

Belgian Privacy Commission FAQ's on drones

Workshop: The civil use of drones, a challenge to privacy ?
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Introduction



- A few questions addressed by the citizens to the CPVP
- Some questions addressed by commercial RPAS operators
- FAQ were published on the website of the Privacy Commission in March 2014
- Focus on civil applications
- Scope does not include police activities

Description of drones



- Uses (commercial, military, civil, personal,...)
- Devices (plate nummers recognition, thermal cameras, videos, mobile or not,...)

Impact of drones on privacy



- Big difference with classical surveillance cameras
- Specific issues regarding privacy
 - More intrusive
 - Not easily visible
 - Not transparent
 - Large territories
 - Large variety of information
 - Continuous surveillance
 - Indistinct monitoring
 - Technologically more evolved

Impact of drones on privacy



➤ Conclusion:

- The use of drone is a specific issue with respect to privacy
- Specific airspace regulation in Belgium (prohibition)
- Recommendation vs. FAQs

Legal provisions applicable to the use of drones



- **Article 8 ECHR**
- **Article 22 Constitution**
- **Data protection act 8 December 1992**
 - Processing of data
 - *Previous opinions regarding identifiable pictures and goods*
 - Territorial scope ?
 - *Quid controller not located in Belgium ?*

- **Exemption for domestic use (article 3 §2 of Directive 95/46)**
 - Law not applicable when personal or domestic use
 - Recreational used
 - Linqvist case
 - DPA applicable when the data are communicated e.g. on the Internet

Application to journalism, audiovisual



➤ Exemption:

- Interdiction to process sensitive data not applicable when data are related to the public character of the data subject
- Obligation to inform the data subject not applicable when it would compromise the collection of data, the confidentiality of sources or a publication to be made
- Access right, opposition right and right of rectification not applicable when it would compromise the confidentiality of sources or a publication to be made
- No notification required for journalistic purposes and artistic expression

Surveillance camera act 21 March 2007



- **Applicable to surveillance only**
 - **Mobile surveillance camera**
 - may only be used by the police
 - In the case of big gathering of people
 - Non permanent mission and limited duration
 - Only in a public or open space accessible to the public
 - *No use allowed in a closed space*
 - Camera cat not applicable to
 - *Surveillance on the workplace*
 - *Specific law (e.g. football matches)*
- ➡ *Very strict use of drones for surveillance purposes*

Legal grounds for processing



- **In Belgium, the use of drones is forbidden, except for the police**
 - (too?) strict legislative framework ?
 - Unlawful processing is unlawful use of drone
 - The framework should soon be changed to allow commercial use of drones
 - No answer to the private use of drones
 - The following recommendations

- **Examples in camera law**
 - Pictogram
 - Cameras installed on non unmarked police vehicles (their police use must be visible)
- **BPC recommends that the drones are visible and identifiable as drones**
 - Colors
 - Announcements on the Internet, in the press, billboards
- **Controllers must be identifiable by the same means to the extent possible**

Proportionality and privacy by design

- Capture of pictures not necessary for the purpose (pictures of faces for the purpose of aerial photography)
- Access to the recorded data should be restricted (pilot, owner, ...)
- Limiting the capacities of the drone for its original use (no far reaching drones for non recreational use, no extended remote capacities if not necessary,...)
- Adapted technologies in embedded in the drones (face blurring technologies, automatic erasure of the data,...)
- Security systems protecting the data (encryption, secured access,...)
- General information of the users manuals regarding privacy risks, security, obligations

- Security of the data
- Security of the drone
- Risks of hacking of the drones
- Risks of hacking of the data

Conclusion



- **New framework to come**
- **No consultation of the Privacy Commission by the Directorate General in charge of air space regulation**
- **The future decree does not seem to take into account any privacy concerns**

