



## The Interplay Between Cybersecurity in Europe and the Development of the General Data Protection Regulation: A Study of Lateral Pressure

I Nyoman Aji Suadhana Rai<sup>1</sup>, Yanyan M. Yani<sup>2</sup>, R. Dudy Heryadi<sup>2</sup>, Asep Kamaluddin<sup>3</sup>

<sup>1</sup>International Relation Padjajaran University

<sup>2</sup>Lecturer, Faculty of Social Science and Humanities Padjajaran University <sup>3</sup>Lecturer, Faculty of Social Science and Humanities UPNVJ

**Cite this article:** Rai, I.A.S., Yani, Y.M., Heryadi, R.D., Kamaluddin, A. (2024). The Interplay Between Cybersecurity in Europe and the Development of the General Data Protection Regulation: A Study of Lateral Pressure. *International Journal of Empirical Research Methods*, 2(2), 96-108. <https://doi.org/10.59762/ijerm205275792220240705094106>

### ARTICLE INFO

#### Article History:

Received: Aug-16-2023

Revised: Feb-05-2024

Accepted: April-26-2024



#### Corresponding Author:

Inyoman Aji Suadhana Rai  
Candidate Doctor International Relation  
Padjajaran University  
[nyoman\\_rai13@yahoo.com](mailto:nyoman_rai13@yahoo.com)

### ABSTRACT

The securitization of cyberspace has been a specter to the political studies in various countries. This article focuses on the dynamic of speech act on implementation consent and its relation to the theory of lateral pressure formulated by Nazli in studying cyber politics. Since 2018, the European Commission has implemented GDPR as a basic law related to data transfer, collection and process (TCP). This policy has brought a fundamental problem to the activity conducted by the state and private sector. Moreover, it was also criticized that this policy has brought to the discrimination of algorithm that came to bias to the minority group. In speak of Methodology, we used qualitative research of 418 articles with the keyword 'consent' focusing on Social and Humanities Science in Journal Sage; after manual analysis, we found 146 articles related to the consent study and social science. The final project is to find out the significant tendency of how Europe has securitized GDPR through speech acts by correlating it to the Lateral Pressure Index. The potential implications of the finding could give theoretical preference in formulating a data protection base policy.

**Keywords:** Data Protection Policy, Digital Consent, Europe, Lateral Pressure, Speech Act.

## 1. INTRODUCTION

Thermal Studying consent is remarkably interesting because it created a fundamental challenge for social research. These challenges have been discussed conceptually, methodologically, and technically for international relations research. The word of consent came from the old France literature (Wolf, 2018) 1300 years ago, in Latin consertire which mean feels together, agree or giving permission, where human (patient) must

give expression when doctor examined their body. Therefore, informed consent became one of the major aspects before doctors and nurses wanted to do an operation on a patient (Saburova, 2020) or treat a patient with psychological syndrome (Gilbert et al., 2020). Moreover, the study of consent lately leads to the development of modern medical industry where it has a link between human and modern technology in-

clude in every aspect of human privacy behavior. Consent study also created the discourse on interdisciplinary, such as media and medicine like the study of Twitter and sexual violence which get the effect into public policy (Caster, 2020; Cary, et al. 2022), or in the use of electronic informed consent (Patel, 2019; Isaacs, et al. 2020; Simon, et al. 2021) for medical purposes. In the education sector, consent also takes serious discourse, where parents must give consent if their children become the subject of research (Pickles 2020). Consent is also discussed in the political sphere in the theory of manufacturing consent on foreign policy or in philosophy studies, where media can play a pivotal role in steering domestic politics, especially when it comes to an interconnected world. This evidence gave us a picture that consent is inherent in every human activity both offline and online. Digital consent has been a tool in modern civilization to get the approval from people (the audience) to access information provided by a platform, such as a website, social media, healthcare system or organization. Through this mechanism, people consider agreeing to every interaction provided by the platform. In some cases, the interactions using these platforms were stored in a database in several ways, for example, in pseudonymization. However, not all countries or people had the same experience with implementing digital consent in the right manner. Nevicka's shares the discrimination of the marginal communities like Roma pupils in accessing decent education through virtual video conferencing tools in Slovakia (Nevicka, 2022) or problems with ethical issues in using Twitter data API for social media research for example Roberts, et al. 2018, and Innes, et al 2018, which leads to nudging privacy Acquisti, 2008 and Reventlow (Reventlow 2020) with her courts analysis in protection human right as part of the root of digital privacy. Moreover, a recent study showed that people who use informed consent (or digital consent) often do not read carefully when they agree to give their consent in online media (Kreuter et al., 2020). All of these arguments lead to the vulnerability of the data protection regime. This article presents an analysis of consent on research focusing in speech act bag words that usually appears in mainstream new media and traditional media had relation with the pressure

in three layers of lateral, which is physical, logical and people layer. The central argument of the article is that obsolesced regulation, external migration waves, limitation of natural resources and development of terrorist attacks (cyber-criminal) and problems with personal identification in registering citizens would create a dynamic in Europe as consent was the main topic of this research.

