

ISOC European Regional Bureau Newsletter

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Data protection

EU: MEP Albrecht confirmed as Rapporteur for the proposed Data Protection Regulation

- On 15 September, the European Parliament's Civil Liberties, Justice and Home Affairs Committee (LIBE) **confirmed Jan Philipp Albrecht** (Greens/EFA, Germany) **as Rapporteur on the proposed General Data Protection Regulation**.
- While MEPs confirmed their first reading position on the dossier in March, Member States have been struggling to reach an agreement. Once the Council position is agreed, MEP Albrecht will lead the trialogue negotiations between Parliament and Council on behalf of MEPs.
- On 19 September, **EU Justice Commissioner Reicherts** stated that the work of the Italian Presidency will ensure that the **trialogue can begin in January 2015**. A possible adoption of the Regulation in 2015 would translate into the law's entry into force in 2017. The Heads of State and Government have repeatedly affirmed the importance of adopting a strong EU data protection framework by 2015.

EU: Update on the proposed Data Protection Regulation

- Fourteen EU Member States (Belgium, the Czech Republic, Germany, Estonia, Ireland, Spain, France, Croatia, Hungary, the Netherlands, Austria, Poland, Romania, and Slovakia) submitted their comments on the Italian Presidency's draft of the proposed EU Data Protection Regulation, focusing on the so-called **risk-based approach**. The Presidency made suggestions with regards to a definition of low risk activities, suggesting a reduction in the number of obligations imposed on data processors. But, the definition of low risk activities was not welcomed by Member States, as only Spain, Austria and the Netherlands were in favour of such a definition. Germany suggested replacing all references to high risk or low risk to references to specific risks.
- The Council's working party on data protection, the so-called **DAPIX**, made an analysis of the **right to be forgotten ruling** in light of the proposed Regulation. The issue at stake is the **Article 17** of the proposal which contains provisions relevant to the right to be forgotten. The **Italian Presidency** has suggested a **new wording of the article** to include the public interest with regards to information availability. Member States have been invited to consider the proposed wording. The General Secretariat of the Council of the EU published the **comments of 12 Member States** (among which France and the UK) on the proposed Article 17. France underlined that it needs to be decided whether the proposal will specify to whom initial right to be forgotten request should be addressed. Also, there is a need to determine which courts have **territorial jurisdiction**, considering the **one-stop shop mechanism**. In the UK's view, the right to be forgotten judgment which relates to the functioning of the 1995 EU Data Protection Directive should not dictate the content of the proposed Regulation. The judgment should be seen as opening the debate, underlined the UK's answer.
- The European Commission has published a **fact sheet** on the right to be forgotten judgment entitled *Myth-Busting, The Court of Justice of the EU and the "Right to be Forgotten"*.

EU: Shortlisted candidates for European Data Protection Supervisor

- The European Commission has published a list of shortlisted candidates for the new **European Data Protection Supervisor** and assistant supervisor.
- The candidates for supervisor are **Giovanni Buttarelli** (the current assistant supervisor), Noëlle Lenoir and Yann Padova, and for assistant supervisor, Buttarelli, Cinzia Biondi, and Wojciech Wiewiórowski.

EU: Toolbox on the Right to be forgotten

- The members of the **Article 29 working party** (WP) agreed on a **set of guidelines** on the right to be forgotten for appeals from people whose requests for removal have been refused.
- In order to promote a **coordinated and consistent approach**, the WP decided to create a network of dedicated contact persons to develop common case-handling criteria to handle complaints by the data protection authorities. Thanks to the network, the watchdogs will be kept informed of the decisions taken on complaints and use a dashboard to identify similar cases.
- Overall, the guidelines aim at **helping regulators balance the individual's right to privacy with the public interest**, stated **Isabelle Falque-Pierrotin**, Chairwoman of the WP and France's privacy watchdog CNIL.
- The guidelines are expected to be **finalised by the end of November**.

Taxation

OECD: Project BEPS targets tax evasion by multinational businesses

- The Organisation for Economic Co-operation and Development (OECD) has announced an action plan called **Project BEPS** that **targets loopholes** in international taxation systems used by multinational businesses to minimise their taxes. The measures were agreed upon by all members of the organisation and G20 countries such as China, Brazil and India.
- Based on the measures, businesses will be obliged to declare their sales, profits and employees in all countries they operate. The plan is expected to **map discrepancies** and avoid double non-taxation.
- OECD hopes to **close loopholes allowing for the so-called intra-group trade** resulting in a company that is based in a tax haven being able to carry part or all of the commercial activity on behalf of the whole group.
- Although digital companies have been criticised for what is perceived as the most **aggressive tax planning**, the OECD countries have agreed that **an Internet-specific tax would be counterproductive**. On the other hand, measures developed by OECD will be aimed at improving the countries response to the challenge represented by digital economy.
- The 15 key elements identified in the project are to be addressed by **2015**.

General

EU: Parliamentary Committees submit written questions for Commissioners-designate hearings

- In the questionnaire sent to **Commission's Vice-President Andrus Ansip** responsible for Digital Single Market ahead of his hearing at the European Parliament, the chamber's Committee on Internal Market and Consumer Protection (IMCO) inquired about the concrete actions planned to support completion of the **Digital Single Market** and how the challenge of consumer protection in digital sphere will be addressed.
- **Elżbieta Bieńkowska**, Commissioner-designate for Internal market was asked by IMCO about the planned ways of her collaboration with Vice-President for the Digital Single Market and the Commissioner for the Digital Economy and Society to ensure that enhancing the use of digital technologies and online services become a horizontal policy covering all economy sectors.

- The Parliament's Civil Liberties Committee asked **Commissioner-designate for Justice Věra Jourová** to present her two priorities in the area of data protection.
- **Günther Oettinger, Commissioner-designate for Digital Economy and Society** was asked by the Parliament's Industry, Research and Energy Committee how he is going to ensure the good quality of legislative proposals, transparency of lobbying activities and consistent and balanced consultation of stakeholders.

EU: More efforts needed to create EU digital single market

- In a debate with the outgoing **EU Internal Market Commissioner Michel Barnier** that took place on 16 September, MEPs from across the political spectrum underlined that **further efforts are needed to create a true EU digital single market** that would unlock growth and support job creation. Among the necessary improvements, MEPs especially stressed **open access to the Internet** for users and **neutral treatment of Internet service providers**, together with better data protection.
- **German MEP Andreas Schwab** (EPP) stated that Member States need to get rid of their country-centric approach and promote common rules creating a level playing field. **MEP Evelyne Gebhardt** (S&D, Germany) added that EU needs a policy that gives consumers and companies more certainty. Czech **MEP Dita Charanzová** underlined the many barriers users face with regards to digital content access in another EU Member State.