

DATA TALKS NOVEMBER 2018: *DIGITAL CO-OPERATION*

The data talk was themed around digital co-operation and it stemmed from the 40th International Conference of Data Protection and Privacy Commissioners held on 22–26 October 2018, in Brussels, Belgium. The conference focused on the issue of digital ethics, explored aspects related to the need for technological developments to be aligned with human values, and individual and human dignity. To discuss the main highlights and take-aways of the conference, the talk featured two speakers: **Dr Jovan Kurbalija** (Executive Director of the United Nations' High-Level Panel on Digital Cooperation) and **Ms Christina Vasala Kokkinaki** (Legal Officer at the International Organization for Migration (IOM)).

The International Conference of Data Protection and Privacy Commissioners: three main resolutions

Kokkinaki started by explaining that the conference brought together all the data protection authorities of the world (one representative from each country) and that participation was open to all stakeholders. She considered that the protection of personal data was the main subject under discussion, while the protection of *non-personal* data was not fully discussed.

She further explained that the conference included discussions themed around ethics and technology which focused mainly on the difficulty of finding a widely agreed-upon definition of ethics, rather than discussing the subject itself.

Kokkinaki said that there were three main threads of discussion at the conference:

First, a part of the conference discussed the future steps concerning the improvement of the current conference structure, as well the possibility of creating a secretariat which, among other things, would have the ability to observe other data-related discussions happening at other multilateral organisations and events (e.g. at the Council of Europe or at the Organisation for Economic Co-operation and Development).

Second, a working group was set up to explore the collaboration between data protection and consumer protection authorities in order to highlight potential linkages between data protection and consumer protection laws, especially regarding the right to privacy.

Third, the closed sessions adopted a **resolution on artificial intelligence (AI) technology**. The discussions

recognised that AI has many benefits; however, there are still many challenges, especially related to data protection and privacy. The discussions also considered which ethical standards should be applied to mitigate biases and discrimination against users. The sessions debated the 'privacy by design' and 'privacy by default' principles.

Data protection, data ethics and data ownership

Kurbalija considered that compared to a decade ago, the discussions on data protection are at the very centre of global politics as citizens and policymakers are realising that we do have an online life in addition to our offline one. Therefore, we are currently living in a time of '**digital crisis**', as a mistrust towards data-collecting institutions is growing. For example, in the case of social media platforms (which appear to offer free services), the business model is based on the collection of user data and thus on the profit obtained once the platform sells the data to other market actors. During the discussions, some participants introduced the concept of users being paid to share their data as an alternative to data being seen as capital owned by the tech firms.

He then considered the discussions concerning ethics. As Kokkinaki pointed out, the issue on the table was defying ethics. Many questions arose as to whether ethics is separated from the law and to what extent ethics is shaping the law. It was concluded that although there is no global definition of data ethics, it is time to come up with one.

The discussion continued with questions from the audience, one of them being how the conference tackled the challenges posed by a data-driven digital economy where huge amounts of data are collected, analysed, and then profited from on a daily basis. Kurbalija highlighted that there has been a change the communication coming from the tech sector. At the conference, the tech representatives did not use strong language against regulators, and some big companies (e.g. Microsoft and Apple) portrayed themselves as shifting towards more responsible data behaviour. This is also a result of the '**hard data policy**' put into place by some regulators, such as the European Union with their **General Data Protection Regulation (GDPR)** which has shifted the conversation from data protection to the future and core of a firm's business model.

The discussion concluded with an explanation by Kurbalija of the Panel's work. As 'everything digital

comes down to data' the Panel is gathering inputs from the data community in Geneva and worldwide. For example, he explained that different countries have a different understanding and approach to data discussions. In Europe, data protection is linked to the human rights framework and it comes down to individual property and privacy. In Africa, data protection could be a matter of life or death, and the disclosure of personal data during a given conflict could be a serious threat to an individual's security. Moreover, data discussions are also framed in terms of property, thus questions arise as to whether some types of data should be considered as private goods, as global public goods, or as national goods. Finally, he added that internationally

the awareness about the value of data is increasing. This is especially the case with data discussions as the main driver of the digital economy, and thus, the current debate on e-commerce at the World Trade Organization (WTO) where negotiations are considering the issue of taxation and the control of international data flows.

Kurbalija concluded by specifying that as per the Panel's work, digital co-operation comprises three layers: the *values* that digital co-operation should aspire to; the *principles* that should be used in achieving digital co-operation (e.g. inclusiveness, multistakeholderism, etc); and, the *mechanisms* that need to be put in place in order to achieve the principles in practice.

