



D9.1 Report on the set-up of the Ethical Advisory Board

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TRESSPASS
robust Risk basEd Screening and alert System for PASSengers and luggage
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Abstract

This report describes the composition and role of the TRESSPASS Ethical Advisory Board (EAB). According to the Description of Work, the Ethical Advisory Board had to be established by the End of Month 4 (30. September 2018). The TRESSPASS EAB was definitively established slightly in advance on September 24, 2018 and is composed of three core members, one internal and two external. The internal member is Dr. Elisa Orrù, who will also act as Chair of the Board. The two external members are Dr. Marina P. Markellou, a lawyer with extensive experience on security research ethics and Dr. Maria Grazia Porcedda, an academic expert on data protection and cyber security issues.

Task 9.1 consists in the set-up of the EAB, which was accomplished on time as specified above; this report is meant to accompany the set-up of the EAB, so its submission to the Commission in October does not imply a delay in respect of the Description of Work.

This report was updated in August 2019 on the basis of the feedback of the TRESSPASS Period 1 Review that took place in July 2019, especially regarding the composition of the EAB and the description of its role, tasks and responsibilities.

Project Information

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List of Acronyms and Abbreviations

ACRONYM	EXPLANATION
DoW	Description of Work
EAB	Ethical Advisory Board
EC	European Commission
EU	European Union
TRESSPASS	robust Risk based Screening and alert System for PASSEngers and luggage

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1 INTRODUCTION

In order to facilitate ethical compliance and as set out in the TRESSPASS Description of Work an Ethical Advisory Board (EAB) was established with members external to the project. The role of the EAB is to offer guidance and advice to the Consortium regarding legal, regulatory and ethical compliance, to monitor the Project's activities and to make recommendations for the future work.

The EAB consists of one internal member (Chair of the EAB) and two external members. This mixed composition is meant to guarantee the necessary involvement into the project on the one hand and the equally necessary independence of judgment on the other hand. In addition, the composition of the EAB ensures representation of both academic experts and practitioners. Further details on the composition of the EAB and expertise of their members are reported in section 2 below.

The internal member of the EAB belongs to the regular staff of TRESSPASS and is the leader of T9.1 "Research Ethics and Accompanying Ethics Research". She is the linking part between the TRESSPASS Consortium and the external EAB members. The external members of the EAB are regularly informed on the project activities, have access to the relevant documentation and are invited to the project meetings. They are consulted periodically on the overall project developments and are consulted for ad hoc opinions on ethical and privacy issues arising during the project. They comment the research ethics reports produced in Task 9.1 (D9.2, D9.3, D9.4, D9.5), their comments are attached unabridged to the main deliverables. Section 3 below describes in more detail the involvement, role, tasks and responsibilities of the EAB.

It is important to stress that, as the EAB is tied to T9.1, its main focus is on matters regarding ethics during the TRESSPASS research and development activities, as well as during the pilots. The EAB, as stated above, monitors compliance with legal, regulatory and ethical norms and best practices, identifies issues that can arise during the TRESSPASS activities and provides advice and recommendations for future developments.

Consequently, the focus of the EAB effort is not on matters regarding the future possible implementation of the technologies and systems developed in TRESSPASS. These issues include the question of the overall political desirability of implementing a risk-based approach to border controls, the legal feasibility of such a system in light of the current EU-law, as well as questions related to the acceptability and acceptance of such a system. While these are critical matters that must be urgently reflected upon, they are out of the scope of the research ethics task and of the mandate of the TRESSPASS EAB. Instead they are organized in different tasks in TRESSPASS. For further details on ethics in TRESSPASS and on how the mentioned issues are addressed within the project, please refer to the whitepaper on "Ethics in TRESSPASS", included as annex G in D9.3.

Preliminary, the principal research ethical issues that are expected to require special attention by the EAB have been identified in the following:

1. The involvement of human participants into the project's activities;
2. The collection of personal data during the research and development activities, as well as during pilots and field-tests;
3. The possible secondary use of data collected for law enforcement purposes;
4. The classification of participants in risk categories, especially through profiling, behavioral analysis and social media monitoring.

2 COMPOSITION OF THE EAB AND SHORT BIOS OF ITS MEMBERS

The TRESSPASS EAB was definitively established on September 24, 2018 and is composed of three core members, one internal to the TRESSPASS consortium and two external. The internal member is Dr. Elisa Orrù, who also acts as Chair of the Board. The two external members are Dr. Marina P. Markellou and Dr. Maria Grazia Porcedda.

2.1 Expertise and background of the EAB members

This section contains short bios of the EAB members. As will be apparent from them, the TRESSPASS EAB brings together members with a stronger (but not exclusively) academic background, such as Elisa Orrù and Maria Grazia Porcedda, and members with a focus on legal practice, such as Marina Markellou. All members have been appointed on the basis of their proven experience in the field.