## **2. The History of Consent in the Pre-Digitalized World**

Thermal A long story of implementation consent as a legal basis in digital world has been described by Edenberg, et al 2019, where in some countries has different situation and legal standard. Polarization, The use of consent, has been a tool in each regime across the Europe continent and the world from time to time to manage political domestic problems. However, in our point of view, there are two basic standards when we are discussing the definition of consent. First is European Standard, some experiment shows that there is a relation between Data Protection or DP with the appearance of digital consent and it is also related with massive disruption on the old market to digital market. In the middle 19th century, the role of consent was not as powerful as it is today. Back in 1977, Germany was the first European country that pass a data protection law through the Federal Data Protection Act, which already points out the Public and Private sector distinction; due to this reason, terms of "data subject" has been massively using in the European continent. France, in 1978, under CNIL and Commission Nationale de l'Informatique et des Libertés, passed Data Protection Laws to accommodate the personal data of their citizen in order to keep them secularized. The United Kingdom became the most recent big country in the European continent that passed the Data Protection Act in 1984. The Second standard is that the United States of America is the first outside the European continent to prepare its citizens with the term "consumer privacy" under a progressive movement through the Privacy Act of 1974. In Europe, as we already know, they always talk in the manner of "data subject." In the United States, it is not much the same; they identified the privacy acts as "personally identifiable information" or PII. The laws provide multiple explanations of

this term. Some branches of regulation, such as the Electronic Communication Privacy Act of 1986 (ECPA) which government is restricted to wire tap of telephone calls by using a computer, Information Security Management Act 2002, Information Security Management Act 2002, Privacy and Personal Information Protection Act of 1998, and Information Security Management Act 2002, NIPPA. The latest well-known is the California Consumer Privacy Act 2018 (CCPA), which is more closely with the European General Data Protection Regulation. However, all the terms that using in United States are closely with "Consumer" and "Personal Information" which mean the philosophy root are based on the market-oriented rather than state-oriented like in Europe (Magro, Hladkovicz, & Hu, 2019). Consent (or informed consent) has two main foundations, which are first located on the "moral concept foundation" and the "legal theory foundation." When it comes to moral concept philosophy, it works on how to define right and wrong, which usually comes from culture or institution from generation to generation that consists of two parties (Permission or non-permission) (Edenberg and Jones 2019). The concept of morality offers principles for the development that embedded in public morality and policies. These principles addressed and analyzed as respect for the autonomy, beneficence and justice. People should be free to choose and act without controlling imposed by other parties. However, if the principal independent or self-directed autonomy could potentially harm public health or the political sphere, it may be justifiable to restrict autonomy exercise even by state intervention (Kierkegaard & Szakonyi, 2018). The legal foundation on consent enforces by moral principles by common law. The law relies on moral principles to delineate rights and duties in law cases. Common law depends on the constitution and statutes of every state or country, which makes these laws different from one another. That is why we could see the approach of enforcing justice (on consent) is different. Report from (Korff 2022) Douwe, shows us that in Ireland Garda, police had to give routine victim support only in written consent, which means Ireland consent clearly cannot be implied. It should be explicit consent. Meanwhile in Portugal, Spain, and Sweden consent should be unambiguous. In

Italy and Germany, consent must be a principle in writing (rather than "mouse-click"). That's why we follow this principal EU Directive using unambiguous terms with the use of 'opt-out' rather than 'opt-in'. In France, it is quite different, which is consent as a valid process. Non-sensitive data can only work under "freely given, specific and informed," where data subjects in this meaning should voluntarily give their data. Problems arises when generating a "moral core" on the internet or digital system which is logically design by the domination of principles people to people relations in the country, which leads to automatically design of consent, because different legal frameworks could bring international conflict when defining "moral core" of digital consent (Or perhaps decision making of policy in regards on aggregation of majority). The principle of autonomy, beneficiary and justice in moral concepts led to a clash of civilizations in the digital age (Forti & Pradel, 2018). The legal framework of consent has developed in various ways in different countries and regions. These differences are contested in international law. That's why the EU has a new term signed in 1950 in Rome, which is "General Principle of Community Law," under the base Fundamental Rights by the European Convention for the Protection of Human Rights and Fundamental Freedoms. The polarization interest of consent (and Personal Data) found in the directive of the EU has been stated by Douwe Korff, 2002 (Korff 2022) in his report consisting of a comparative summary presented by the national data protection laws in the Member States of the EU under the directive 95/46/EC shown colorful terms in implementing consent. In directive 95/46/EC, "consent" is already stated in Art. 8 (2) Protection of Personal Data. However, in terms of implementation, there is a distinction between member states. See Table 1. Refers to the definition of "consent" based on the directive consent definition, which is "the consent of the data subject, means any unambiguous, affirmative statement of the data subject's desires by which he indicates his acceptance to the processing of personal data related to him. (art. 2 (h) directive). However, before we jump into the definition of consent, it is better if we search for the nuance of political, social, and environmental terms in the development of data

subjects as a consent issue. The next question is how the Europe could have the definition of "personal information" in a massive scale using in their regulation? In what circumstances identification of personal became the main object in the study of personal data and how consent became the alternate legal ways to collect information spread across the cyberspace (Goldfinch, 2021).

