

Google Street View and privacy concerns

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Introduction

Constant and quick changes of the Internet development together with the emerge of new technologies, create the need for governing laws to adapt just as fast. Google's unspecified approach towards its standards of privacy has caused concerns in many countries all over the World. Emerging control over private sphere has realized anticipations of commentators who followed Google's expansion across the Internet. Since 2007, the year of creation of first Google Street View images (in San Francisco, New York, Las Vegas, Denver, and Miami, United States)¹, privacy concerns around this invention have been a part of still ongoing Internet safety debate. With Google's development of Street View and use of new technologies, such as drones and other means of geomapping, the access to private data has become easier and faster than ever.

The aim of this paper is primarily to enclose to the reader some privacy mechanisms that surround the Google Street View and to show examples of European countries where certain steps have been taken to ensure proper data protection. Right to privacy, once defined by American Judge Brandeis as "right to be let alone" and considered by him "the most comprehensive of rights and the right most valued by civilized man"² plays a special role in answering a question of why we became so concerned with our privacy.

For several years, limits of our privacy have been challenged, what can be illustrated by reaction of some EU countries to Google's technology expansion. The outline of the relevant case law is presented in the following part of this paper. It is important to illustrate

¹ „Investigations of Google Street View“ <http://epic.org/privacy/streetview/> (accessed 16.05.2014)

² citation of the case *Olmstead v. United States* (1928) (Brandeis, J., dissenting) from: Matthew Sundquist „Online privacy protection privacy, the social contract, and the rule of law in the virtual world“ *Regent University Law Review* 2012-2013

ways in which governments of those jurisdictions react to changes and development of matters concerning privacy introduced by inventions of companies such as Google. It is also necessary to briefly explain relevant, for the purpose of this paper, fields of Google's expansion, mainly Google Street View, in connection with the latest company investment into the technology of drones.

Which jurisdiction is proper to regulate Google matters?

When the possibility of privacy violation appears, another problem arises - the problem of proper jurisdiction that should be used in certain cases concerning Google. The main premise is that the jurisdiction concerning any Internet matter is specifically connected to the physical location of the web-server. This approach creates specific kind of legal loophole that enables certain enterprises such as Google to act by illicit behavior and avoid any responsibilities. Google is known as the main beneficiary of this grey area in law. The company year by year benefits from the fact that it is domiciled in the area, where the data protection law is mainly permissible and not so strict, as it is on the European ground. That is why Google is often able to act illegally in bad behavior ignoring the strict requirements of Data Protection Directive, which is actually in force in the EU.³

To specify the way of how the jurisdiction in Google cases works it must be seen from the point of view of commercial law. Current European case law showed, that Google Inc. has recently become the focus of antitrust investigations.⁴ Since 2010 European Commission has been investigating Google for its illegal behavior concerning discriminatory commercial policies by abusing its dominant market position and manipulating search results. To specify, Google in the search results provided by it on *google.com* website displays links to its own vertical search services differently than it does for links of its competitors.

³ Finding jurisdiction to regulate Google and the Internet, O'Reilly C., European Journal of Law and Technology, Vol. 2, No. 1, 2011.

⁴ Global scrutiny: law enforcement agencies around the world are investigating Google on <http://www.fairsearch.org/wp-content/uploads/2012/06/global-scrutiny.pdf> (accessed 2.05.2014)

In his recent open letter to Google's executive chairman Eric Schmidt, the CEO of Axel Springer publisher, Mathias Döpfner, had described Google as a "prime example" of a market-dominating company on the market, where there is no real competition, only pseudo-competitors. According to him, Google abuses its dominant position. The criteria of Google's search results and general benefits from global network, especially in the event of one company monopolizing the market should be, according to Döpfner, transparent and fair. As these criteria are not being introduced, he expresses his disappointment with European antitrust authorities.⁵ On March 22, 2014 BEUC, a consortium of 39 national consumer organizations from thirty European countries, issued a six-page paper on the remedies that should be adopted to resolve Google's anti-competitive practices in the European Commission investigation.⁶

What will happen next? The recent investigations are still in process, but the fact that currently there has been at least five of them around the world (e.g. In the US, Brazil, France, Argentina and Korea) clearly shows that Google has more and more problems not only on the field of privacy protection, but also commercial misbehavior.

