



AI and the GDPR

Liability Problem within the Scope of Data Controller's Consent Obligation



Gizem Gültekin Várkonyi
PhD Student
gizemgv@juris.u-szeged.hu
University of Szeged
Faculty of Law and Political Sciences



Introduction

- Defining the Machina-sapiens
- Features of the AI
 - Data collection
 - The way
 - Types of data
 - Learning
 - Machine Learning
 - Deep Learning
 - Cognitive Learning



Problem Statement

- Data becomes „property” of the AI through collection and learning

Possible threats:

- Data persistence
- Data spillover
- Data repurposing (Tucker, 2017)

Who is the owner of the personal data?

Who shall be liable to data breaches?



Authetication: Hi!

“Hi, I see that you are tired today. Do you want me to order a coffee or try the new cosmetics to look better. Or let’s send your face picture to the doctor, may be you have an influenza. Do you want me to call your best friend? You look happy together...”



The GDPR



- Article 6: Conditions of the lawfulness of processing activity- Consent
- Article 7: Conditions of consent
 - should be valid :specific, freely given, and informed.
 - unambiguous or explicit
 - indicated by an affirmative action (opt-in rule)
- Exact purpose(s)



The GDPR



- Data controller

' the natural or legal person... **or other body** which, alone or jointly with others, **determines the purposes** and means of the processing of personal data... according to MS or Union Law.'

Controller Criteria:

- Shall be determined in frame of data protection activities, not lawfully
- Determine the purposes and means of the processing activity
- Factual approach: only the AI can answer!

AI is a DATA CONTROLLER!

Shared Liability

- The Regulators
- The Creators: engineers, manufacturers, service providers
- The Users
- The AI



The Regulators

- There is no comprehensive robotics law!
- States, International Organizations, NGOs
European Agency for Robotics
- International Federation of Robotics



The Creators

- Engineers: employees of a robotics company/ developers of open source software (secret code)
- Disfunctioning
- Licences for the Creators
- DPbD-DPIA-PETs
- Action analyzing centers



"I'm a software engineer, so I can confirm it works by magic."



The Users

- Asimov's Three Laws of Robotics (1950)
- User Licences
- Children and Persons with Disabilities
- Data controller-data subject conflict
- Full liability





...and the AI!

- Two possibilities
- Criminal Liability of the AIs:
 - Death penalty-switching off the AI
 - Imprisonment-retaining the AI for a certain time
 - Public work-AI efforts for public good
 - Financial penalties-? Hallevy (2010)
- Unless the legal framework is fully ready...



Conclusion

- Do we really need to define AI as a legal person to:
 - Switch it off?
 - Work for public ?
- Chance to intervene NOW!
- Creating a GOOD AI environment
- Comprehensive robotics law
- Related institutions
- Liability

Stephan Hawking

”The development of full artificial intelligence could spell the end of the human race”

Elon Musk

‘Chance of human life is 5 or 10%’



Thank you!
Děkuji!
Teşekkür ederim!
Köszönöm!

Questions? Comments?

Gizem Gültekin Várkonyi
gizemgv@juris.u-szeged.hu