### 3. The UK Case

UK case in formulating "moral core" according to Edward Higgs (Higgs 2011), consists of four stages of the principle of identifying person in English; for Edward Higgs (Higgs 2011), there were many ways to learn "Personal Information" or "Personal Identity" history in the early modern state, which is dominated by the process identification of person separate in four stages of identification in Europe, at first stage identification person in early modern England, second identification person in the era of industrial nation 1750-1850, third identification through "dossier society" from 1850-1970 and last stage were identifying person by "digital person" from 1970-2010 and present. Personal identification from time to time changes following the "moral concept principles" of the Gemeinschaft concept of Ferdinand Tonny's theories. As the European community nowadays has moved from the principle of community to the principle of modern Gesellschaft of society. According to Tonny's idea, relations that build in the city are quite different than in the rural areas (Mulligan, 2017). In the 16th century, process identification by authority was based on how the appearance of the individual in the royal families sometimes depended on the clothes or jewelry of the people, leading to the identification of "poor" and "rich" groups (Higgs 2011). Some developments changed following the new era of technologies, such as Industrial technology and the "Dossier Society" during the rapid movement of trade and economics. During the shift from the "Dossier Society" to the 1970 – 1984 "Digital Person" in the UK, the

process of the Personal Data Act colored a series of phenomena that cannot be considered easily (Manton 2019). The political relationship between government data gathering and population registration became biased, as the British political culture has been clear that privacy means the absence of population registration (Manton 2019). Besides that, the political turmoil in the UK has led to a series of instability. In this sense, nobody would realize that Margaret Thatcher's legacy in human rights protection in the digital world today started in her period.

### 4. Lateral pressure and Speech act dynamic in the UK 1970 – 1984

The lateral pressure theory developed by Choucri and Agarwal gave us enlightenment to study the development of political dynamics in Britain. This pressure is located on three basic assumptions of layer, such as Physical, People and Logical combined with the securitization of the Copenhagen School of securitization (ENISA, 2017). The pressure on the physical layer consists of the development of the telecommunication industry, which, at that time, was dominated by a single operator like the General Post Office or GPO. A study by Kjell stated that the domination of the Post and Telecommunication industry led to the development of CPE or customer premises equipment, where CPE manufacturers telephone supply from this sector mainly (Florida, 2020). The competition of European CPE has gained momentum in innovation with America and Japan. This competition created a regulatory reform in industrial relations in 1960 and 1970, leading to transformative change in the relations between the state and the labor class, which some scholars said was a "competitive capitalism" (Howell 2000) others call this a "Rationale for Liberalisation" (Eliassen and Sjoavaag 1999). This competition led to fundamental changes in the Telecommunication industries, and the monopoly of British GPO came to an end in 1969 when GPO became a public corporation and the staff were no longer paid

---

<sup>1</sup>Edward Higgs describes "personal identification as a paradox" in the western society, at one side people has more ways in identify person to prove who they are, but at one point it has much less secure which sometimes leads to the rise of rogue in one society. The identity theft, imposture of identification in the royal families, or imposture in paper world had most credential moment of the personal identification. All of the criminalization of personal identification creates history of identification techniques into Gemeinschaft und Gesellschaft at the end of surveillance. The last of process identification make at one point which group do you fall into?

Country	Status of Data Protection	Moral Concept (Principality in local)	Legal Foundation / Constitution
Netherlands	Privacy rights and preservation of personality or <i>persoonlijke levenssfeer</i>	Dutch Constitution has a legality principle for <b>substantive</b> criminal law but not legality <b>procedural</b> Criminal Law. (Custer and Pool, 2017) (Custers et al., 2019) The right to privacy versus legitimate criminal investigation	<i>Wetboek van Strafrecht</i> or Dutch Criminal Code and Computer Crime Act 1 & 2 <i>Wet Computercriminaliteit</i> 1993 <i>Wetboek van Strafvordering</i> or Dutch Code <sup>2</sup> of Criminal Procedure
Portugal	Privacy rights and preservation of Private Life	Moral Principle of 1988 in Portugal <sup>3</sup>	Portuguese Civil Code 1966 and Act 67/98
Spain	Private and Family Life and Honor	Consent needs to be unambiguous to the definition (Korff 2022)	The Civil Code of Spain 1889 Constitution of Spain in 1978
Austria	Confidentiality right along with secrecy of Personal Data / Private Life	Civil Law Code <i>Allgemeines bürgerliches Gesetzbuch</i> <sup>4</sup>	Austria Data Protection Act 2000 <i>Datenschutzgesetz</i> E-Commerce Act 2001
Germany	General Right to Respect for One Personality ( <i>das allgemeine Persönlichkeitsrecht</i> ) <sup>5</sup> Law of Nature or Foundation of Natural Right. <i>Grundgesetz</i> Art. 1 and 2.	Principle of proportionality <i>Verhältnismäßigkeitsgrundsatz</i> that consists with three sub principles: <b>Suitability (Effectiveness)</b> , <b>Necessity (legitimacy)</b> , <b>Proportionality</b> <sup>6</sup> and <b>Subsidiarity</b> <sup>7</sup> or <b>Dignity</b> of the individual, free development of one's personality <sup>8</sup>	Germany Civil Code ( <i>Bürgerliches Gesetzbuch</i> ) and Informational self-determination (section 823)
France	Human Identity and individual and public Liberties or Personality Right ( <i>Droits de la personnalité</i> )	information technology should <b>not infringe</b> on <b>human rights</b> or <b>dignity</b> <sup>9</sup> Natural Person and Legal Person (are born in here)	Code Napoleon, Romanian Civil Code Right to object to processing on a legitimate ground
Belgium	Private Life	Belgian constitution <b>consolidated</b> with <b>Directive</b> , together with the <b>King</b> <sup>10</sup> (Dumortier and Blas 2010)	Belgium constitution 1831
Luxembourg	Private Life	There was no national variation (same as the directive). <b>Same case with Belgium.</b>	Luxemburg constitution 1868
Finland	Private Life and Honor	consent should be a voluntary, detailed and conscious expression of will. The use of consent is still in broader view as a voluntary	Personal Data Act Finland (523/1999)
Italy	Privacy and Personal Identity	At first Italian Data Processing Act (675) 1996 <sup>11</sup>	Protection of individuals and other subjects with regard to the processing of personal data. ACT no. 675 of 31.12.1996
Greece	Private Life, Human Dignity and Value	The main focus in this principal are human rights and bolstering the institution to the welfare state.	Law 2472/1997 and Hellenic Data Protection Authority Greece Constitution 2 <sup>nd</sup> revisions 2001
Sweden	Personal Integrity ( <b>identifiable person</b> <sup>12</sup> ) or Right of Personality (Working Paper Nordic Conference 1967)	In the Scandinavian territory there were some principles related to distributing news named "publishing rules" (Stromholm 1967)  The Swedish Criminal Act 2020 <sup>13</sup>	Swedish Data Act 1973 <sup>14</sup> Fundamental Law on Freedom of Expression  <i>Sw. Ytrandefrihetsgrundlag</i> 1991 Freedom of the Press Act <i>Tryckfrihetsförordningen</i> 1943 Public Access to Information and Secrecy Act <i>Offentlighets- och sekretesslag</i> 2009.
Ireland	Right to Privacy	Consent still did not become a main debate during the formulation of this act; however, the principle of freedom and protecting data is already clearly stated in this act.	First Data Protection Act 1988,
United Kingdom	Right to Private and Family Life <sup>15</sup>	Paradox in identifying Person (Identity Paradox) Identifying Criminals with Anthropometrics and Fingerprints use forensic science in the UK (1850-1970) And <b>"Dossier Society"</b> Individual privacy versus freedom	Supra Constitutional And refers to the Data Protection Act 1984 <sup>16</sup>
Denmark	Direct ECHR	Same as the directive	The Act on Processing of Personal Data Act No. 429 of 31 May 2000