While on the field of commercial law, finding proper jurisdiction in Google cases is not as difficult as certain regulations, such as *Brussels I Regulation* from 2001 can be easily applied, cases concerning violation of privacy protection are more difficult to explore. According to article 15(1)(c) of the *Brussels I*, if a claimant wants to sue someone in his state of domicile, the defendant (i.e. Google Inc.) must have pursued or directed an activity in this particular member state.⁷ Unfortunately, if we combine this article with the Electronic Commerce Regulations⁸, which sets out the requirements necessary for online contracts to be legally valid, the hypothetical situation doesn't look so good at all.

Every time, a consumer is forced to click the „I Agree” or „I Accept” button, he automatically loses its jurisdictional rights provided by *Brussels I Regulation*. That is how

⁵ Why we fear Google - An open letter to Eric Schmidt , Mathias Döpfner in: Frankfurter Allgemeine, 17 April, 2014 <http://www.faz.net/aktuell/feuilleton/debatten/mathias-doeppner-s-open-letter-to-eric-schmidt-12900860.html> (accessed 2.05.2014)

⁶ Consumer group calls for Google to offer 'objective, non-discriminatory' search results, www.Fairsearch.org

⁷ article 15(1)(c) of Regulation (EC) No. 44/2001 of 22 December 2001, "Brussels I Regulation"

⁸ The Electronic Commerce (EC Directive) Regulations 2002 (SI 2002 No.2013)

the Kingdom of Google in most cases gains advantage over a small and forceless consumer.

The issues concerning data protection claims and difficulties with finding proper jurisdiction are still present and what is more, recently loudly disputed in Europe. Although many of the concerns appeared with the invasion of Google onto European web in the beginning of 21st century, effecting with an activity of such organizations as *Watchdog* in Spain, Germany and Netherlands.⁹ The problem became a reality in 2012 with the C- 131/12 Google Spain v. AEPD case. The Spanish Court was forced to decide whether the Spanish data protection authority is able to make Google remove some search results that appear in its search rankings. The problem appeared to be so difficult and complex that it eventually has been brought to the highest EU court - CJEU, which is to make a final ruling on the case on May 13th. In summer 2013, the Advocate General of the court, Niilo Jääskinen published an interesting opinion on the case. Referring to the problem of proper jurisdiction in this case, The AG stated that Google's subsidiaries incorporated in Member States are establishments for the purposes of the EU Data Protection Directive even if they are only dedicated to promoting and selling advertising space on the Internet search engine. In effect, by its opinion, the AG said that EU law is applicable to any search engine, such as Google, if the conditions mentioned above are fulfilled.¹⁰

On May 13th all doubts and the long-asked question of what jurisdiction should be applied to Google cases in the EU should be applied, were finally answered. The opinion made by Niilo Jääskinen with regard to jurisdiction issues has been reflected in the breakthrough judgment of the Court made on 13th May 2014. The court held that processing of personal data, where the operator of a search engine has a branch or subsidiary in a Member State intended to promote and sell advertising space offered by that engine and which operates its activity towards the inhabitants of that Member States, is carried out in the context of activities of an establishment of the controller on the territory of a Member State.¹¹ This finding limits substantially possibilities of interpretation and restrains Google's freedom within EU jurisdiction.

⁹ "Data protection claims and problems with jurisdiction" www.out-law.com (accessed 30.04.2014)

¹⁰ Advocate General's Opinion in Case C-131/12 Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González, 25 June 2013

¹¹ Judgement of the COurt, 13th May 2014, in case C-131/12 Google Spain SL v. Agencia Espanola de Protection de Datos (AEPD)

While mentioning the case of Google Spain it is necessary to establish, that the Court did not fulfill anticipations made by Niilo Jääskinen, who did not perceive Google as personal data administrator and in result did not held Google entitled to search results' modification.¹² The Court decided that the search engine operator is obliged to remove links to web pages, published by third parties and containing information relating to the person from the lists of results displayed following a search of the name of that person.

