

Patrick van Eecke's Summary

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<http://www.juridicum.su.se/iri/e08/speakers/index.htm#vaneecke>.

Good morning everybody, thank you for assigning me this task of providing you with a five minute summary of what has happened during this morning's session. Actually, Cecilia, it was a horrible task! We are in 2008 and we still need a human being instead of a legal automated extracting system to provide you with the most relevant information about this morning's session. I am a simple human being; I will not be able to come up with the most pertinent, most relevant information. No, it will probably be irrelevant information; something that was still in my mind, probably coloured, certainly not neutral.

If you remember early this morning, the first speaker, Professor Jones from King's College, who talked about the logical representation of legal rules. Professor Jones explained the latest state-of-the-art in rule-based legal knowledge systems using some type of logic. Actually I think Professor Jones chose one of the most difficult, and probably frustrating, research areas, as applying logic to the legal world, characterised by its lack of logical thinking, must be a tantalising job! But Professor Jones gave us one of the first examples, back in the 80s, of legal automation. The system there was built for automatically identifying British citizens, based on a few criteria. Professor Jones explained that they re-did the job, 25 years later, using more or less the same criteria, and state-of-the-art technology, but with more or less the same outcome. It was differently formulated, from, "Am I a British citizen?" to, "Am I mentally ill?" Well, Professor Jones did not stop there; he gave us an insight into some of the most recent advances using the company *Haley Ltd.* as an example. What are the most important advances? As least as I understood, it is the use of natural language as a top layer in the system so that we, non-experts, people not familiar with logical rules, can also use the system. This top layer of natural language is based on a rich middle layer which links to the base layer of law and regulations. As Cecilia mentioned, we lawyers are a bit concerned about this middle layer, because it creates a kind of shadow legislation and puts into question who is going to provide the interpretation of basic legal rules into natural language. This was the first speech.

Just a few minutes about the second speaker, Professor Seipel, from this Institute. He took us back to the first days of IT law and legal informatics, 40 years ago. In his speech, "Understanding the dynamics of privacy protection", he talked about his very first start-up with the sexy name "*Working Party for ADB*". Even in those days, Professor Seipel managed to gather venture capital from VCs, like IBM, to sponsor, to fund this research centre to what we know as the current Institute at Stockholm University. Over the past 40 years Professor Seipel witnessed the evolution of privacy protection. He gave us an insight in these 40 years of privacy protection using 3 basic criteria, and 3 basic terms: the What, the How, the Why. And we have the liberty to use these terms in the order that we want, because it's a holistic view that Professor Seipel gave us. Very shortly, the **what**: we come from the times of mainframes, of one computer for many people, and now we are in the ubiquitous computing area. The **how**: from national concerns, national

laws and regulations, we of course ended up with international issues, international legislation, and cross-border aspects. And the **why**: 40 years ago it was about the protection of individuals, about giving individuals the feeling of protection, and now apparently, Professor Seipel mentioned a few more complex issues. However, he didn't tell us what these issues are; no, we have to go to the special session this afternoon on privacy, which is already fully booked!

Professor Seipel concluded by referring to what he thinks are the most urgent matters relating to data protection. It is not, he said, what the Working Party 29 of the European Commission mentioned, that we should secure a proper implementation of the European Directive in the Member States. No, Professor Seipel, maybe looking back at the 60s, said we should give more power to the individual. Namely we should give the right to individuals to be well informed. Secondly, the individual should be able to make decisions on his own about privacy expectations. Thirdly, we should have simple and standardised protection tools, PETs, privacy enhancing technology. And fourthly, we should have access to a kind of black-list of intruders. This was the session of Professor Seipel.

Mr Klasén from InfoTorg gave us an overview of what is currently happening in the market of legal information supply, and legal information systems. He talked about the W3C technology stack; he gave us some examples of information legal systems in Europe, where I understood that they are becoming more and more interconnected, so that we can have access to all necessary information from one legal information system. We also noticed that it is good business: 3.5 billion € is going to legal information services. We noticed who the big players are.

We also got some talks about the future: Google 2048, indeed it looks like we are heading in that direction, using RFID technology etc. as Professor Seipel already mentioned. This is ubiquitous computing: we could link ourselves to Google. For some of us this could be interesting to remember what we are doing!

The last speaker, Professor Schartum from Norway, talked about standardisation as a regulatory measure to obtain security. He talked about what I personally think is one of the most underestimated regulatory instruments, underestimated by us lawyers. We tend to forget that standardisation is *the* tool of the future to regulate technology. As Professor Lessig from Stanford already mentioned, code is law. It is indeed true that the technologists are directing us correctly. So if we policy makers are able to control the standardisation-making process, we are again able to control, if we would like, society. We got an insight into the Norwegian example, the Data Protection Act which refers to an ISO standard, a former British standard, 7799, and Professor Schartum gave some critical insight into the use of standardisation based on a few criteria. Namely is it desirable to include standards in legislation because of the possible lack of democratic principles, and because of the speed: it's not faster than the legislative process itself. The quality of standards could be put in question, as well as the predictability. Therefore, he was reluctant to argue in favour of including standards in the law-making process.

Just as an endnote, it is interesting to see what is happening in the European Union with regard to the “New Approach”, which is actually already 20 years old, where you see that policy making from a European perspective is very often interlinked, and intertwined with standardisation. Take for example the Electronic Signature Directive, where you have direct references to standardisation initiatives.

So this is everything, this is the summary. It’s a personal approach, but I think I covered most of the things that have been talked about.