- Dr. Elisa Orrù (internal to the TRESSPASS Consortium and Chair of the EAB):

Dr. Elisa Orrù is a senior post-doc researcher at the Centre for Security and Society of the Freiburg University (Germany). She studied philosophy at the University of Milan (Italy) and completed a PhD in law at the University of Pisa (Italy). She has been working in FP7 and Horizon 2020 Projects since 2013. For the Horizon 2020 NeTIRail-INFRA (Needs Tailored Interoperable Railway) and the FP 7 Project SURVEILLE (Surveillance: Ethical Issues, Legal Limitations, and Efficiency) she has developed a methodology to assess the societal and ethical effects of technological innovations aimed at improving safety and security. She is currently involved as external ethics advisor in H2020 and ERC projects, supervising compliance with standards of ethical research and development. She published chapters on privacy and data protection in leading edited collections of the branch, such as the "Computers, Privacy and Data Protection" Series.

- Dr. Marina P. Markellou (external EAB member):

Dr. Marina P. Markellou is a Attorney-at-Law and Legal Associate of P. Markellos and Associates, based in Athens and Corinth (Greece) and previously acted as a Freelance Consultant of the European Court of Justice in Luxembourg (Luxembourg). After accomplishing a Master of Laws in Intellectual Property (LLM) on September 2005 in Montpellier of France, she was offered a scholarship by the Greek State to pursue a Ph.D. degree in the field of Copyright law (University of Montpellier/University of Athens-high distinction). Her primary research interests concern intellectual property, law and art, protection of cultural heritage and data protection and privacy issues. She is member of the Ethics and Deontology Committee of NCSR DEMOKRITOS, of the CECOJI-CNRS of France, of the Greek ALAI group and of the French Association Open Law. Additionally, she is Post -Doc Research Associate of the Institute of Informatics & Telecommunications of NCSR "Demokritos" and Adj. Lecturer at the Panteion University of Greece. She often participates as an Independent Ethics Expert in many HORIZON 2020 Projects (FLY-SEC, MARINE-EO, TENSOR), as an Internal Ethics Advisor for NCSR Demokritos (CIVILNEXT, FOCUS LOCUS, SAINT) and as legal expert in many European programs (EUROMED 2017, iED 2017, CIHA conference 2012, ICIL conferences 2011, 2010, 2009, COUNTER workshop project 2009/IDABC project 2008). She speaks English, French and Spanish.

- Dr. Maria Grazia Porcedda (external EAB member):

Dr. Maria Grazia Porcedda is a post-doctoral Research Fellow at the School of Law of the University of Leeds, where she is a member of the EPSRC-funded CRITiCaL project. Previously she was a Research Associate at the Robert Schuman Centre for Advanced Studies and at the Department of Law of the European University Institute. Maria Grazia earned a PhD in Law from the European University Institute with a thesis titled “Cybersecurity and Privacy Rights in EU law”. Her research and publications focus on EU law and technology, particularly data protection and cyber security matters. Maria Grazia’s early work was awarded with grants and prizes by the Accademia Nazionale dei Lincei and the Italian Association of Information Security (CLUSIT). Maria Grazia is a member of EDEN (Europol Data Experts Network). She recently advised DG DEVCO as a Member of the EUISS Task Force on Cyber Capacity Building.

2.2 Ad-hoc involvement of additional internal members if required

In case of temporary unavailability of one of the external members and in case an additional consultancy is needed the Chair of the EAB will contact ad hoc partners involved in Task 9.1 with PM effort in WP9 (including ALU-FR, SPH, NUIM), depending on their area of expertise and the specific issue.

2.3 Involvement in the projects' activities and independence of the external members

The composition of the EAB is meant to strike a balance between two competing aims: on the one hand, the EAB has to be closely involved in the project activities, know the details of the project advancements and have quick and effective communication mechanisms within the project consortium. On the other hand, the advising, monitoring and recommendations provided by the EAB shall be impartial and not influenced by an overlapping of interests between the EAB members and the project.

The mixed composition of the EAB is meant to facilitate the completion of both goals. On the one side, the Chair of the EAB belongs to the regular staff of the project, is involved in the project data management plan and participates into the project activities. She is also in regular and close contact with representatives of all consortium members, as well as with the Coordinator and the Technical Manager. She is also the main link between the project and the two external EAB members, with which she has regular exchanges in order to keep the external members up-to date and enable them to feed the project developments with their feedback (for more details on the mechanisms of involvement of the EAB external members see section 3 below). On the other side, the external members have no interests in the project that can conflict with their role as ethics advisors.

Additionally, the comments of the external EAB members are attached unabridged to the project's research ethics deliverables, in order to ensure that their opinions are communicated to the Commission in a transparent way. All ethics deliverables of WP9 and the related comments and opinions by the EAB are public and will be published on an open-access platform in order to be made available to the general public.

