

# The connected DPO: Networks, associations and beyond

Laura Drechsler of the Brussels Privacy Hub reports on the DPO networks across Europe.

On 27 June 2019, the Brussels Privacy Hub hosted a public roundtable during its 4th European Data Protection Law Summer School<sup>1</sup> on “The Connected DPO: Networks, Professional Associations and Beyond”<sup>2</sup> to elaborate on the role and function of Data Protection Officers (DPO) networks. The roundtable included speakers active in DPO networks from different Member States. The Spanish *Asociación Profesional Española de Privacidad* (APEP)<sup>3</sup> was represented by its Chairperson, Cecilia Álvarez Rigaudias, the French *Association Française des Correspondants à la protection des Données à caractère Personnel* (AFCDP)<sup>4</sup> by Christophe Boeraeve, and the Belgian association DPO Pro<sup>5</sup> by its Secretary and Vice-President, Koenraad Flamant, while Gonca G. Dhont represented DPO Network Europe,<sup>6</sup> specialising in the recruitment of data protection and privacy professionals. The roundtable was chaired by Professor Gloria González Fuster, co-director of the Law, Science, Technology and Society (LSTS) Research Group at the *Vrije Universiteit Brussel* (VUB).

## DPOs IN SPAIN ARE ACTIVE LOCALLY AND AT EU LEVEL

The main value of the APEP, Cecilia Álvarez Rigaudias explained, is in the long experience of the association already operating for more than ten years, and specialising in the professional development of privacy professionals. The association offers different tracks, depending on the career stage of individuals, and its membership is also open to individuals outside of Spain. The APEP has three missions, she noted. Firstly, the APEP focuses on building social recognition of privacy professionals by offering training and certification. Certification is especially important to make it easier for companies to find a suitable DPO, and to enable professionals to prove that they have the relevant skills

needed.<sup>7</sup> The certification scheme was developed also to make it easier for newcomers to enter the professional market. To ensure the credibility and trustworthiness of the certification, it was set up in a way so that it is structurally separated from the rest of the APEP, and it is also regularly revised by an advisory board of independent experts. There are two types of certification offered, the first one for lawyers and the second one for IT security experts.

A second goal of the APEP is the promotion of a balanced approach towards privacy and data protection – while recognising their fundamental rights status, it is also recognised that they are not absolute rights and always have to be considered in balance. Finally, the APEP aims to be influential in Spain but also on a European level (notably by being active in the Confederation of European Data Protection Organisations – CEDPO)<sup>8</sup> whenever data protection and privacy rules are discussed by the law-makers.

## FRENCH DPOs – COOPERATING SINCE 2004

Christophe Boeraeve highlighted the historical importance of DPOs in the French data protection system, explaining the existence of the AFCDP since 2004.<sup>9</sup> The value of the AFCDP lies in several key achievements, he argued. First, the AFCDP has developed a deontological (ethical) charter for DPOs (currently only available in French), which includes details on aspects such as independence of a DPO, budget of a DPO, or their position within an organisation.<sup>10</sup> For the AFCDP, the first step of establishing a new DPO should be a discussion of the ethics charter among all concerned actors. Secondly, the AFCDP offers training and education for DPOs in so-called “DPO Universities”, where in one or two days different themes are explored that are relevant for the work of a DPO.<sup>11</sup>

Another achievement of the AFCDP manifested itself in its broad and diverse membership, not only including DPO in the strict sense but also other privacy professionals and companies,<sup>12</sup> and spanning members from all stages of their professional career. This broad scope of members provides ample networking opportunities and enables an active exchange of information among peers.