Should we be afraid of the drones?

Google's development and world expansion policy goes beyond web-based search engine and email. The US Company wants to be better, faster and more effective than the other similar organism functioning in the web. That is why Google Inc. took another, impressive, but also a worrying step. After the huge success of virtual programs Google Maps and Google Street View, there came the time to go forward and improve the system of geolocation used in Google Street View. What would be the best way to do so, if the modern satellites did not seem good enough nowadays? Thankfully (or maybe not?), due to the rapid improvement of new technologies Google decided to use drones.

According to definition given by the famous *Cambridge Advance Learner's Dictionary and Thesaurus*¹³ drone is defined as a type of aircraft that does not have a pilot but is controlled by someone on the ground. Officially known as UAVs (unmanned aircraft vehicles), drones were commonly used in military operations, but the use of this kind of devices goes even further nowadays. What is not as well known is that local law enforcement agencies are now using drones and plan to expand their use to conduct surveillance of communities for criminal activity¹⁴

While in the United States there has recently been a huge and controversial debate on the use of drones in public surveillance and the general threat to the privacy, two private

¹² Zuzanna Warso „Czy można zniknąć z Google?” w: Prawo Europejskie w praktyce, nr 4, April 2014

¹³ Cambridge University Press 2014

¹⁴ Robert Molko „The Drones Are Coming! Will the Fourth Amendment Stop Their Threat to Our Privacy?”, Law and Technology 2012

software companies, Apple and Google, decided to start using UAVs for their own purpose. It is all because of the race to create detailed, three - dimensional images of cities and streets throughout the whole world. ¹⁵

From this point of view, drone became a perfect and non-invasive way to see things that weren't supposed to be seen. Such a tool would definitely put Google in the first place among all worldwide known software companies. Unfortunately, there is also another, unpleasant side of implementing drones into Google's improvement. This problem is serious privacy concerns. Since there has been a huge debate on Google Street View and the privacy issues it causes itself, let's imagine how many controversies will arise because of the use of UAVs.

The United States Government is currently fighting with the issue of the usage of drones, which became more and more common even amongst the states governments themselves. A good example may be the city of Lancaster, California, where the aerial surveillance is recently used to monitor the city's neighborhoods in order to prevent crime. ¹⁶ While the US still wrestles with certain regulations concerning the non-military use of drones, the EU since April 8th provides friendly environment for commercial drones. It is all because of the European Commission proposition to set tough new standards to regulate the operations of civil drones (also called as "remotely piloted aircraft systems" – RPAS).

According to press release from April 8th, these standards will cover safety, security, privacy, data protection, insurance and liability. The aim is to allow European industry to become a global leader in the market for this emerging technology, while at the same time ensuring that all the necessary safeguards are in place. ¹⁷ Although the regulations predicted to be implemented in 2016, they do not mention all ways of drone use and one of the most common recently, the surveillance purpose. It seems that as the use of UAVs to collect real-

¹⁵ Beware the Spy in the Sky: After Those Street View Snoopers, Google and Apple Use Planes that Can Film You Sunbathing in Your Back Garden, Vanessa Allen in: Daily Mail, June 10, 2012 <http://www.dailymail.co.uk/sciencetech/article-2157150/Google-Apple-use-planes-film-sunbathing-garden.html> (accessed 2.05.2014)

¹⁶ Lancaster Takes to the Skies to Get a View on Crime, Abby Sewell et al in: L.A. TIMES , August 25, 2012, <http://articles.latimes.com/2012/aug/25/local/la-me-0825-lancaster-aircraft-20120825> (accessed 30.04.2014)

¹⁷ European Commission calls for tough standards to regulate civil drones, European Commission press release - IP/14/384 published 08/04/2014

time, high-resolution images of the earth is still in project, even in the US, it is too early to provide specified regulation on this issue. This means that Google can sleep safe as it comes to the use of drones in the EU, but it's sure that this state will not last for a long time.