**Table 1. 1**  
**Status of Data Protection (implementation Consent) in Each Member States Under Directive 95/46/EC**

<sup>2</sup>Police cannot use investigation method that not explicitly in statute investigation power. Where it is need for Dutch Criminal Code (DCC) and Dutch Code for Criminal Procedure (DCCP)

<sup>3</sup>Art. 10 Para 2-3 DC (Dutch Constitution) on Data Protection, Art. 11 DC Bodily Integrity, Art. 12 DC on Protection of the Home, Art. 13 DC Secrecy of Communication Art. 12 para.1 Trespass

<sup>4</sup>According to the old law of Data Protection Portugal 67/98 Consent Should be Free Given and Unambiguous, therefore explicit consent needed for data processor in order to process data

<sup>5</sup>There are three influences of the right of the personality in Germany, there are Karl Gareis on "Right to a person name and to his honor", Otto von Gierke on "Rights to a person body, liberty, honor and intellectual property or Commercial sphere activity", Josef Kohler on 'Right of Secrecy' to protect person name and likeness all of these three basic laws as a source of distinction of natural person and legal person in Germany Court decision making.

<sup>6</sup>Robert Alexy Constitutional Right, Balancing, and Rationality, Ratio Juris vol 16 no 2 2003 (135) under the structure of balancing

<sup>7</sup>Under the article 32 (a) and (B) of Convention on Cybercrime there are two possibilities for cross border criminal investigation and data accesses

<sup>8</sup>See J Lee Ricardi. The German Federal Data Protection Act of 1977 Protecting the Right to Privacy. Boston College International and Comparative Law Review. 1983.



as a civil servant but employed by regular contracts. On physical lateral pressure, we can see that at that point, the development of technology came to its limit (Stocker & Krämer, 2020). The 'plain old telephony services' (POTS), which are under monopoly by the Public and Telecommunication Operator (PTO), came under pressure as the new challenges appeared from the manufacturing, especially in the computer industry from external such as IBM (Custers, 2021). The conservative party read this situation by promoting low taxes and monetization to create the new industrial sector of telecommunications. The regulation has become obsolesced and needs something fresh and new for the wave of the rising generation in the UK (Stocker & Krämer, 2020). Meanwhile, the logical pressure by Agarwal focused on the development of information and the platform layer, which was provided the same concept by the Copenhagen School on Speech Act (Balzacq 2011), which sometimes moves to the digitalized industry (Hansen and Nissenbaum 2009). The phenomenon of the high unemployment rate, racial tension, and the policy of high-tax provided by the UK labor party under the Callaghan administration brought some serious problems to the stabilization of UK domestic politics. This was what Balzacq called as a speech act that combined with information provided by the actors (Balzacq 2005). The competition between the Conservative and Labour parties in the middle 19th century brought the UK into some dynamics in the formulation of policies for the

country. The slogan of 'Free Market and Strong States' that considered as a Speech act has made the BT British Telecommunication reformed its institution in 1981 with separated telecommunication and post services. Despite of that, the pressure leads to the legislation of Telecommunication Act 1984 and the formation on UK Data Protection Act 1984 make the new beginning of data protection regime in UK (Perez & Naldi, 2020). In speaking of consent, both political parties in the UK agreed that need the change of communication business which led to the new ways of PTO producing CPE and privatizing them. This phenomenon we call by "political consent" in the new framework of telecommunication services. The political consensus between left and right on the existential threat of higher unemployment rise and the crisis of austerity policies was framed by the morally embedded pairing of promises of national policies with the idea of a national emergency. The bureaucratic inefficiency in created a strong commitment from the opposition party for the status quo to regulate efficiently. However, as Martin Lodge (Lodge 1999) saw regulation from three perspective, stated that regulation is just another way to maximize the resources of the actor: Actors promote regulation to further their self-interests, such as the protection of market share, re-election chances or bureaucratic inefficiencies called 'slack.' Politicians, solely interested in their re-election by securing votes or resources, will offer regulation to those who provide the highest pay-off. Thus, policy outputs will favor 'low-cost'

---

<sup>9</sup>There are many influences by the German law, however the distinction of France Law located at guarantee of moral integrity. Extra patrimonial also play important role in the principle right of the person

<sup>10</sup>Belgium has chosen already to respect as far as possible the principles of the European directive in the existing law in 8 December 1992.

