Centre for Science, Society and Citizenship (CSSC), Rome, Italy, and the University of Ljubljana, Slovenia, in collaboration with HIDE partners like: Sagem Sécurité (France), International Biometric Group (USA), The Hastings Center (USA), Eutelis Consult Italia & Associates (Italy), Centre for Biomedical Ethics (Singapore) etc. The co-directors of the workshop are Prof. Emilio Mordini (CSSC) and Prof. Nikola Pavešić (University of Ljubljana).

For more information and queries about the workshop, please contact Mr. Simon Dobrišek by email [simon.dobrisek@fe.uni-lj.si](mailto:simon.dobrisek@fe.uni-lj.si) or by phone +386 1 4768 839.

# Workshop Programme

Thursday, 17 September 2009

08.30 – 09.00 *Registration and Welcome Refreshment*

## *Opening Session*

Silver Room: 09.00 – 09.50

09.00 – 09.20 *Welcome Addresses*

**Emillio Mordini** – Coordinator of the HIDE project, CSSC, Italy

**Nikola Pavešić** – Co-director of the workshop, University of Ljubljana, Slovenia

09.20 – 09.50 *Opening Lecture*

*"I have a gun so I have the right to shoot!"* - Law, IT and personal data protection - legislative framework lags behind the IT development

**Nataša P. Musar** – Information commissioner of the Republic of Slovenia

## *Session I*

Silver Room: 09.50 – 12.30

### *The circumstances that may lead to the restriction of EU data-protection principles*

Member States may restrict data protection principles under certain circumstances, as stated in Article 13 of the directive 95-46/EC, when such a restriction constitutes a necessary measure to safeguard important public interests. *What are these circumstances and who defines them as such? What may constitute "a necessary measure" and an "important public interest"? What about the ethical considerations of such "circumstances" and their implications on data-protection rights?*

09.50 – 10.00 *Chair's Introduction*

**Rudi Rizman** – Professor of Sociology and Political Science, Faculty of Arts, University of Ljubljana, Slovenia

10.00 – 10.20 *"Security, at what cost? Quantifying people's trade-offs among privacy, liberty and security"*

**Neil Robinson** – Senior Policy Analyst, RAND Europe, UK

10.20 – 10.40 *"Pee In the Cup: Principles for Preserving Anonymity and Privacy In the Global "Homeland Security" and "Surveillance State."*

**Wayne Crews** – Director of Technology Studies, Competitive Enterprise Institute, USA

10.40 – 11.00 *"Ombudsman and Similar Institutions as Guarantors of Citizens Rights in Circumstances that Lead to the Restriction of EU Data-Protection Principles"*

**Saša Janković** – Ombudsman of the Republic of Serbia

11.00 – 11.30 *Coffee Break*

11.30 – 11.50 *"The limits of the rules: the Technology Genie unbottled?"*

**Joseph A. Cannataci** – Professor of Law and Director of the Centre for Law, Information & Converging Technologies, UCLAN, UK

11.50 – 12.10 *"Experience of the Czech Data Protection Authority with the Third Pillar"*

**Vít Zvánovec** – Data Protection Authority, Czech Republic

## Workshop Programme - Continued

### Thursday, 17 September 2009 - Continued

12.10 – 12.30 *Discussion and Questions*

12.30 – 14.00 *Lunch Break*

#### *Session II*

Silver Room: 14.00 – 17.10

#### *The impact of counter-terrorist border-control legislative measures on privacy protection*

Terrorist and other threats force Member States to adopt new legislative measures and deploy biometric and personal detection technologies for safeguarding border security. These measures and technologies greatly interfere with data-protection principles. *What is the impact of counter-terrorist border-control EC packages, like the so-called Frattini package, on the implementations of the data-protection directive?* The New Member States are now in charge of monitoring the external border of the EU. *Are EU borders safe? What privacy price do EU citizens pay for this safety?*

14.00 – 14.10 *Chair's Introduction*

**Iztok Prezelj** – Assistant Professor of Defence and Security Studies, Chair of Defence Studies, Faculty of Social Sciences, University of Ljubljana, Slovenia

14.10 – 14.30 *Title to be announced*

**Goran Klemenčič** – State Secretary of the Ministry of Interior, Slovenia

14.30 – 14.50 *"Travelling free or travelling secure? The role of biometrics across the European and International borders"*

