Towards a comprehensive method for impact assessment of crossing point solutions at European borders

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3.2.4 Reporting and communication

The organisation of the project in work packages is designed in order to carry out the work and project early results in the most effective manner possible. Work packages will have regular planned teleconferences and meetings; WP teams will meet periodically to check progress and also cross-WP meeting and working groups will be planned as needed according to PERSONA needs and workplan. PERSONA will put in place communication mechanisms supporting this project structure including but not limited to: document repository, effort reporting, address book of partners, assignment of document reviewers etc. and collaboration tools such as wikis, blogs and forges. As part of communications management activities, the PERSONA strategy set out KPIs to measure progress, monitoring and reporting and re-planning to adjust workplan. The procedures will be defined to ensure good communications, cooperation and understanding between the partners.

3.2.5 Quality monitoring

The project management strategy will be defined in D7, which will be the top document for project management purposes to ensure the best quality of results. The plan will set out the organisation for project management and define the key criteria for planning and control of the technical work, the budget and the programme. This Management handbook will be practical guideline to facilitate the management of the project for all participants. It will detail and explain all contractual rules and management procedures. It will provide useful advice and management tools, which will help project participants to do what is required in due form and in due time. The PERSONA progress will be monitored and reviewed against the work plan and ensuring quality and also check KPIs monitoring for success.

3.2.6 Risk Management

Risk plan and risk management in the context of PERSONA needs to ensure that potential risks are clearly identified and assessed and that the project prepares for recovery actions if required. It is known that in large, complex and relative long projects where many partners are involved, it is unavoidable that problems occur from time to time. We have performed a first PERSONA risk identification and set out measures to manage risks the contingency plan and the related WPs.

3.3 Consortium as a Whole

The PERSONA consortium is composed of 11 balanced and consistent partners representing 9 European countries: Belgium, Norway, Italy, Spain, Portugal, United Kingdom, Sweden, Austria, Serbia and Israel. All members of the consortium have a clear role within PERSONA.
the **Research Group on Law, Science, Technology & Society (LSTS)** at the Vrije Universiteit Brussel (VUB), created in 2003

- works predominantly in English
- ca. 50 full-time researchers

4 spin-off’s:

- Brussels Privacy Hub
- Privacy Salon
- Cyber and Data Security Lab
- **Brussels Laboratory for Data Protection & Privacy Impact Assessments (d.pia.lab)**, created in 2015

- 1\(^{st}\) policy brief of **d.pia.lab** (framework) published in May 2017
- 2\(^{nd}\) policy brief of **d.pia.lab** (method) expected in September 2019

Coordinator: Vrije Universiteit Brussel (VUB)
1. Introduction to the PERSONA project
BORDER CROSSING SOLUTIONS
NEEDS, REQUIREMENTS & CONSTRAINTS

- quicker & more efficient checks
- more security
- state-of-the-art technology
- legal requirements

1. socially acceptable
2. ethically sound
3. legally compliant

- data protection
- privacy
- other human rights
<table>
<thead>
<tr>
<th>security</th>
<th>efficiency</th>
<th>technology</th>
</tr>
</thead>
</table>
| - maintain a high(er) level of national security  
  - ... | - higher number of checks  
  - increasingly reduced amount of time  
  - limited resources  
  - ... | - state-of-the-art border crossing point solutions  
  - ... |

**Law**

- Schengen *acquis*, incl. Schengen Information System (SIS)
- Dublin system
- Passenger Name Record (PNR)
- Visa Information System (VIS)
- EUROpean Asylum DACTyloscopy (Eurodac)
- Entry/Exit System (EES)
- Eurosur
- ...
Acceptance:

- **subjective perceptions** and emotional states, or
- **shared human values** and ethical principles of society

Social acceptance refers to the fact that a new technology is **accepted**—or merely **tolerated**—by a community. Ethical acceptability refers to a reflection on a new technology that takes into account the moral issues that emerge from its introduction.
(2) ETHICS AND BORDER CONTROL

Borders for surveillance:
- social sorting
- chilling effect
- function creep
- power asymmetries
- ...

Use of emerging technologies at the border – applied ethics:
- uncertainty of technological developments
- need to anticipate and manage negative impacts
- ...

Border control is in the interest not only of the Member State at whose external borders it is carried out but of all Member States which have abolished internal border control. Border control should help to combat illegal immigration and trafficking in human beings and to prevent any threat to the Member States’ internal security, public policy, public health and international relations.

(Schengen Borders Code)
**ETHICS AND BORDER CONTROL**

**BIOMETRICS**

- **Reductionism**: A ‘whole’, rich identity is flattened on a ‘bodily identity’ → the body is the most reliable criterion of identification.

- **Profiling** and **social sorting**: An identity is added or imposed (by those who are in a power position).