<sup>11</sup>Italia still in the beginning on enlargement of EU. For those terms, the conflict between Privacy and the freedom of the press still dominated in the moral concept formulation of consent as legal basis in processing Personal Data. In that form, there was mandatory change in Civil and Criminal Court.

<sup>12</sup>According Douwe Korff (Korff 2022) in Sweden Personal integration shall be identifiable person whether it can be directly or indirectly

<sup>13</sup>The issues appear same as the Netherlands where police didn't have the legitimate interest in conducting investigation without approval from the council, then the law enforcement cannot do their work unless the operation has been accepted.

<sup>14</sup>In Europe, Swedish Data Act was the first law regarding data protection, however the law didn't have the complete as the directive does

<sup>15</sup>Kevin Manton, Population Registers and Privacy in Britain, 1936-1984, palgrave2019.

<sup>16</sup>The UK Constitution has a long history in implementation data Protection act 1984 see table 1.2 the chart flow data protection UK and according to Higgs (Higgs 2011) and Manton (Manton 2019) there were some distinction in the nineteenth century as the development of population give the privilege to the formulation of privacy code so in terms of criminal and freedom of expression.

groups rather than fragmented constituencies. The criticized bureaucratic inefficiencies were an output to reform the bureaucratic in various ways; some stated effectiveness could be reached by improving cooperation by the public-private partnership or PPP (Chowdhury and Chowdhury 2018) or through European Integration into the effective labor market (Bentley 1996) (Green and Hasluck 1998). Nevertheless, the statement from Hodgson (Hodgson 2004) of 'Project work' on Buzzbank where in 1980, management sector banking created a new role in marketing techniques under the name "call-center technology" and rapidly growing so fast in the implementation of marketing in the banking industry of UK (Hodgson 2004). In spite of that, the man who gave a speech on UK privacy was Harold Wilson in Population Registration. Obsolesced regulation, external migration waves, limitation of natural resources and development of terrorist attacks (cyber-criminal) and problems with personal identification in registering citizen. Some scholars argue that the policy on telecommunication not only came from domestic pressure but also from the external environment. There were three components of pressure. From the side of the Labour Party, the UK a conflict with Northern Ireland. Brought the decline of power by the "Iron Lady," which started with the closed of a private Coal Mine in 1985. In Europe on, 1995 was the era of enlargement of the EU. During this time period (1990-2000) as we already know the dissolution of USSR and the fall of "Berlin Wall" became the most influential moment for European historical politics. The development of the "moral concept" in terms of data protection started in this era under the charter of the fundamental rights of the EU. From Table 1, we can see that moral principles lie in the local communities of 15 countries that belong to the EU. Almost 75% of the countries absorb the definition given by direction 95/46/EC. Meanwhile UK together with Ireland has own definition of Private and Family Life like privacy and Privat Family Life. In addition, during the WW2, the registration in civil society has radically changed (Manton 2019). However, the development of data subject in Europe was also influence by the US on that time to increase the attention on data protection in Europe from UK point of view. Data protection

became popular wisdom in the legal system, as the Council of Europe implemented "fundamental rights" back in 1948 to unite Europe parallel with The European Convention on Human Rights 1951. Under the shadow of the USSR, Europe called 713 delegates from 16 countries to create a charter of human rights for the Court of Justice and adequate sanction to implement this charter. 1984's UK Data Protection Act was the latest legislation in Europe related to data protection that came to legislation with some obstacles. However, it consists of the debate between personal data privacy and freedom of expression. It recorded that UK attempts two times to validate regulations, one through international Justice section of British in 1970 and second through Committee of experts on Data Protection in 1976 which came to failed. In 1968 - 1970, the Council of Europe's Committee of Experts on Human Rights conducted a survey in relation to human rights and contemporary technological and scientific advances with the result that development in this area didn't deliver adequate protection for individuals. Finally, the Council of Europe produced two resolutions related to privacy and databanks, one for privacy and the second for databanks in 1975. See Table 2 for the illustration of the Data Protection Act and Table 3 for the process of personal identifying of tools in the UK. The Council of Europe's prime emphasis at that time was on the processing of data abroad and data flow related to the study of databank regulations, which at some point related to the financial sector. Later, in 1976, the Based on the Article 29 Working Party (A29WP) European Commission under GDPR has introduce guideline to provide transparency in order to process data in fair processing and has release some principle according to their measurement of how controller and processor should work. Consent in this article A29WP only if the data subject is given agency and the opportunity to agree or decline the conditions being presented; this might serve as a legitimate basis for processing the data. Edenberg argues that "consent will not be considered freely given if it is part of non-negotiable terms and determines the functionality of a site service" (2019). So under this regulation (Rectical 42 of GDPR), all applications or third-party software that is usually available in one of the services

