

ISOC European Regional Bureau Newsletter

11 - 17 October 2014

<http://www.Internetsociety.org/what-we-do/where-we-work/europe>

Data protection

EU: Member States reach partial agreement on the obligations of data controllers and processors

- EU Justice Ministers reached a **tentative partial agreement on Chapter 4** ('Controller and processor') of the proposed data protection Regulation during a Council meeting on 10 October. Member States aim to establish a 'risk-based' approach in defining data protection **obligations for companies** which process personal data of EU citizens. According to the proposed solution, companies that handle large volumes of data might be subject to more strict obligations (**higher risk**) compared to others, especially SMEs with fewer than 250 employees. Furthermore, companies located outside the EU might have to appoint a representative within the EU, to respond to probes regarding potential data breaches.
- Moreover, technical experts will have to decide among different options on how to define the **relationship between data protection and the freedom of expression** (Chapter 9). These include a simple reference in a recital (as the right to the freedom of expression is supposed to be binding on Member States anyway), an obligation to balance both rights, an explicit list of articles where derogations may occur or an overarching provision which would then be translated into national laws.
- On condition that nothing would be set in stone until an agreement on the entire law has been reached, the Ministers supported the text. Until then, the EU's rotating presidency may not engage in any negotiations with the European Parliament.

EU: Justice Ministers consider a public jurisdiction addressing the "right to be forgotten" implementation

- Discussing the implementation of the **right to be forgotten** during last week's EU Justice Council, Austrian Justice Minister Wolfgang Brandstetter said that the **EU should seek to limit Google's control** over when users' right to be forgotten should take over freedom of expression.
- Andrea Orlando, Italian Justice Minister, confirmed that there is a basic agreement among Member States with regards to the need to **build a public jurisdiction** that can address this issue.
- According to a report, Google has so far removed 42% of a total of 497,695 search links it evaluated since the EU Court of Justice ruling.

EU: No specific rules on Big Data needed, says MEP Pilar del Castillo Vera

- Speaking at an event on big data, **MEP Pilar del Castillo Vera** (EPP, Spain), the Parliament's Rapporteur on the **Connected Continent proposal**, stated that **it is too early for the EU to draft specific rules on Big Data**.
- Acknowledging that the increasing use of large collections of consumer data threatens to undermine Internet users' trust, MEP Pilar del Castillo Vera warned that drafting rules for organisations using Big Data technology could **kill innovation**.
- The MEP stressed the importance of the current proposals, including the **overhaul of the EU data protection** framework, for **improving trust**.

EU: Commission and data industry launch partnership to master big data

- In order to strengthen the **European data sector**, the European Commission and data industry, united in the **Big Data Value Association**, have signed a memorandum of understanding committing to invest **€2.5 billion** in a public-private partnership (PPP).
- From Horizon 2020, the EU has earmarked over €500 million of investment over 5 years (2016-2020). The private partners would bring €2 billion.
- The PPP, which will help focus research efforts and innovation, is one of the outcomes of the European Commission's recent **Communication on data-driven economy**.
- According to Commission's estimates, there will be 100,000 new data-related jobs in Europe by 2020.

Copyright

EU: Member States voice diverging views on the need to overhaul copyright rules

- Draft conclusions on **intellectual property rights enforcement**, distributed ahead of this week's meeting of the **Council's Working Party on Intellectual Property**, pointed to divisions between EU Member States over a possible revamp of EU copyright rules.
- Three **main points of contention remain**: identification of copyright infringers, designation of online operators freed from liability for illegal activities on their systems, and allocation of damages to copyright holders.

Russia: Modernisation of intellectual property laws

- The **major amendments** of the Russian Civil Code, which recently came into force, substantially affected provisions on intellectual property rights. The reform aimed at emphasising the importance of regulation of the intellectual property rights use on the Internet.
- By introducing provisions on the **liability of Internet Service Providers**, the legislator sought to strike the **balance** between providing an injunction instrument to right holders and protecting ISPs against groundless infringement claims.
- According to analysts, the amendments intend to modernise Russia's intellectual property legislation, **bringing the country's law into conformity with international norms**.