## BELGIUM HAS SEVERAL DPO NETWORKS

In Belgium there are several DPO associations, including for instance the DPO Circle<sup>13</sup>. Koenraad Flamant, representing DPO Pro, stated Belgian DPO associations do not have an entrance exam or an entrance fee, and that membership to his association is open to everyone involved in the tasks of Article 39 GDPR (tasks of a DPO), thus a formal DPO appointment is not needed to become a member. Contrary to other DPO networks, he pointed out that DPO Pro does not provide training or certification, but mainly works on establishing a network for Belgian DPOs and represents the voices of DPOs towards the Belgian DPA and EU institutions. The first working groups of DPO Pro, recently established, will focus on health, and future projects include work on professional insurance for DPOs and following up the strategic plan of the Belgian DPA that is currently being developed.<sup>14</sup>

## RECRUITING DPOs

A more general perspective was presented by Gonca G. Dhont of DPO Network Europe, which is not a DPO association, but a recruitment firm specialised in finding qualified individuals for privacy positions, and active in more than 30 European countries. Dhont emphasised the value of networks for DPOs, to both learn how different data protection tasks can be fulfilled in the most efficient

manner, such as data protection impact assessment (DPIA), but also to gain new perspectives through meeting other privacy professionals. When looking for DPOs, DPO Network Europe usually focuses on data protection experience and knowledge in a broader manner, meaning not just knowledge about the GDPR, but also national implementation and global guidelines. She observed that many DPOs fail to move beyond their own industry and country and are afraid to reach out across borders and ask questions, which negatively affects the professional development of DPOs. DPO Network Europe therefore advises DPOs to explore other countries and jurisdictions but also to establish a connected and helpful community, where DPOs and other privacy professionals can ask questions and learn from each other. DPO associations are the ideal place for making such connections.<sup>15</sup>

### DPO CERTIFICATION SCHEMES

The chair, González Fuster asked the panellists about their European work, especially if and how they are working with the European institutions and whether they were working on an EU-wide DPO certification scheme.

For DPO Pro, Flamant explained that the best strategy for European influence was to team up with other organisations with similar goals. Regarding certification, as this is not a priority of the Belgian DPA, it has not received much attention in Belgium. For the APEP, Álvarez Rigaudias mentioned that developing European certification was unfortunately connected to practical difficulties. For example, all Spanish materials would have to be translated. This is also what has prevented the expansion of the APEP

certification scheme to other countries. On the other hand, a DPO might in any case also require a more local certification next to the EU one, as often local laws, such as labour law, are of relevance to work in data protection in a given country. She also highlighted that DPO certification was not a condition to be a DPO under the GDPR, but rather a tool to enable privacy professionals to more freely move within the EU. Dhont added that the specifics of a local community are of utmost relevance to be successful as a DPO, and therefore EU certification, while being a good idea, has to be coupled with local knowledge. Additionally, while certifications can impress potential employers, they are not enough to be an efficient DPO, as this also requires commitment, personal attributes and skills. This point was also picked up by Boeraeve, who noted that average DPO certification training might be too short to learn all the substance that a DPO would need to know.

### DPO INDEPENDENCE

In a final round of questions, the different representatives were asked whether and how associations could assist DPOs in protecting their independence.

For Flamant of DPO Pro, independence of a DPO should be supported by extensive documentation. Additionally, a DPO needs to have a positive relationship with both top and middle management. Álvarez Rigaudias of APEP mentioned that APEP supports members in preserving their independence, notably by giving them individual advice. Generally, there might be a need for sponsors for the DPO within a company to benefit for sufficient support, and it is also critical to have an autonomous budget.

Boeraeve referred to the deontological charter developed by the AFCDP, which elaborates extensively on independence of DPOs.