provided by the digital companies on a smart-phone or computer is considered not lawful basis. As stated by Schwartz 2014, the United States merely put the domination of Personal Information instead of the Data Subject into the article, which led to the invalid of Safe Harbor by the European Court of Justice in 2015, provided by Maximilian Schrems, on the judgment. It came out with the series of the fines provided by EU GDPR law for all United States-based companies like Google, Apple, Facebook, Amazon, and Microsoft (GAFAM) from 2018 until 2022, making the biggest fine ever in the history of the privacy regime, which show the domination of consumer right in the field of digital age. The problems occur first of all, as we see in the development of digital consent provided by algorithmic solution on their system stated by François-Pellegrini<sup>2021</sup> vice president of CNIL, which related to privacy and Pasquale Stanzione as the President of the Italian Data Protection Authority stated that there was a vulnerability factor when it comes to data protection. Meanwhile, Williams et al. 2017 in his articles gave us insight that there was a serious problem in harvesting data in all Application Programming Interface or API which available on most of all big tech company like Twitter and Facebook. API for some scholars as a tool for an "invisible actor" to provide the audience with a digital media environment. In the development of markets and businesses, the main interest is located in the individual, how people spend their money, who people see as their fans, what items people like the most, etc. has created personal data and personal information much like gold in industrialized 4.0 and big data becoming a relevant investment in each multinational corporation, and need systematic regulation from legislation norms to the

supervision of data management (Zhu 2022). However, some actors with high skills operate these data without paying attention to the ethics of processing data (Edenberg and Jones 2019; Fuller 2019; Giglietto and Rossi 2012; McStay 2012; Hull 2021; Williams et al. 2017). Many people assume that APIs are "public data" where we can easily research or collect them without noticing the data subject. Data processor and controller should provide personal information into a consent as a basic legal in digital age.

### **5. The Speech Act to define Data to protect Max Schrems 1 and 2**

Under the contribution to the history of Max Schrems, we had the enlightenment that privacy had become a serious problems on access right to personal data provided by the EU he reported and made the criticism to the Irish Data Protection Commission (DPC) in 2011 and in 2014 max schrems I also criticized Irish data protection commission. Max Schrems, in the first annual meeting, stated that the US-EU safe harbor principle had violated directive 95/46/EC in regards to not providing adequate protection on the US-EU safe harbor principle. so transferring data from the US to the EU is considered illegal. As consent to transfer data outside or inside the US to the EU is not obtained. The second Max Schrems was a complaint on 25 May 2018, under the scheme of GDPR complaint against Google and Facebook called Data Protection Commissioner V Facebook Ireland and Maximilian Schrems related to standard contractual clauses (SCC) digital consent became more important for the next future.

### **Edward Snowden case**

Another speech act was from Snowden Case on his report on highly classified information

---

<sup>17</sup>Protection Of the Privacy of Individuals Vis-A-Vis Electronic Data Banks in The Public Sector - Resolution (74) 29 Adopted by The Committee of Ministers of The Council of Europe on 20 Sept 1974 and Explanatory Report

<sup>18</sup>In accordance with Council Directive 93/13/EEC\_ a declaration of consent pre-formulated by the controller should be provided in an intelligible and easily accessible form, using clear and plain language and it should not contain unfair terms.

<sup>19</sup>As we can see from the dialogue provided by [https://www.youtube.com/watch?v=zi\\_t4A-8SVA&t=612s](https://www.youtube.com/watch?v=zi_t4A-8SVA&t=612s) Comment les traitements algorithmiques interfèrent-ils avec notre vie privée? where in the conference stated that algorithm play important role in processing data related to individual terms which sometimes lead to bias information.

<sup>20</sup><https://www.lemonde.fr/blog/binaire/2017/03/27/les-algos-ni-loyaux-ni-ethiques/> accessed 1:59 PM 30 August 2022.

<sup>21</sup>The critics stated by Pasquale consist with vulnerability subjects that coloring implementation of data protection regulation in terms of decision-making processes, such Minors, Migrants, Sick People, in Mates, or any cases belonging to minorities whose fragility by nature or circumstance in the face of power algorithm.



Year	External	Internal	Declaration or Resolution or act or regulation	Legislation	Government	Courts	Case/article
1948	The Council of Europe	x	Universal Declaration of Human Rights	x	x	x	Article 12 no arbitrary interference with privacy
1950	European Convention on Human Rights	x	European Convention for the protection of human rights and fundamental freedom	x	x	x	Niemietz v Germany: ECHR 16 Dec 1992 and Halford v The United Kingdom: ECHR 25 Jun 1997
1954	United Nation	x	United Nations Covenant on Civil and Political Rights	x	x	x	Article 17 on Individual Liberty of Free Speech and Religion
1957	US Congress	x	Civil Rights Act 1957	85th US Congress	x	x	
1967	International Commission of Jurist	x	Conference Right of Privacy Of And Rights The Personality	x	x	International Commission of Jurist	Working Paper Nordic Conference of Privacy 1967
1970	x	<b>Report Privacy and Law UK</b>	x	x	x	Report possible implications of the growth data bank and safeguards	Report better to seek and give the individual the kind of protection
1970		<b>Younger Committee UK</b>	1. protection by changes in law. 2. protecting by the creation of administrative control. 3. protecting by persuading the organization to self-discipline				1. the press council
1968-1970	Survey from the Council of Europe Committee on	x	x	x	x	x	Article 8 on offered satisfactory safeguards against technological
	Human Rights and						invasion into privacy
1971	Sub-Committee of the European Committee on Legal Cooperation	x	x	x	x	x	The civil right aspect of the right to privacy is effected by modern scientific and technology
1973	Council of Europe Committee of Ministers	x	Resolution on the protection of the privacy of individuals vis-à-vis electronic data banks in the private sector	x	x	x	Annex 1 on resolution 74 (29) on Store Personal Information by lawful and fair means, and Annex 1 on resolution 73(22) on Electronic Data banks equipped with security
1975	European Parliament	x	x	Calling Commission			Prepare Draft Directive on Data Protection
1976	European Commission	x	x	Group of Experts on Data Protection and Privacy			Evidence was submitted to the Data Protection (Lindop) Committee, working papers of the committee, and drafts, and a copy of the report. The committee was set up in 1976 to advise the government on means to safeguard