Open Internet/Cybersecurity

France: Majority of French would welcome greater state involvement in online content control

- Based on the results of a survey conducted by BVA Opinion, the majority of the French are in favour of **greater state control of the content online**. ***Allegedly*** Fifty seven percent of respondents consider state's involvement as an efficient means to fight against cyber-crime and child abuse online.
- The publication of the survey coincides with the presentation of an anti-terrorist law in the French Senate. Designed to prevent the recruitment of jihadists in France, without a prior consent of a judge, the text authorises an administrative block of websites to quickly remove content that justifies terrorism.
- Asic, an organisation that gathers the main Internet players in France, warned that the measure would affect freedom of expression.
- With regards to data protection, only 16% of respondents believe that private Internet companies guarantee the protection of all personal data. On the other hand, **70% of respondents trust the French data protection authority** (CNIL).

Open Internet

Russia/Turkey: Mapping forced localisation measures

- DIGITALEUROPE has published an **overview** of **forced localisation measures in Russia and in Turkey**.

- With regards to data requirements, the memo notes that according to the Russian Federal Law, all **personal data of Russian individuals must be stored and processed in the country as of 1 September 2016**. An amendment currently under discussion would change the date of entry into effect to 1 January 2015. Analysts expressed many concerns, given the broad scope of the legislation, and the law's potential interpretation as having extraterritorial effect (based on citizenship). Another law which is part of the country's anti-terror package will require **all companies providing IT services to store data on Russian servers for 6 months** and provide data to the security agencies upon request.
- The document also provides an overview of the latest development in Turkey, quoting President Erdogan who has been defending the government's efforts to control online speech.

Net neutrality

EU: Telecom attachés discuss net neutrality provisions

- The **EU Member States telecom attachés** met on 16 October to **discuss a tentative compromise** on certain parts of the proposed Connected Continent package, among which **net neutrality**. Most EU Member States are said to support EU rules set a level of principles, leaving more scope for the Body of European Regulators of Electronic Communications (BEREC) guidelines and national enforcement.
- The Commission's original proposal did not define the concept of net neutrality as such but sought to **enshrine the principle by defining Internet services and specialised services**.
- According to the proposal under discussion, Internet access providers would need to observe the net neutrality provisions, while telecom operators would be allowed to offer specialised services, optimised for certain types of content or services, and offer enhanced end to end quality. The operators would have the right to price and limit data volume and Internet services speeds. But, the operators would be authorised to **provide specialised services, only if there is enough capacity on their networks** to avoid any detriment to the availability or quality of experience of Internet services at any given time. In order to incentivise operators to invest in capacity increase, the Italian Presidency of the Council of the EU proposed that the more capacity operators make available for the open Internet, the more capacity they can use for the provision of specialised services.
- With regards to **traffic management measures**, the proposal notes that they should not be applied longer than necessary and used in a transparent, non-discriminatory and proportionate way to ensure good functioning of the network and to prevent imminent congestion. The operators would be required to inform subscribers of such measures.
- According to the text presented by the Italian Presidency, the European Commission will review the functionality of specialised services three years after the text's adoption.

General

Germany/EU: Germany to submit proposal on how to regulate digital sphere

- During a debate with Google CEO Eric Schmidt, German Economy Minister Sigmar Gabriel expressed concerns with regards to market power of a single tech company, and stated that Germany will shortly send **proposals** to the new European Commission on how to **address the issue of digital sphere regulation**.

EU: Commissioner Kroes launches e-Identification Regulation

- On 14 October, EU Digital Agenda Commissioner Kroes launched new EU Regulation on **e-Identification** (eIDAS) that was signed in the Official Journal. The Regulation enables the use of electronic identification means and trust services (e.g. electronic signatures, electronic seals and website authentication) by citizens, businesses and public administrations to access on-line services or manage electronic transactions.