

Protection of personal data in peace operations

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Processing of personal data

- Personal data
 - Notion
 - Ordinary vs special data
- Processing of personal data

Principles

- Specific purpose(s)
- Obtained and processed lawfully and fairly
- Adequate, relevant and not excessive
- Limited retention storage
- Accurate data

Rights of data subjects

- Transparency and information
- Right of access
- Right to rectification and erasure
- Right to restriction of processing
- Right to data portability
- Right to object
- Recourse and remedies

- Limitation of restrictions

Sources of BEL legal framework

- Convention 108 – Council of Europe
 - “To secure fundamental rights and freedoms of natural persons whatever their nationality or residence, within the territory of the Parties”*
 - Integration of data protection in domestic law
 - Respect of the basis principles
 - Allocation of rights to natural persons
 - Derogations have to be provided for by law

Sources of BEL legal framework

Additional protocol

- Independent supervisory authorities
- Cross border movement of data
- Note : convention 108 has recently been reviewed

Sources of BEL legal framework

GDPR

- Art. 16 TFEU – Art. 39 TEU
- Impact of the choice of legal instrument
- Material scope

BEL law on data protection

- Respect of convention 108
- No actual implementation of art. 39 TEU
- Extension of the material scope of GDPR
- Divergence of legislative text and Parliamentary debate and documents

BEL law on data protection in operations

- Art. 2 : extension material scope of GDPR
 - to areas beyond competence european union
 - to the common foreign and security policy of EU
- Art. 105
 - Authorizes processing of all types of personal data
 - Integrates the basic principles of convention 108
 - Bestows rights on data subjects
 - Provides for limitation of those rights
 - Provides no limitation of basic principles

BEL law on data protection in operations

Legal hurdles

- Transfer authorized for operational reasons without explicit safeguards
- Competent supervisory authority ?
 - 1/ Comity responsible for the supervision of intelligence services
 - 2/ General supervisory authority
 - 3/ ?
- Limited possibility of recourse

Where are we today ?

- Controller : Chief of Defence vs Belgian State
- Designation of two Data Protection Officers for the department of defence
Designation of a separate Data Protection Officer for the military intelligence service
- Records of processing activities
- Impact analyses
- Privacy by design
- Revision of contracts

Where are we today ?

- Awareness raising
- Transfer
- Communication of privacy policy
- Rights of data subjects
- Access requests
- Identification of the legal basis
- Accountability as principle

Challenges

- Clarification of the legal framework
- Need for a *specific* and *common* framework

Questions