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- 3 [www.apep.es/](http://www.apep.es/)
- 4 [afcdp.net](http://afcdp.net)
- 5 [www.dpopro.be](http://www.dpopro.be)
- 6 [www.dponetwork.eu](http://www.dponetwork.eu)
- 7 More information on the APEP certification scheme, can be found here (only in Spanish) [www.apep.es/certificacion/?v=d3dcf429c679](http://www.apep.es/certificacion/?v=d3dcf429c679)
- 8 [www.cedpo.eu](http://www.cedpo.eu)
- 9 An overview of the AFCDP in English as presented at the event, can be found here: [www.linkedin.com/pulse/connected-dpo-networks-professional-associations-beyond-boeraeve/](https://www.linkedin.com/pulse/connected-dpo-networks-professional-associations-beyond-boeraeve/)
- 10 Find the deontological charter (only in French) here: [afcdp.net/charte-deontologie-du-dpo/](http://afcdp.net/charte-deontologie-du-dpo/)
- 11 More information on the DPO universities, can be found here (only in French): [afcdp.net/conferences-reunions-rencontres/](http://afcdp.net/conferences-reunions-rencontres/)
- 12 A list of all companies that are members of AFCDP can be found here: [afcdp.net/liste-des-membres/](http://afcdp.net/liste-des-membres/)
- 13 [dpocircle.eu/](http://dpocircle.eu/)
- 14 [www.dataprotectionauthority.be/vision-and-mission](http://www.dataprotectionauthority.be/vision-and-mission)
- 15 A list of European DPO associations compiled by DPO Network Europe, can be found here: [www.dponetwork.eu/resources.html](http://www.dponetwork.eu/resources.html)



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## Belgium's DPA aims at mediation rather than fines

Previously the DPO for Nielsen, the new Belgian DPA brings both academic insight and a business experience to his regulatory role. **Stewart Dresner** and **Laura Linkomies** report.

**D**r David Stevens was appointed as Chairman of Belgium's DP Authority on 28 March 2019, together with the other members of the Executive Committee of the Belgian Data Protection Authority. The delay in appointments was partly due to strict

language requirements; the GDPR implementing Act was adopted in 2018 and entered into force on 5 September 2018 (*PL&B International* February 2019, p.1).

Dr Stevens is an experienced data

*Continued on p.3*

## National approaches to 'legitimate interest' trouble EU

The European Commission's unease over national implementation of the GDPR also encompasses limits to data subjects' rights and 'effective' independence of DPAs. **Tom Cooper** reports.

**T**he European Commission is continuing bi-lateral and group discussions with Member States as it pursues the harmonisation of data protection rules across the bloc. But multi-state operators remain wary of tripping over national

variations in the implementation of the EU General Data Protection Regulation (GDPR). Karolina Mojzesowicz, Deputy Head, Data Protection Unit, European Commission, confronted

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**“ comment ”**

## Data protection is taken seriously – also in the US

The \$5 billion fine imposed on Facebook by the US Federal Trade Commission is the largest we have seen for a privacy violation (p.32) and will perhaps influence EU DPAs in their enforcement. However, a ban on certain types of processing may be more effective than any fine when talking about a company the size of Facebook. Europe has yet to see such a large GDPR fine. *PL&B's* interview with Belgium's new Data Protection Commissioner reveals that he in fact regards mediation as more effective than fines (p.1).

On Internet giants and surveillance capitalism, read Graham Greenleaf's analysis of Shoshana Zuboff's thought-provoking book on p.29.

The European Commission monitors the Member States' implementation of the GDPR, and much work still remains to be done. In some instances, Member States have introduced national requirements on top of the Regulation, in particular, through many sectoral laws. This practice leads to fragmentation and results in creating unnecessary burdens, the Commission says in its recent Communication. Speaking at our Annual Conference in Cambridge in July, Karolina Mojzesowicz, Deputy Head, Data Protection Unit, European Commission, said that the Commission has taken a "very proactive" approach to the implementation of the Regulation, working with Member States to discuss options, possibilities and solutions. It continues to analyse national legislation and to clarify issues in bilateral discussions (p.1).

We follow closely the Commission's work in this field which will result in a report in 2020 (p.10). In this issue, we are pleased to bring you news from two more countries in our series of articles on GDPR implementation at national level; our correspondents from Latvia (p.16) and Croatia (p.14) discuss their countries' laws, which have both been in force since last summer.

Another area of work at the EU Commission is to review the existing adequacy decisions and evaluate any new national applications for an adequacy assessment. With Japan having achieved the mutual adequacy decision, Korea is next in line (p.6). The G20 is discussing an overarching framework that promotes cross-border data flows (p.18), and the next EU-US Privacy Shield review will begin in mid-September.

Laura Linkomies, Editor  
PRIVACY LAWS & BUSINESS

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