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**Written on the Body: Biometrics and Identity**

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**Abstract**

The article suggests that something like a body is gradually becoming a major source of information, as well as a vital element of late-modern mechanisms of social exclusion. The increasing demand for technological verification of identity is a result of intricate connections between our own self-identity and society, as well as efficiency, and identity. Behind the growing acceptance of these new techniques, such as biometric passports, biometric ID cards, e-health systems, and DNA databases, are those convicted for those who may have a ‘visible identity’, an uncertain, or ‘identityless’, such as potentiallyاعدةنвойنreiopm3uy, identity clones, terrorists, criminals, and state enemies. However, unlike Foucault’s notion of the disciplining power of surveillance, these latest technologies no longer see the body as something that needs to be broken and disciplined, but rather as a series of unbreakable, unending, and permanent biometric markers and labels to be identified. This form of identification is particularly achieved since its own operation excludes identification, identification and self-identification, thus fitting perfectly into the contemporary modes of embodiment.

**Keywords**

Biometrics, body, face, retina, social exclusion

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**INTRODUCTION**

In 2002, in the maintenance border crossings between Afghanistan and Pakistan, the United Nations High Commission for Refugees set up several iris scanning machines. These machines digitized the area of iris and used the patterns of Afghan refugees. Besides the practical advantages, the machine also raised questions about the former identity of the refugees. As a result, the use of such machines is not only the preservation of life and natural security, but also the preservation of the body.

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**CMC**

**The body does not lie**: Identity, risk and trust in technoculture

KATJA FRANKO AAS, University of Oslo, Norway

**Abstract**

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**INTRODUCTION**

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(3) LEGAL REQUIREMENTS

- Democracy sensu largo
- Rule of Law (Rechtsstaat)
- Human rights
  - Privacy
    - Charter of Fundamental Rights of the EU
    - European Convention on Human Rights
    - national constitutions
    - ...
  - Personal data protection
    - General Data Protection Regulation
    - Law Enforcement Data Protection Directive
    - Convention 108+
    - ...
  - Other fundamental rights
Final goal:

- to design and establish a unified and tailored impact assessment method
- in a openly accessible handbook

Why?

- to appropriately evaluate the societal consequences of state-of-the-art no-gate crossing point solutions
- to ensure that these solutions meet the requirements and expectations of both
  - public authorities, and
  - individuals crossing (external) European borders.
2. A means: an impact assessment method (initial version)
An impact assessment is a tool used for the analysis of possible consequences of an initiative on a relevant societal concern or concerns, if this initiative can present dangers to these concerns, with a view to support the informed decision-making whether to deploy this initiative and under what conditions, ultimately constituting a means to protect these concerns.

(Kloza et al. 2017: 1)
1995 Art 20 Directive 95/46 (prior checking)
2009 RFID recommendation
2012 smart grids recommendation
2016 Arts 35-36 GDPR
2018 Arts 39-40, 42 & 89 Regulation 2018/1725
2019 Recital 53 re-use PSI Directive
2019 Art 6 ePrivacy Regulation (proposal)

Article 35
Data protection impact assessment
1. Where a type of processing in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. A single assessment may address a set of similar processing operations that present similar high risks.

2. The controller shall seek the advice of the data protection officer, where designated, when carrying out a data protection impact assessment.

3. A data protection impact assessment referred to in paragraph 1 shall in particular be required in the case of
(a) a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person;
(b) processing on a large scale of special categories of data referred to in Article 9(1), or of personal data relating to criminal convictions and offences referred to in Article 10 or
(c) a systematic monitoring of a publicly accessible area on a large scale.

Article 9
Processing of special categories of personal data
1. Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning the physical or mental state of a natural persons sex life or sexual orientation shall be prohibited.
FRAMESWORK

1. Systematic process
2. Considers the relevant societal concerns
3. Not everything needs it
4. Uses an appropriate method
5. Includes recommendations
6. Best-efforts obligation
7. Relies on sufficient knowledge and know-how
8. Documented & transparent

9. Deliberative
10. Accountable
11. Assessor is independent
12. Simple
13. Adaptive
14. Inclusive
15. Receptive
16. Grows in supportive environment

GENERIC METHOD (INITIAL VERSION)

Phase I: Preparation
1. Screening
2. Scoping
3. Planning

Phase II: Assessment
4. Description
5. Appraisal (identification, analysis and evaluation)

Phase III: Recommendations
6. Recommendations
(On-going phase)
7. Public involvement
8. Quality control
9. Documentation

Revisiting
10. Revisiting
INTEGRATED IMPACT ASSESSMENT

BENCHMARK

- “everything is inherently interconnected” -> comprehensive & integrated assessment
- cost-efficiency
- inclusion of benchmark(s) not required by law

yet:
- not merely the sum of societal concerns
- internal consistency
- internal coherence (not contradictory)
- possible subordination of assessment domains

PERSONA Impact Assessment (IA)

- ethical IA
- Privacy IA
- Social Acceptance
- Data Protection IA
Thank you

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