

Choosing the Right Toolbox

Reflections on the meaning of 'privacy' in the EU

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Research

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"They had their names removed using the right to be forgotten"

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- One-year project under grant by the Swiss National Science Foundation as Visiting researcher at the Berkman Klein Center (2015-2016).

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- Report: “Hammering Square Pegs into Round Holes”, Berkman Klein Research Publication No. 2016/12, September 15, 2016.

Involvement with the PT Project

- Bridging Privacy Definitions Working Group
 - Kobbi Nissim, Alexandra Wood “Bridging the gap between computer science and legal approaches to privacy”; November 10, 2015, Berkman Klein Center.
 - Kobbi Nissim et *al.* Differential Privacy: A Primer for a Non-technical Audience (Preliminary Version)

Privacy

Data Privacy

Personal Privacy

Breakthrough

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- Art. 12 b) of the 1995 EU Data Protection Directive
 - Right to erasure
 - Erasure as mainly a **data privacy** right

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- ECJ, 'Google Spain', case C-131/12, 2014
 - Right to be Delisted / Forgotten
 - The right to erasure as a **personal privacy** right

Breakthrough (2)

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- Contrast:
 - *Loi informatique et libertés* (1978, France)
 - *Loi sur la protection des données* (1992, Switzerland)
 - 1995 EU Data Protection Directive

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- Contrast:
 - *Loi informatique et libertés* (1978, France)
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 - 1995 EU Data Protection Directive
 - 2016 EU General Data Protection Regulation

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- “What is often overseen in the discussions about the right to be forgotten that are currently ongoing, is that there **is already another set of laws in place that regulate the legality of making information about others public.** Tort, press, and portrait law in the Member States.
 - Joris Von Hoboken, “The Proposed Right to be Forgotten Seen from the Perspective of Our Right to Remember” (June 2013)

General Data Protection Regulation

- “What is often overseen in the discussions about the right to be forgotten that are currently ongoing, is that there **is already another set of laws in place that regulate the legality of making information about others public.** Tort, press, and portrait law in the Member States. [...] The root cause of this legal concurrence is **the omnibus character of EU data protection rules and the wide scope of its principal definitions.**”
 - Joris Von Hoboken, “The Proposed Right to be Forgotten Seen from the Perspective of Our Right to Remember” (June 2013)

Takeaway

- What are we trying to protect?
- What is the appropriate toolbox?

Other PT takeaways

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- The need to 'bridge the gap' between law and computer science
 - Emergence of 'smart contracts'

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- The need to ‘bridge the gap’ between law and computer science
 - Emergence of ‘smart contracts’
- The need to provide clear privacy models to industry stakeholders
 - DataTags as a powerful example