3 ROLE, TASKS AND RESPONSIBILITIES OF THE EAB

3.1 Overall role of the EAB

The role of the TRESSPASS EAB consists in advising the Consortium, monitoring the project's developments and providing recommendations for future work in order to facilitate compliance with legal and regulatory norms, as well as with ethical standards.

3.2 Tasks of the EAB

The tasks of the EAB are the following:

- 1) Participate in the periodical meetings of the project, which take place on a six months basis (once a year virtually and once a year physically) in order to get a comprehensive overview of the project activities and on this basis to provide an assessment whether any issue regarding ethical and data protection aspects arise. The EAB will hold parallel meetings to the Project meetings to discuss the emerging issues. The results of the discussion will be formalized as meeting minutes and/or as a separate contribution to the research ethics deliverables due on annual basis. The plan of involvement for the remaining time of the project is as follows:
 - December 2019: virtual meeting
 - June 2020: physical meeting
 - December 2020: virtual meeting
 - June 2021: physical meeting
 - December 2021: virtual meeting

In addition to the regular meetings, the EAB will be consulted and will virtually meet on an ad-hoc basis whenever any issue needs to be discussed.

- 2) Provide independent scrutiny of the tasks and deliverables selected by the Coordinator as requiring an internal ethical check, to assess whether they comply with the requirements of the Ethics and Societal Impact Issues outlined in the Grant Agreement and Section 5 of the DoW;
- 3) Advise and support the Project Coordinator to ensure that all partners fully understand, observe and implement their ethics obligations as outlined in Section 5 (TRESSPASS DoW Part B) 'Ethics and Societal Impact'.
- 4) Advise the Consortium members on how to ensure that data gathering procedures complies with General Data Protection Regulation and with the respective national legislation, especially by monitoring that advice, authorizations and opinions by the respective Data Protection Officers, Ethics Committee and relevant national authorities is sought.
- 5) Provide guidance to the project on issues relating to national and EU legislative requirements for the use of personal data and other legal and/or ethical implications that may arise throughout the duration of the project, such as dual-use and misuse. Its ultimate goal is to promote high ethical standards for the duration of the TRESSPASS project.

3.3 Guiding ethical principles

The guiding principles of the work of the EAB are the fundamental ethical principles set out in the Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC, Art. 19 and especially:

- the principle of proportionality
- the right to privacy
- the right to the protection of personal data
- the right to the physical and mental integrity of a person
- the right to non-discrimination
- the need to ensure high levels of human health protection.

How these principles apply to the specific TRESSPASS context and how they develop in concrete guidelines to be developed is detailed in the TRESSPASS D9.2 "Project Baseline for Research Ethics".

3.4 Responsibilities within the Consortium

The EAB does not substitute any national or local ethics committee, nor any data protection authority, legal department or legal experts of the Consortium Members. Instead, it supports the work of these entities by drawing attention on ethics and data protection issues and to the necessary involvement of the national, local and organization's bodies. The final decisions and responsibilities on data collection and processing activities rest with the respective Consortium Members; the EAB cannot be made responsible for any consequences resulting from the Consortium Members' decisions and activities.

3.5 Activities of the EAB in the first period of TRESSPASS

Deliverable 9.3 "Ethical Periodic Report 1" contains details on the ethics activities conducted in T9.1 in the first year of the project, including the involvement of the EAB in general and on an newly emerged issue regarding the possible use of real passengers' data. For a more detailed description, please refer to the TRESSPASS D9.3 and its Annexes (especially Annex B "Opinion of the TRESSPASS EAB on the use of data without consent of the data subjects" of January 2019).

4 CONCLUSION

TRESSPASS is a challenging project in terms of ethical and data protection implications.

By establishing an EAB including individuals who are internal to TRESSPASS and individuals external to TRESSPASS and by appointing members with extensive competences on ethics and data protection issues coming from both academia and legal praxis, Task 9.1 aimed at creating the best conditions for addressing the ethical and data protection issues emerging during the research and development activities as well as during the field tests of TRESSPASS in an effective way.

The plan of involvement described in session 3 of this deliverable shall ensure that the EAB is adequately involved in the project's activities and that its feedback reaches the Consortium and flows into the planning of the future activities. Through the regular reporting activities of T9.1 it shall also be ensured that any issue emerging during the project is effectively reported to the Commission. The activities of the EAB during the first period of TRESSPASS are described in D9.3 "Periodic Ethical Report 1" of August 2019.

5 REFERENCES

Orrù, Elisa, TRESSPASS D9.2 Project Baseline for Research Ethics, February 2019.

Orrù, Elisa, TRESSPASS D9.3 Periodic Ethical Report 1, August 2019.

Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC

TRESSPASS ETHICAL ADVISORY BOARD REVIEW PROTOCOL

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