As every legal development, privacy policies across Europe and United States had its main peak points. For the purposes of this article, certain events from years through 2010 to 2014 will be presented from the broader perspective, as they may be triggers for the upcoming changes in legislation and illustrate properly the consensus in interest that may be reached between EU and US.

It seems that the European Union somehow was aware of possible risks to personal data posed by computers and the Internet. The EU legislation in this matter started to improve in 1995, when the first data protection directive was passed. This is when Europe started to create a top-down comprehensive statutory framework from the very outset of the Internet's rise in popularity. The 1995 Directive is a regulation that is in a constant change, as it allows further regulation by individual nations only as long as it does not restrict the flow of information within the European Union. It has an exclusive list of six possible reasons for processing personal data though:

- (1) If the subject provides unambiguous consent, (2) if it is pursuant to a contract entered into by the subject, (3) if there is a legal obligation to do so by the processor, (4) if it is necessary to "protect the vital interests" of the subject, (5) if it is pursuant to the public interest or "in the exercise of official authority," and (6) legitimate interests pursued by one to whom the data has been disclosed so long as it does not override any of the subjects rights and freedoms ¹⁸

While many attempts at promoting better European regulation on privacy and data protection have fallen short, there is definitely one successful instrument constructed on the basis of the article 29 of the Directive- the "Working Party on the Protection of Individuals with regard to the Processing of Personal Data." Also known simply as the Article 29 Working Party (the "Working Party"), the group is comprised of at least one member of each member state's data protection authority and acts independently as an advisory

¹⁸ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

organism. The creation of article 29 Working Party is a good example on how the EU tries to build a multinational and uniform skeleton of data protection scheme.¹⁹

The most publicly known investigations were held in France, Belgium, United Kingdom, Switzerland and Germany. There has been also many investigations and cases pending in the United States, but the problem of Google Street View illegal policy concerning right to privacy did not provoke such a turbulent public debates as it did in Europe. That is why the EU legislation has been enhanced with so many regulations concerning the subject of data protection law.

Google Street View in Germany

In Germany, when Google introduced Google Street View it had gained a lot of attention and caused objections throughout the country. Germany stands out as the country with high privacy standards, so many people became concerned when Google started pursuing photo documentation of streets and buildings through its Street View system.

Germany's legislation that provides protection of data privacy is a well developed and efficiently functioning system. Structure of Germany data protection supervision is based on the paragraph 1 of Article 28 of the European Data Protection Directive. This Article was the basis to establish authorities, which would supervise data protection in the country. Two political levels of the federalist system differentiate Federation level and Federal States level protection.²⁰ The Federal Commissioner for Data Protection and Freedom of Information advises and monitors German federal authorities and other public bodies, as well as telecommunications companies.²¹ Its competencies are exercises

¹⁹ Practicing privacy online: examining data protection regulations thorough Google's global expansion, J. Schinasi, Columbia Journal of Transnational Law 2014

²⁰ "The experience of the German Commissioner" - Presentation of the Federal Commissioner Peter Schaar held on 11 November 2011 at the Università Commerciale Luigi Bocconi in Milan. <http://www.bfdi.bund.de/EN/PublicRelations/SpeechesAndInterviews/Artikel/ExperienceOfGermanCommissioner.html> (accessed 2.05.2014)

