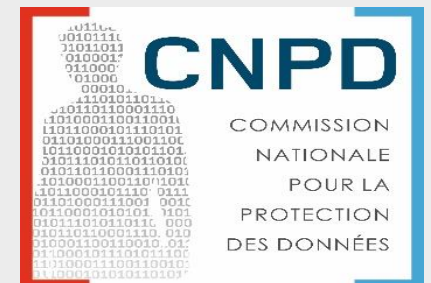


AI Governance

Point of view of a DPA

Panel: AI governance: role of legislators, tech companies and standards bodies

ORGANISED BY
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AI governance in the context of personal data processing

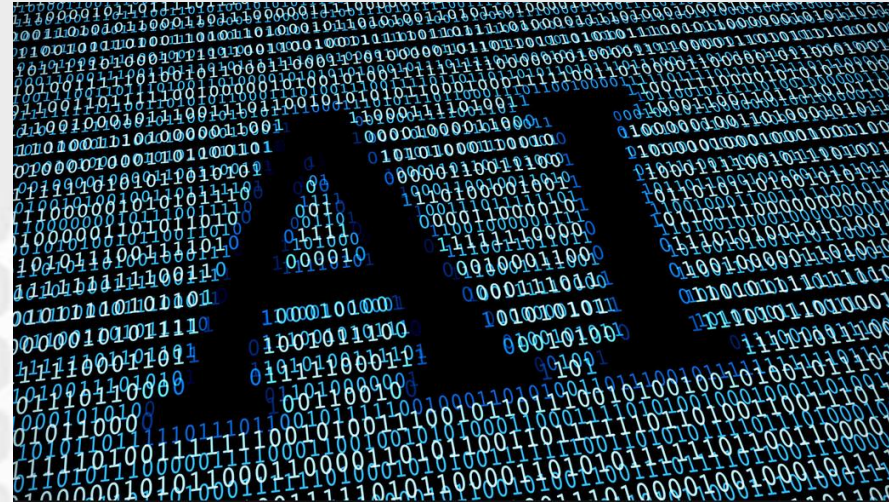
Requirements are already available to setup a governance:

- Obligation of accountability
- Principles relating to processing of personal data (Applies to AI based processing as any other processing):
 - ❖ Lawfulness, fairness and **transparency**
 - ❖ Purpose limitation
 - ❖ Data minimization
 - ❖ Accuracy
 - ❖ Storage limitation
 - ❖ Integrity and confidentiality
- Rights of the data subject
 - Requirements on automated individual decision-making
- Requirements of data protection by design and by default



Data protection impact assessment requirements

- Most of the AI based processing will require a DPIA to be performed



❖ Potential applicable criteria that will trigger the obligation of a dpa

- Evaluation or scoring
- Automated-decision making legal or similar effect
- Sensitive data or data of a highly personal nature
- Data processed on a large scale (it will be the case for AI using machine learning techniques)
- Matching or combining data sets
- Innovative use or applying “*new technological solutions*”

New tools and initiatives:

- Certifications (in the context of GDPR) that focus on AI processing
 - Accreditation criteria of certification bodies should include deep knowledge of AI technologies
- Code of conducts focusing on sector specific AI based processing
- To develop frameworks / standards on the application of the data protection by design principle to AI processing
- Example of recent initiative in Luxembourg:
 - CSSF – White Paper on Artificial Intelligence: opportunities, risks and recommendations for the financial sector
(<https://www.cssf.lu>)

Europe {SWD(2018) 137 Final: “ *The Commission will support national and EU-level **consumer organisations and data protection authorities** in building an understanding of AI-powered applications with the input of the European Consumer Consultative Group and of the European Data Protection Board*” [...] “*The Commission will closely follow the Regulation’s application in the context of AI and calls on the national data protection authorities and the European Data Protection board to do the same*”

The limits

- Capacity for the regulator to control processing using AI
 - ✓ need of very specialized human resources
 - ✓ assessment of an AI processing could be very time consuming
 - ✓ processing could be compliant with the regulation but negative impacts of AI tools on fundamental rights could still remain

Ethics related to the AI based processing:

- Who decides if the processing is a risk for the rights and freedoms of the individuals?
 - ❖ the controller under its accountability requirement? Problem of impartiality.
 - ❖ the DPA ? Such a decision might be out of its scope of powers.

- To be handled on a societal level

Data protection, transparency, and accountability mechanisms

- go far toward mitigating human rights abuses in the use of AI
- they don't solve all of the foreseeable problems

- multi-stakeholder and pluralistic approach
 - ✓ to ensure that all potential threats are identified
 - ✓ solutions don't preference any specific group over another or further diminish marginalized voices



ICDPPC

- *“ calls for **common governance principles** on artificial intelligence to be established, fostering concerted international efforts in this field, in order to ensure that its development and use take place in accordance with ethics and human values, and respect human dignity.”*
- *“ a multi-stakeholder approach in order to address all cross-sectoral issues at stake. “*
- *“ They must take place at an international level since the development of artificial intelligence is a trans-border phenomenon and may affect all humanity.”*

EU Commission: High-level Expert Group on Artificial Intelligence

- Draft – Ethics guidelines for Trustworthy AI

Conclusion

Many initiatives are in place to develop a “controlled” AI environment based on governance at different levels.

Data protection regulation + accountability + transparency



Mitigate worst uses of AI based processing



More work is necessary to safeguard rights and freedoms
(AI more and more complex / sophisticated + expansion in new areas)

Commission nationale pour la protection des données



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