**François Géré** – Director of the Global Security Network, France

14.50 – 15.10 *"Is biometrics technology a "silver bullet" for terrorism?"*

**Vojislav Milošević** – Director of the Center for Counter-Terrorism and World Peace, Belgrade, Serbia

15.10 – 15.40 *Coffee Break*

15.40 – 16.00 *"Social Aspects of Biometric Applications in Russia"*

**Alexander G. Ivanchenko** – Executive Director of the Russian Security Industry Association, Russia

16.00 – 16.20 *"Integration border security and management as a program for regional security and as an approach to fight against trans-national organized crime in the Western Balkans"*

**Strahinja Brajusković** – Anti Trafficking Center, Belgrade, Serbia

16.20 – 16.40 *Discussion and Questions*

16.40 – 17.00 *General Discussion and First Day Conclusions*

**Emillio Mordini** – Coordinator of the HIDE project, CSSC, Italy

17.15 – 18.00 *Workshop Reception*

18.00 – 19.00 *Guided Tour*

19.00 – 22.00 *Workshop Dinner*

## Workshop Programme - Continued

Friday, 18 September 2009

08.50 – 09.10 *Welcome Refreshment*

### *Session III*

Silver Room: 09.10 – 10.35

#### *The application of the principle of proportionality in the restriction of data-protection rights*

The principle of proportionality is a fundamental principle of the EU data-protection law. *How is this principle considered in the legislative measures involving the restrictions of data-protection rights for public interests? Can we find a balance between “an important public interest” and the data-protection rights? Which data-protection rights are more and which less important when compared to “an important public interest?”*

09.10 – 09.20 *Chair's Introduction*

**Abu Bakar Munir** – Professor of Law, Faculty of Law, University of Malaya, Malaysia

09.20 – 09.40 *“A fundamental human right to the protection of personal data and where are the limits?”*

**Hana Pecháčková** – Legal Affairs and Policy, DG Justice, Freedom and Security, EC

09.40 – 10.00 *“Data protection rights and new challenges in Hungary - necessity and proportionality”*

**Judit Zeller** – Assistant Professor of Law, Faculty of Law, University of Pecs, Hungary

10.00 – 10.20 *“Reconciling proportionality: dilemmas of privacy, security and trust in data exchange and data protection”*

**Juliet Lodge** – Co-director of the Jean Monnet European Centre of Excellence, University of Leeds, UK

10.20 – 10.35 *Discussion and Questions*

10.35 – 11.00 *Coffee Break*

### *Brokerage Event*

Red Room: 09.10 – 10.40

09.10 – 09.20 *Chair's Introduction*

**Nicolas Delvaux** – Program Manager, Sagem Sécurité, France

**Alexander Nouak** – Head of the Department Security Technology of the Fraunhofer Institute for Computer Graphics IGD, Germany

09.20 – 10.40 *General Discussion*

## Workshop Programme - Continued

Friday, 18 September 2009 - Continued

### *Session IV*

Silver Room: 11.00 – 13.30

#### *The implementation of harmonizing practices in the New Member and Balkan States*

The appreciation of what may constitute “a necessary measure” and an “important public interest” is a major source of discrepancy among national legislations. The implementation of harmonising practices in this field is a vital issue. *What are the discrepancies that are related to the restrictions of data-protection rights? How can the legislative practices in this field be harmonized?*

11.00 – 11.10 *Chair's Introduction*

**Goran Klemenčič** – State Secretary of the Ministry of Interior, Slovenia

11.10 – 11.25 *“Law Enforcement Authorities - Place for Promotion of Personal Data Protection Culture?”*

**Marijana Maručić** – Director of the Directorate for Personal Data Protection, the former Yugoslav Republic of Macedonia, FYRM

11.25 – 11.40 *“Public interest - data protection, practice and experience in Croatia”*

**Franjo Lacko** – Director of the Croatian Personal Data Protection Agency, Croatia

11.40 – 11.55 *“MARRI's experience in the role of new technologies in migration management in Western Balkans states”*

**Mario Zadro** – External Relations Officer, the Migration, Asylum, Refugees Regional Initiative (MARRI) *Regional Centre*, the former Yugoslav Republic of Macedonia, FYRM