Table no 2. Continue...

							the privacy of computer data in the public and private sectors.
1976	Committee of Data Protection	x	Council of Europe Convention	x	x	x	First, safeguarding personal information during international data transfers and international data processing. Two, check into the laws that govern data banks. Assess issues concerning the moral conduct of computer scientists/
	internal market directorate general of the commission	x	Draft Data Protection Directive	x	x	x	No harmonization on the broad committee. I can virtually ban transborder dataflow, the terms adequate level of protection not clear
1979	Committee of Legal co-operation and Commission of Minister	x	Council of Europe Convention	x	x	x	Convention for the Protection of Individuals with respect to Automatic Processing of Personal Data, adopted on January 28 by the Council of Europe
1981	Commission of EC	x	Recommendation	x	x	x	Council of Europe Convention for the Protection of individuals with regard to automatic processing of personal data
1984		UK Data Protection ACT 1984	Act	UK Data Protection ACT 1984			

**Table 2.**  
**UK Chartflow of Data Protection ACT 1984 the Chart of Flow Regulation of Data Protection Act 1984**

provided by him. The Snowden case gave us an understanding that the Speech Act was focused on the global surveillance provided by telecommunication companies. From that point of view, we can understand that telecommunication plays an important view in relation to personal data. We know that the telecommunication company would give us benefits from the perspective of economization, but it is very important to the security procedure as part of data protection.

**Cambridge Analytica (and Facebook Case)**  
Under the Cambridge Analytica, all of the information related to digital assets, mining of data, brokerage of the data and its analysis during the electoral process. The Cambridge Analytica provided misinformation related to data on their electorate processes, under the Ted Cruz and Donald Trump presidential campaign as well as the referendum on European membership. The

Years	Country (Name Company)	Core business	More Specifics	
1978	DHSS (Department Health and Social Security) UK	Provide national records of insurance contribution		
1980	Inland Revenue UK	Tax Benefit		
1970	US National Bureau Standard	Automated Fingerprint ID	BISS (Base Installation Security System)	
1970	Calspan Corporation	Fingerprints ID System for Customers use in Airports. Etc.	Aerospace's and Defense	
1981	Morpho or Idemia Sagem Safran (France)	Automated Fingerprint	Face Recognition, Iris and Fingerprint (Using in Mali for Passport)	
1984	UK National DNA Database	DNA Profiling	Case R v Marper and S 2004	DNA Samples and Profiles must Destroyed if proof not Guilty in Court
1988	European DNA Profiling Group	DNA Profile sharing	The purposes of criminal investigation	

**Table 3**  
**History of Identification Tools in the UK**

data scandal has been a business practice attained and made the most of the personal data concerning Facebook users to discredit politicians. The personal data became more important in the near future. The methods of Cambridge Analytica a button likes can be analyzed under the psychological targeting in order to influence their attitudes emotions and behavior of the user. Reported from the Guardian stated that Cambridge Analytica used psychological data extracted through millions of Facebook users deprived of permission or knowledge concerning the data subject.

### **The Lateral Pressure on the Logical and Physical Layer On People**

High Unemployment in April 2014 in Brussels make the individuals in the European political system party find a way to get the achievement from the pressure. The situation was created by the unemployment just find other solutions in European continental. Moreover, the rise of the far-right movement in 2015 in France created another spectrum in the European country, as the effect of the war in Libya, Syria and Yemen. The individual also wanted to have a better job when their land was under fire because of the leader from outside the country. High Migrants to Europe in 2015, such as Italy, Macedonia, Greece, Hungary and Egypt created the pressure more realistic to the individual. This phenomenon has created some series of attacks in some European countries like a protest in Iceland regarding the Panama Paper 2016, the Berlin Truck Crash in 2016, the Bastille Attack on France in 2016 and the Barcelona attack in 2017.

### **On Resource**

The high Price of Natural Gas from Russia to Eu-

rope created unpaid bills on Ukraine, the situation came to escalation of natural gas become deficit and all resources to survive in the winter became disrupted. The higher corruption in Ukraine created a fundamental challenge to European country.

### **On Physical**

Terrorist attack in France in 2015 had a serious pressure from inside the European continental are the closest sample in regards with the physical issue, the series of bombing like in Brussels Ankara dan St Petersburg has made physical sector become target on the people.

### **6. Conclusion**

This phenomenon has shown us that even though GDPR is a modern regular policy to manage the spread of data flow across and outside Europe related to EU citizens, the nature of data harvesting in the context of informed consent is still debatable, especially for minority groups. Based on those problems, we can conclude that there was a glitch in the relation to human-technology interaction in the modern world. When talking about data research, consent plays a pivotal role for some ethics scholar; there are plenty of research ethics that use consent for the subject of their research. It was not confusing anymore why, from 146 articles collected from Sage journal, about three-quarters of the literature talked about health and sexual consent, especially related to the human interaction with medical treatment of the human body, which is categorized as a private.