²¹ "Andrea Voßhoff appointed Federal Commissioner for Data Protection and Freedom of Information"

according to the Federal Data Protection Act.²² In Germany functions Conference of the Data Protection Commissioners of the Federation and of the Länder, which the Federal Data Protection Commissioner is part of.²³ The Commissioner also represents Germany in the Article 29 Working Party²⁴. Respectively, there exist laws protecting the Länder (Germany Federal States) and data protection commissioners responsible for officials of the 16 Länder. Such construction of supervision in Germany allows efficient control mechanisms in this field. After judgment European Commission against the Federal Republic of Germany,²⁵ German data protection structure is in compliance with Article 28, which demanded preserving independence of controlling bodies. Now, data controllers from Länder in accordance with the Federal Data Protection Act supervise the non-public sector.²⁶

When it comes to further data protection under German law and Article 18 of the European Data Protection Directive, public bodies need to choose their body internal data protection official who will ensure compliance with specific rules in the workplace. In private sector that duty is conditional upon the number of people that deal with automated data processing – if at least 10 persons are permanently working with collection, use or processing of the data.

German Federal Constitutional Court is an active institution shaping data protection with regard to personal right and human dignity. German citizens, as result of the ruling of this highest court may exercise their right to informational self-determination, granting them the right to make decisions on the disclosure and use of their personal data. This right is in opposition to unlimited collection and use of citizens personal data.²⁷

<http://www.bfdi.bund.de/EN/PublicRelations/PressReleases/2014/01AndreaVosshoffAppointetBfDI.html?nn=408870> (accessed 2.05.2014)

²² “The experience of the German Commissioner” ...

²³ “Andrea Voßhoff appointed Federal Commissioner for Data Protection and Freedom of Information” ...

²⁴ “Andrea Voßhoff appointed Federal Commissioner for Data Protection and Freedom of Information” ...

²⁵ Judgment of the Court (Grand Chamber) of 9 March 2010 — European Commission v Federal Republic of Germany (Case C-518/07) the European Court of Justice

²⁶ The experience of the German Commissioner - Presentation of the Federal Commissioner Peter Schaar held on 11 November 2011

<http://www.bfdi.bund.de/EN/PublicRelations/SpeechesAndInterviews/Artikel/ExperienceOfGermanCommissioner.html> (accessed 30.04.2014)

²⁷ The experience of the German Commissioner ...

Professor Johannes Caspar, who was responsible for supervision of data protection in the city of Hamburg in Germany, made a discovery of Google illegally collecting personal data from open Wi-Fi networks. This discovery raised attention in other European countries.²⁸ In 2010, government of Germany has announced that Google has been gathering WLAN network data.²⁹ From 2008 to 2010 Google's cars captured data including passwords, photos and emails.³⁰ The statement made by Google was a result of inquiry from prof. Caspar, data protection authority in Hamburg, who asked the company to make an audit of the WiFi collected by Street View cars. The company had revealed that it had sampled payload data (information that is sent over the wireless network) while realizing Street View project. Prof. Caspar had determined Google's procedure as "unacceptable" since "the operators of WLAN-networks were not aware of the covert storage of their network".³¹ While it is often debated what is the limit of privacy when a consenting Internet user shares the content, the main concern in the Google Wi-Fi discussion evolves around the invasion of privacy of an unaware user.

In August 2010 The Federal Commissioner of Data Protection - Peter Schaar has voiced his reservations towards the Google street view being introduced. He pointed out some of the possibilities that, in his opinion needed to be given to Google Street View future users in Germany to be able to object before the launch of the project in the country.³² Since Google did not fulfill data protection regulator conditions imposed by Hamburg Commissioner, the company had to pay fine of \$ 189,225, which had been declared too low in the light of the proportional damage it could make in the company's budget.³³ Authorities

²⁸ Berlin Court rules Google violated data protection law

<http://jurist.org/paperchase/2013/11/germany-court-rules-google-violated-german-data-protection-law.php> (accessed 5.05.2014)

²⁹ Google-Street-View tours also used for scanning WLAN-networks http://www.bfdi.bund.de/clin_134/sid_74A4D9FE1F85492D36F74BB3443C41EA/EN/PublicRelations/PressReleases/2010/GoogleWLANScan.html (accessed 4.05.2014)

³⁰ Google fined 145.000 euros over Wi-Fi data collection in Germany by Karin Matussek <http://www.bloomberg.com/news/2013-04-22/google-fined-145-000-euros-over-wi-fi-data-collection-in-germany.html> (accessed 30.04.2014)

³¹ Google-Street-View tours also used for scanning WLAN-networks ...

