

ISOC European Regional Bureau Newsletter

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Data protection

EU: New Data Protection Supervisor takes office on 1 November

- **Giovanni Buttarelli** will take office as the **European Data Protection Supervisor** (EDPS) on 1 November, alongside with **Wojciech Wiewiórowski** as his deputy, after EU Member States governments cleared their appointments.
- During the hearings in the European Parliament's Civil Liberties Committee, Buttarelli said that the EDPS needs to be less remote to better **understand stakeholders** and the new challenges. Wiewiórowski underlined the need for the watchdog to **work more closely with data protection officers** in Member States.
- Buttarelli and Wiewiórowski have been appointed to serve for five years at the EU watchdog's office that was created in 2000 as an independent supervisory authority that monitors how EU institutions handle personal data. The authority fulfils an **advisory function to the EU on the reform of the EU data protection** framework. Under the revised law, Buttarelli may act as Secretariat of the European Data Protection Board.

EU: Right to be forgotten ruling raises jurisdiction issues

- Speaking at a conference on safeguarding the right to data protection in Europe, Niilo Jääskinen, Advocate General at the EU Court of Justice, stated that the right to be forgotten ruling raised jurisdiction issues, especially the question of whether this 'right' extended to searches on Google's US website — google.com — or only applied to European domain names, such as google.fr.
- While Google complies with the judgment by removing links from its websites in the EU, it does not apply the rules to its global site. The question the Advocate raised is whether the EU data protection law would bind a company on its non-European sites.
- With regards to removals in the EU, Jääskinen said that the right could burden national data authorities, should individual users decide to appeal Google's decisions to deny their requests.
- In an **interview** for EurActiv, the outgoing Digital Agenda Commissioner Kroes stated that a lot more work needs to be done on the right to be forgotten in order to make it work.

EU: DG Justice Director calls on states to compromise on the proposed Regulation

- **Paul Nemitz**, Director in charge of data protection policies at the Commission's Justice Department, called on **EU Member States to show a greater willingness to compromise** on the proposed data protection Regulation.
- While the Commission has established **corridors of acceptable solutions** within which negotiations on specifics are possible, Member States need to take political responsibilities to close negotiations on the proposal, said Nemitz.

Copyright

EU: Member States hesitate to adopt legal measures for IPR enforcement online

- Member States might not support **binding measures to enforce copyright in the digital world**, new draft Council conclusions on IPR enforcement indicated.
- Earlier, Italian Presidency proposals suggested establishing rules which would oblige **Internet service providers** to remove copyrighted content from their platforms ('notice and action') and recognised the liability of Internet hubs if their services facilitated access to such material ('intermediary liability').
- However, the new draft conclusions leave the decision on whether to revise the current legislative framework open. The text reveals a much more cautious approach stating that further analysis on the functioning of the current legislative framework is needed. The document also underlined that IPR enforcement is complex, particularly in the online environment.
- Instead of describing any specific action, Member States seem to choose a 'soft' approach, asking for improved collaboration and the exchange of best practices. The role of intermediaries in IPR infringements is listed among the items upon which the institutions will further reflect. In the draft, the Council welcomes the Commission's decision to create an expert group on IPR enforcement.
- The draft conclusions are discussed by Council experts in a meeting on 31 October, in view of a ministerial Council meeting on competitiveness scheduled for 4-5 December 2014.

EU: IPR enforcement framework is still fit for purpose in the digital age

- In the context of ongoing discussions of the Council's Intellectual Property Working Party on the **IPR Enforcement Directive**, and in view of the upcoming Competitiveness Council, Cable Europe, ECTA, ETNO, EuroISPA and GSMA Europe, published a joint statement in which they voiced support to the current framework of enforcement.
- The associations underlined that the current Directive is fit for its purpose, offering a well-balanced and efficient framework for rights-holders to enforce their rights and intermediaries to play their respective part.

EU: Incoming Digital Economy & Society Commissioner plans a copyright fee

- The incoming **EU Digital Commissioner Günther Oettinger** has described the plans to reform existing EU copyright laws in one year, underlining the likely **addition of an EU "Google-tax"** similar to the **German ancillary copyright**.
- With an EU-wide "ancillary copyright", Internet search engine providers would have to pay a fee when displaying copyrighted materials on their sites.
- Oettinger stressed the need to **determine what intellectual property actually is** and what rights can be established for artists, scholars and authors.

Open Internet

Turkey: Security package could classify online incitement to protest as crime

- Reportedly, the Turkish Government's security package, which is to be submitted to the Parliament in coming days, will include **new measures restricting social media**. A special prison sentences for Internet users who call for protests is thought to be part of the proposal.
- The proposal is also expected to reintroduce a controversial law giving the Telecommunications Directorate (TİB) the authority to close websites within four hours on the basis of national security, protecting public order, or preventing crime. The country's constitutional court overturned the law on 2 October.
- According to Google's **2014 Consumer Barometer**, which is a data set on Internet usage in 46 countries, 92% of the online Turkish population use social media, the highest rate globally.

Cybersecurity

EU: The biggest cybersecurity exercise to date

- On 30 October, over 200 organisations and 400 cybersecurity professionals from around Europe participated in a **simulation** organised by the European Network and Information Security Directive (ENISA) to **test readiness** to counter cybersecurity attacks.
- The **Cyber Europe 2014** gathered experts from the public and private sectors including cybersecurity agencies and national Computer Emergency Response Teams. During the exercise, the participants dealt with over 2000 separate cyber-incidents, including denial of service attacks to online services, intelligence and media reports on cyber-attack operations, website defacements (attacks that change a website's appearance), and attacks on critical infrastructure.
- Commissioner Kroes underlined that given the increasing sophistication of cybercrime, the attacks cannot be countered if individual states work alone. **Udo Helmbrecht**, Executive Director of ENISA, commented that in the past five years, important procedures to drive cooperation during a cyber-crisis between EU Member States were put in place, strengthening EU escalation procedures.

General

Hungary: Internet tax in Hungary abandoned

- **Prime Minister Viktor Orbán** announced on 31 October that **Hungary will give up plans to introduce the controversial tax on Internet data traffic** that has led to massive demonstrations in the past week. The withdrawal concerns a provision intended to extend a telecommunications tax to online data traffic.
- The amendment was not only criticised by tens of thousands of Hungarian protestors, but also by the outgoing Commissioner Kroes, whose office described it as a political trick to hide a more extreme proposal.
- Orbán said that the government plans to start **consultations** next year on **Internet regulation** and potential means to **tax some of the revenue that has been generated online**. The consultations will focus on two questions: the question of Internet regulation, i.e. what can and cannot be done; and financial questions related to digital economy.

EU: France's Digital Affairs Minister calls on US tech firms to adapt

- Speaking at the WSJD Live global technology conference, **French Digital Affairs Minister Axelle Lemaire** stated that France, Germany and other EU Member States are exploring ways to **rein in the market power** of the GAFA's – the French acronym that refers to Google, Apple, Facebook and Amazon.
- European officials in Brussels and other capitals have been putting unprecedented pressure on big tech firms over questions ranging from competition and privacy to taxes.
- Earlier this month, Lemaire met with her German counterparts to discuss a **joint position paper** to be sent to other European governments in coming weeks. The paper would include **updates to EU competition regulations** that seek to establish a level playing field, according to a person familiar with the matter.