

ISOC European Regional Bureau Newsletter

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Data protection

EU: Cross-border privacy probes will need clear division of roles

- **Peter Hustinx**, the outgoing European Data Protection Supervisor stated that data protection authorities (DPAs) will need to **ensure a clear division of roles and responsibilities** when probing privacy violations across borders.
- Under the proposed **one-stop shop principle** of the draft data protection Regulation, disputes should be settled by the regulator in the home country of the company facing the complaint, with the input of other national DPAs if appropriate.
- According to Hustinx, in cases where the one-stop shop applies, the lead authority will not be the only responsible one. But, he added that **close cooperation does not mean collective responsibility**. Therefore, the roles are likely to be divided.

EU: Italy mulls compromise on one-stop shop principle

- A compromise prepared by the Italian Presidency of the Council of the EU would **change the functioning of the proposed one-stop shop principle**, as complainants would be able to **seek a decision from their local regulator**.
- **Antonio Mura**, leading Italian justice official, underlined that most of the states reject a system forcing data subjects to seek remedy only in the legal system where the lead authority operates.
- The possible compromise has been drafted as a basis for talks at a ministerial meeting timetabled for 4 and 5 December.

EU: Data supervisors will take office later than planned

- **Giovanni Buttarelli**, who has been appointed to run the office of the European Data Protection Supervisor (EDPS), and his deputy **Wojciech Wiewiórowski**, will start work later than planned.
- The start of their five-year mandate was scheduled for 1 November, but the EU lawmakers and governments had not taken into account the full practicalities of the appointments, as Wiewiórowski needs to step down as Poland's Inspector General for Protection of Personal Data.
- The **new term of office is not expected to begin before 1 December**. MEPs and EU government representatives are set to give their final seal of approval and decide on the EDPS exact start date at a meeting on 20 November.

Copyright

Spain: Intellectual property law makes Spain first EU country to tax links and newspaper excerpts

- The **intellectual property law** passed on 30 October will make of Spain the **first EU country to impose a tax on links and excerpts of newspaper articles**. The law, which aims to compensate the press every time articles are listed by services, has become commonly referred to as the Google law.

- The measure is expected to be contested in the courts, as **EU Court of Justice case law** has established that a **link to a freely accessible page cannot be subject to copyright**.
- The law that will come into force in **January 2015** could snowball among other EU Member States.

EU: Court's preliminary ruling on embedded videos

- In a **court order**, the EU's highest court found that **website owners are allowed to embed a video without getting approval** from the right holder.
- The order arose from a dispute brought by BestWater, a water-filter company, which claimed that a marketing agent had used on its own website one of the company's promotional YouTube video without receiving permission.
- The court argued that **file or video embedding is not a copyright infringement**, as long as the **message is not altered or communicated to a new public**.

Cybersecurity

UK: Intelligence service director calls for new deal with technology companies to tackle terrorist threat

- In an **opinion piece** published in the *Financial Times*, Robert Hannigan, Director of UK government intelligence and security organisation GCHQ, called on the private sector to support the intelligence agencies **to tackle the challenge of combatting terrorism**, as terrorist groups increasingly use **leniency of Internet platforms and services** to disseminate their message.
- Hannigan underlined that intelligence agencies need to enter the public debate about privacy, showing their accountability for data used to protect the public, and support a new deal between democratic governments and the technology companies in the area of citizen protection.
- The **Internet Service Providers Association (ISPA)** **criticised** Hannigan for calling the Internet a command and control centre for terrorists, stating that Internet companies take their responsibilities seriously and have been working with authorities to tackle unlawful activity.

Germany: EU needs to step up efforts to counter cyber attacks

- Speaking at the third **Cyber Security Summit** that took place this week in Bonn, CEO of Deutsche Telekom Timotheus Höttinger said that nine out of ten companies in Germany are targeted by hacker attacks. Underlining that threat to data security and digital infrastructure is growing every year (1 million attacks per day on DT grid only), the conference called for **stronger EU approach to cybersecurity**.
- Former German Defence Minister **Karl Theodor zu Guttenberg** called on the **EU to increase data exchange with the United States** to track and block suspicious Internet activities. He added that states should cooperate more closely with the digital sector to gain access to big data.
- **Elmar Brok**, chairman of the Foreign Affairs Committee in the European Parliament, said that both the **EU and NATO should develop cyber offense capacities**.
- Germany plans to become the driving force behind a digital revolution in Europe and is aiming for connecting digital technologies with industrial products towards an Industry 4.0.

EU: ENISA publishes a report on Cyber Crisis Cooperation and Management

- **ENISA**, the European Network and Information Security Agency, published a report on "**Cyber Crisis Cooperation and Management**". The **report** contains a comparative study on the cyber crisis management and the general crisis management.
- The report aims to compare the concepts from general crisis management systems with the corresponding systems related to cyber crisis management, and to conduct a conceptual analysis of the language and terminology within these two fields, covering for their structures, scope and actions.

General

EU: Final stage of negotiations on Connected continent expected to begin by the end of the year

- **Anthony Whelan**, Acting Director Electronic Communications, Networks and Services, at DG CONNECT stated that **negotiations on the proposed Connected continent package** could get into their final stage (tripartite negotiations) towards the **end of the year**.
- Together with net neutrality, frequency auctions are among the remaining contentious issues.

EU: Commission monitors and analyses over-the-top players

- In her answer to **MEP Cláudia Monteiro de Aguiar's** (EPP, Portugal) **question** on the alleged **lack of EU regulation of web company activities**, former Digital Agenda **Commissioner Kroes** said that the Commission **monitors the market development** of over-the-top players (OTT) and analyses their regulatory implications. The Commissioner confirmed that a **study** on future trends and business models in communications services and their regulatory impact is being launched. The aim of the exercise is to assess how to adapt the regulatory framework to ensure a level playing field.