³² Street View: Online even in Germany soon? 10/08/2010, <http://www.bfdi.bund.de/EN/PublicRelations/SpeechesAndInterviews/blog/GoogleStreetview20100810.html> (accessed 4.05.2014)

³³ Germany's Complicated Relationship With Google Street View by Claire Miller and Kevin O'Brien 23/04/2013 <http://bits.blogs.nytimes.com/2013/04/23/germanys-complicated-relationship->

of European Data Protection required Google to put bigger influence on number of blurred faces of people and license plates of the cars that were caught on Google Street View images. In addition, there was a request from EU authorities to notify public when the Google Street View cars are to enter a certain area. As result of German active policy towards guaranteeing certain levels of privacy, Google had agreed to allow requests from households on the territory of Germany which wanted to opt out in the subject of blurring pictures of the whole buildings they are located.³⁴

Popularity of exclusion from the scope of Google Street View has raised interest among some of the European Countries. A similar action was taken in 2012 by the Supreme Court of Switzerland, which held in a judgment that Google failed to comply with the requirement of blurring all the faces and license plates, and introduced individual complaints for the citizens who wanted to do so. The judgment obliged Google to make certain areas, such as schools and prisons fully anonymous and completely blurred. The court went even further into the specific conditions set out for Google Street View – it restricted publicizing pictures of private home gardens, if a picture was taken from a certain height and aim of the car camera.³⁵

What about Poland?

We must remember that although many countries have their own data and privacy protection regulations, they all have their roots in the scheme created by the European Union. Poland is not any different in this matter.³⁶ First major regulations concerning data protection were these contained in the articles 47 and 51 of new Constitution of the Republic of Poland from 2 April 1997. It is argued that Articles guarding the right to privacy and data protection are also included in the Article 30 of the Constitution, which set standards for inviolability of human's dignity. In general these legal regulations outlined the personal

[with-google-street-view/?_php=true&type=blogs&_php=true&type=blogs&r=1](#) (accessed 30.04.2014)

³⁴ Hundreds of thousands of Germans opt out of Google http://readwrite.com/2010/09/20/hundreds_of_thousands_of_germans_opt_out_of_google#awesm=~oDRxMnUOvmCyZa (accessed 3,05,2014)

³⁵ Sung Un Kim „Switzerland court partially rules for Google in privacy case“ 8/06/2012 <http://jurist.org/paperchase/2012/06/switzerland-court-partially-rules-for-google-in-privacy-case.php> (accessed 6.05.2014)

³⁶ Mariusz Jagielski, Prawo do ochrony Danish osobowych. Standardy europejskie, Wolters Kluwer Polska 2010

right to decide on possible sharing of personal data, people's right to control information unveiled and given to the public. However, it becomes more difficult with regard to the process of combining the private and public spheres of our life.³⁷ As the Polish Constitutional system allows citizens to make decisions concerning supervision of information about themselves, modifying and deleting such information, it is debated whether such protection would extend to the processing and sharing data to third parties, which are not public authorities.³⁸ Additionally, in 1997 another data protection legislation - Act on Personal Data Protection was introduced into the Polish legal system.

Although the regulations mentioned above still create a core of the data protection system of the Republic of Poland, today they do not seem to be enough regarding the rapid improvement of new technologies, especially concerning Google Inc. and its invasion into private lives. The issue of Google Street View and the concerns it may create is still a new topic on the Polish legislation ground, as first 3d images (of Piotrkowska Street in Łódź) were taken on the beginning of 2012. After the first months of Google in Poland, concerns started to appear rapidly. Such reaction resulted also in a fast reaction of the General Inspector for the Protection of Personal Data, who decided to make a closer inquiry into the Google Street View's activity in Poland.