11.55 – 12.10 *Discussion and Questions*

12.10 – 12.30 *Coffee Break*

12.30 – 12.45 *“ECRN European Civil Registry Network”*

**Antonio D'Amico** – The Inclusion Alliance for Europe GEIE, Italy  
**Stane Štefančič** – Genis, Slovenia

12.45 – 13.00 *“Civil Registration System in Slovenia”*

**Silvo Režek** – Internal Administrative Affairs Directorate, Ministry of the Interior, Slovenia

13.00 – 13.15 *Discussion and Questions*

13.15 – 13.30 *General Discussion and Summary*

**Emillio Mordini** – Coordinator of the HIDE project, CSSC, Italy

13.30 – 14.30 *Farewell Lunch*

## List of Participants

**Ms. Valeria Balestrieri** – Centre for Science, Society and Citizenship, Italy  
**Mr. Wieslaw Bicz** – Optel, Poland  
**Ms. Agnieszka Bicz** – Optel, Poland  
**Mr. Jože Bogataj** – Information commissioner, Slovenia  
**Mr. Strahinja Brajusković** – Anti Trafficking Center, Belgrade, Serbia  
**Dr. Noellie Brockdorff** – Centre for Communication Technology, University of Malta  
**Prof. Joseph A. Cannataci** – Centre for Law, Information & Converging Technologies, UCLAN, UK  
**Mr. Wayne Crews** – Technology Studies, Competitive Enterprise Institute, USA  
**Mr. Antonio D'Amico** – The Inclusion Alliance for Europe GEIE, Italy  
**Dr. Nicolas Delvaux** – Sagem Sécurité, France  
**Mr. Vlad Niculescu Dinca** – Infonomics & New Media Research, Centre Zuyd University, The Netherlands  
**Ass. Prof. Simon Dobrišek** – Faculty of Electrical Engineering, University of Ljubljana, Slovenia  
**Ms. Adriana Dvoršak** – Partnerships, Marketing and Communications, British Council, Slovenia  
**Prof. François Géré** – Global Security Network, France  
**Mr. Alexander G. Ivanchenko** – Russian Security Industry Association, Russia  
**Ms. Katja Lindskov Jacobsen** – ESRC Cesagen Centre, University of Lancaster, UK  
**Dr. Saša Janković** – Ombudsman of the Republic of Serbia  
**Ms. Alenka Jerše** – Information commissioner, Slovenia  
**Mr. Goran Klemenčič** – Ministry of Interior, Slovenia  
**Ms. Monika Benkovič Krašovec** – Information commissioner, Slovenia  
**Mr. Franjo Lacko** – Croatian Personal Data Protection Agency, Croatia  
**Prof. Juliet Lodge** – Jean Monnet European Centre of Excellence, University of Leeds, UK  
**Mr. Vladimir Logofetov** – Internal Administrative Affairs Directorate, Ministry of the Interior, Slovenia  
**Ms. Marijana Maručić** – Directorate for Personal Data Protection, FYRM  
**Dr. Paul McCarthy** – ESRC Cesagen Centre, University of Lancaster, UK  
**Sir Vojislav Milošević** – Center for Counter-Terrorism and World Peace, Belgrade, Serbia  
**Prof. Emilio Mordini** – Centre for Science, Society and Citizenship, Italy  
**Prof. Abu Bakar Munir** – Faculty of Law, University of Malaya, Malaysia  
**Prof. Thomas Murray** – The Hastings Center, USA  
**Ms. Nataša Pirc Musar** – Information commissioner of the Republic of Slovenia  
**Ms. Lisbeth Witthøfft Nielsen** – Centre for Biomedical Ethics, National University of Singapore  
**Mr. Alexander Nouak** – Security Technology Department of the Fraunhofer IGD, Germany  
**Ms. Carole Pellegrino** – Sagem Sécurité, France  
**Prof. Nikola Pavešić** – Faculty of Electrical Engineering, University of Ljubljana, Slovenia  
**Ms. Hana Pecháčková** – Legal Affairs and Policy, DG Justice, Freedom and Security, EC  
**Dr. Iztok Prezelj** – Defence Studies, Faculty of Social Sciences, University of Ljubljana, Slovenia  
**Mr. Silvo Režek** – Internal Administrative Affairs Directorate, Ministry of the Interior, Slovenia  
**Prof. Rudi Rizman** – Faculty of Arts, University of Ljubljana, Slovenia  
**Mr. Neil Robinson** – RAND Europe, UK  
**Ms. Tanja Slak** – Information commissioner, Slovenia  
**Mr. Stane Štefančič** – Genis, Slovenia  
**Ms. Rosana Lemut Strle** – Information commissioner, Slovenia  
**Mr. Michael Thieme** – International Biometric Group, USA  
**Mr. Andrej Tomšič** – Information commissioner, Slovenia  
**Mr. Mario Zadro** – The MARRI Regional Centre, FYRM  
**Ass. Prof. Judit Zeller** – Faculty of Law, University of Pecs, Hungary  
**Mr. Vít Zvánovec** – Data Protection Authority, Czech Republic