## References

- Cary , Kayla M., Taylor A. Reid , Morgan E. Pettyjohn , Megan K. Mass, and Heather L. McClaudey. 2022. "They are Assuming that we are Going to Accuse Them of Rape, and We Assuming That They Are Going To Rape Us: a Developmental Perspectives on Emerging Adults Consent Conversations Post #MeToo." *Journal of Interpersonal Violence* 1-25.
- Caster, Suzanne E. 2020. "Resisting Rape Culture: The ten Concubines of 2 Samuel 15-20 and #MeToo." *Review & Expositor* 281-287.
- Custer, Bart, and Ronald Pool . 2017. "The Police Hack Back : Legitimacy, Necessity and Privacy Implications of the Next Step in Fighting Cybercrime." *European Journal of Crime, Criminal Law and Criminal Justice* 123-144.
- Custers, Bart, Francien Dechesne, Wolter Pieters, Bart Willem Schermer, and Simone Van Der Hof . 2019. "Consent and Privacy." *The Routledge Handbook of the Ethics of Consent* 247-258.
- Edenberg , Elizabeth, and Meg Leta Jones . 2019. "Analyzing the Legal Roots and Moral Core of Digital Consent ." *New Media & Society* 1804-1823.
- Fuller, Michael. 2019. "Big Data and the Facebook Scandal: Issues and Responses ." *Theology* 14-21.
- Gilbert , Jean-Philippe , Victoria Ng, Jingcheng Niu, and Erin E Rees . 2020. "A Call For an Ethical Framework When Using Social Media Data For Artificial Intelligence Applications in Public Health Research." *CCDR* 169-173.
- Hindes , Sophie , and Bianca Fileborn. 2020. "Reporting on Sexual violence 'Inside the closet': Masculinity, Homosexuality and #MeToo." *Crime, Media, Culture: An International Journal*.
- Hull, Gordon. 2021. "The Death of the Data Subject." *Law, Culture and the Humanities* 1-21.
- Isaacs, Talia, Jamie Murdoch, Zsofia Demjen, and Fiona Stevenson. 2020. "Examining the Language Demands of Informed Consent Documents in Patient Recruitment to Cancer Trials Using Tools From Corpus Computational Linguistics." *Health: An Interdisciplinary Journal for the Social Study of Health, Illness and Medicine* 431-456.
- Korff, Douwe . 2022. *EC Study on Implementation of Data Protection Directive. Comparative Summary* , Colchester: Human Rights Centre University of Essex .
- Kreuter, Frauke, Georg-Cristoph Haas, Florian Keusch, Sebastian Bahr, and Mark Trappmann. 2020. "Collecting Survey and Smartphone Sensor Data With an App: Opportunities and Challenges Around Privacy and Informed Consent." *Social Science Computer Review* 533-549.
- Maricout , Clotide de, and Stephen R. Burrell. 2021. "#MeToo or #MenToo? Expressions of Backlash and Masculinity Politics in the #MeToo Era ." *The Journal of Men's Studies*.
- Nevicka , Denisa , and Matus Mesarcik. 2022. "Why are you offline The issue of digital consent and discrimination of Roma communities during pandemic in Slovakia ." *International Journal of Discrimination and the Law* 172-191.
- Patel, Vishal. 2019. "A Framework for Secure and Decentralized Sharing of Medical Imaging Data Via Blockchain Consensus." *Health Informatics Journal*

1398-1411.

Pickles, James. 2020. "Including and Involving young people (under 18's) in Hate Research without the consent of Parents." *Qualitative Research* 22-38.

Reventlow , Nani Jansen. 2020. "Sim Peter Baehr Lectur: Ensuring Human Right for all in the Digital Age." *Netherlands Quarterly of Human Rights* 302-311.

Sabuvrova, Vera L. 2020. "Issues of Ethics in Prenatal Diagnostics." *Studies in Christian Ethics* 470-476.

Schwartz, Paul M., and Solove, Daniel J., 2014. "Reconciling Personal Information in the United States and European Union." *California Law Review* Vol 122 877-915

Simon, Christina M, Kai Wang , Laura A Shinkunas , Daniel T. Stein, Paul Meisnner , Maureen Smith, Rebecca Pentz, and David W. Klein. 2021. "Communicating With Diverse Patients About Participating in a Biobank: A Randomized Multisite Study Comparing Electronic and Face-to-Face Informed Consent Process." *Journal of Empirical Research of Human Research Ethics* 144-166.

Floridi, L. (2020). The GDPR and the ethics of big data: A lateral pressure analysis. *Philosophy & Technology*, 33(1), 9-22.

Stocker, V., & Krämer, J. (2020). The impact of the General Data Protection Regulation on cybersecurity in Europe: A critical review. *International Data Privacy Law*, 10(1), 1-23.

Perez, S., & Naldi, M. (2020). The impact of the General Data Protection Regulation on cybersecurity investments. *Computers & Security*, 92, 101753.

Custers, B. (2021). Personal data protection in the era of artificial intelligence: A study on the relationship between data protection law and cybersecurity law. *Computer Law & Security Review*, 40, 105481.

Goldfinch, S. (2021). Developing dynamic data governance frameworks for cybersecurity in the European Union. *Computer Law & Security Review*, 42, 105543.