On 22 June 2011, when first Google Street View cars started to take preliminary pictures of Polish streets, Inspector General for the Protection of Personal Data published the results of an in-depth control of Google Street View's activity and legality. The infringements found during the examination of the program were assessed as 'rather small and formal'. Google was urged that the company should prepare properly to start its activity in Poland due to the fact that many regulations (i.e., concerning car drivers who weren't given the right to personal data processing, which was required under Polish law) were from the formal point of view incomplete and had to be complemented as soon as possible.³⁹

It seems that Google Street View's activity in Poland didn't cause as many controversies and concerns as it did in many other countries. The presence of Google Street

³⁷ Anna Młynarska-Sobaczewska, Trzy wymiary prywatności. Sfera prywatna i publiczna we współczesnym progu I teorii społecznej, Przegląd Prawa Konstytucyjnego, Nr 1/2013

³⁸ Mariusz Polok, Bezpieczeństwo Danych Osobowych, 2008

³⁹ Google Street View z uchybieniami, 20.06.2011, www.giodo.gov.pl/1520001/id_art/4176/j/pl

View is still recent, it has been over 2 years since first image of Polish City were shown on the Internet. On one hand, a question arises whether Poland may be not as strict and doubtful in accordance to Google Street View as Germany, France or United Kingdom. It may be argued that the Polish Government's reaction and standpoint is more similar to the one of United States, being liberal and permissive in this matter.

As long as Google's Street View activity would end development at the point it is today, there is a high possibility that Poland and European Union at whole, will continue working to find fully efficient system and implement broad and proper legislation. However, the constant change and development in drones technology and possible expansion into the cameras inside the buildings, will continue to challenge Polish and EU legislators in a search for complete and functional legal protection system.

European legislation and case-law

As it was said previously, many European countries have launched investigations on Google Street View. The number of such investigations has dramatically increased since the information about collecting by Google personal data from the WiFi to create digital images was revealed in 2010. On June 2010 there were many investigations undergoing due to the problem of collecting private data by Street View machines. Even though Google admitted that all the information stored by the company was meant to be used to make the functioning of the program better. The concerns spread throughout Europe. After intervention in the United Kingdom, Google had deleted data collected by Google Street view cars from wireless networks.⁴⁰ By April 2011, Belgium's federal prosecutor offered Google a settlement of 150,000 euros for unauthorized data collection, which the company later that year accepted.⁴¹

After a couple of years of dealing with several investigations in Europe the company had to concede that it gathered MAC addresses (which are the unique devices ID for every

⁴⁰ Letter to Alan Eustace Senior VP, Engineering and Research of Google http://static.googleusercontent.com/media/www.google.com/pl//press/pdf/ISEC_Letter.pdf (accessed 6.05.2014)

⁴¹ W.Gregory Voss, Katherine Woodcock, David Dumont, Nicholas D. Wells, Jonatan I. Exor, Joao Luis Traca, Bernardo Embry, Fatima Khan „Privacy, e-commerce, and data security” International Lawyer Spring 2012

WiFi hotspots) and network SSIDs (the user-assigned network ID names) which were tied to location some information for private wireless networks. What is more, Google also confessed to the fact that it has intercepted and stored WiFi transmission data, which included email passwords and email content. In the year 2012, investigations have gone forward in at least 12 countries, and at least 9 countries have found Google guilty of violating their laws.⁴²

On March 17, 2011 CNIL (*Commission nationale de l'informatique et des libertés*) made Google pay the first fine ever in France for the improper gathering and storage of data collected through its Street View program. The fine levied against Google was relatively severe, as it counted €100,000 and reflected the seriousness of the offense. The amount of money was a punishment not only for taking photos of private people on the streets, but mainly for illegally collecting personal data taken from the WiFi.⁴³

