

## First results of the legal analysis

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**→ Subject matters :**

- 1. Privacy and Data Protection**
- 2. E-commerce and Consumer Protection**
- 3. Torts and Liability**
- 4. Intellectual Property Rights**
- 5. I.C.T. Law**
- 6. Criminal Law**
- 7. Jurisdiction and Applicable Law**

## 1. Privacy and Data Protection

→ Theoretical and practical approach to privacy and data protection :

Tools of Opacity - Tools of Transparency

→ Privacy rules : Tools of Opacity



→ Data Protection rules : Tools of Transparency

## 1. Privacy and Data Protection

→ Data Protection Directive 95/46

→ Obligations of the data controller (a.o.)

proportionality principle

finality and purpose specification principle

confidentiality and security

notification to the supervisory authority

sensitive data

→ Rights conferred to individuals (a.o.)

the right to be informed

the right to access data & individual participation

the right to correct data & individual participation

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*“The data must be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed”*

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*“personal data can only be collected for specified, explicit and legitimate purposes and they may not be further processed in a way incompatible with those purposes”*

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*“The data controller must notify the national supervisory authority of the purpose(s) of the processing, the categories of data subjects and of data processed, the categories of recipients to whom the data might be disclosed (...)”*

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*“personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and data concerning health or sex life ”*



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*“In case of collection of data from the data subject, the controller must provide the data subject always with (1) the identity of the controller or his representative and (2) the purposes of the processing for which the data are intended.”*

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## 2. E-commerce (& Consumer Protection Law)

→ Directive 93/13 on unfair terms in consumer contracts

→ Directive 97/7 on consumer protection in respect of distance contracts

→ E-commerce Directive 2000/31

direct marketing & unsolicited communications

liability of intermediary service providers

↳ applicable to privacy violations?

### 3. Torts and Liability

→ Directive 85/374 on liability for defective products

joint and several liability

liability without fault

not applicable to Ami services (?)

## 4. Intellectual Property Rights

→ Software Directive & Database Protection Directive

→ Copyright Directive 2001/29

**protection of technological measures and rights management  
information**

**applicable to PET'S (?)**

## 5. I.C.T. law

- Directive 1999/93 on electronic signatures
  - enhancing security of transactions
  - facilitating pseudonyms in Aml.

## 6. Criminal law, jurisdiction & applicable law

- Cybercrime Convention (criminal law)
- Convention of Rome on the law applicable to contractual obligations
- Regulation 44/2001 on jurisdiction and enforcement

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# Questions?