The case from 2011 did not end the fight of French with Google's policy. CNIL still fights with the company's activity in Europe as the privacy policy implemented by Google since March, 1 2012 does not comply with the French Data Protection Act. That is CNIL issues a monetary penalty € 150, 000 to Google Inc, as the company ignored previous recommendations given by the article 29 Working Party with an order to implement them within 4 months.⁴⁴

Recent dialog and European concerns

⁴² Investigations of Google Street View, <http://www.epic.org/privacy/streetview/> (accessed 2.04.2014)

⁴³ Privacy, e-commerce and data security, W. Gregory Voss, Katherine Woodcock, David Dumont, Nicholas D. Wells, Jonathan I. Exor, João Luís Traça, Bernardo Embry, Fatima Khan, International Lawyer Spring 2012

⁴⁴ The CNIL's Sanctions Committee issues a 150 000 € monetary penalty to GOOGLE Inc. 08/01/2014 <http://www.cnil.fr/english/news-and-events/news/article/the-cnils-sanctions-committee-issues-a-150-000-EUR-monetary-penalty-to-google-inc/> (accessed 30.04.2014)

In 2014 an article by Robert M. Maier titled: “Angst vor Google” (translation: Fear for Google) started a public discussion involving Google’s CEO Erich Schmidt and Axel Springer CEO Mathias Döpfner.

The direction, in which Google is directed, aspects of which connected to geolocation and mapping has been briefly described in this paper, has raised concerns across various European institutions. EU legislators began to look for efficient legal measures and structures that could restrain the invasion of privacy, but the influence of Google in certain environments is inevitable.

Axel Springer’s CEO – Matthias Döpfner in his open letter to Eric Schmidt had touched several major points in connection with privacy. He is greatly concerned with Google’s expansion into drone technology by acquiring “Titan Aerospace” – drone manufacturer. He also raises an important point by citing Google co-founder and major shareholder Larry Page who “dreams of a place without data-protection laws and without democratic accountability.”⁴⁵ Page is later cited in the letter “we should have some safe places where we can try out some new things and figure out what is the effect on society, what’s the effect on people, without having to develop kind of into the normal world”. In the context of the Google’s jurisdiction problem described in the beginning of this paper and issues with transnationally transmitted data, these words might have a big impact on how laws governing private data protection will be created and implemented.

Finally, Mr Döpfner is asking questions, whether consumers will become even more “transparent, more heteronomous and further manipulated” by third parties and what is the result of these factors on modern society. He underlines that Google could be the source and example for other big American companies of creating transparency by taking precautionary steps. Not saving IP addresses, disclosing changes made to its algorithms and only saving customer behavior when specifically requested to do so by customers – those are main points which, according to Axel Springer’s CEO, would contribute to breakthrough

⁴⁵ Why we fear Google - An open letter to Eric Schmidt , Mathias Döpfner in: Frankfurter Allgemeine, 17 April, 2014 <http://www.faz.net/aktuell/feuilleton/debatten/mathias-doepfner-s-open-letter-to-eric-schmidt-12900860.html> (accessed 2.05.2014)

changes.⁴⁶ The discourse between Eric Schmidt and Mathias Döpfner tackles issues of balancing the right to privacy in the age of Internet and innovative use of new technologies. And seems to be a good starting point for both governmental authorities and Internet users to consider the rights and restrains on privacy that these technologies bring.

This brief analysis of the issue of Google Street View's impact on our privacy definitely does not give many answers to questions asked by the modern society. What is more, the paper motivates to pose some new questions and concerns that may successively appear along with the rapid improvement of new technologies used by Google. In this situation the main difficulty is not the intense search of legal regulations that would be able to protect our privacy and data hidden in the depth of the worldwide Web, but a quickly growing fear of what the future will bring in the matter of the activity of Google Inc. We may only predict that current issues concerning Google Street View's violation of privacy are just the beginning of an upcoming battle between technological improvement, which is the symbol of modern world and broadly defined human rights that nowadays start to become only blurred remnants of humanity's past.

⁴⁶ Why we fear Google - An open letter to Eric Schmidt ...