

ISOC European Regional Bureau Newsletter

18 - 24 July 2015

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

Data protection

EU/US: Data transfer talks closer to deal

- **Negotiations between the EU and US** to review and strengthen the **Safe Harbor agreement** are getting closer to conclusion. After her meeting with US Secretary of Commerce Penny Pritzker, **EU Justice Commissioner Věra Jourová** said that discussions should be **finalised in the coming weeks**.
- While at the meeting on 23 July, no agreement was reached with regards to whether US authorities should have access to personal data for national-security purposes, Commissioner Jourová praised the progress made. According to the Commission, the progress included stronger enforcement of Safe Harbor by the Department of Commerce, **more transparency for consumers**, easier and cheaper redress possibilities, and clearer rules on onward transfers. The Commissioner **concluded** that her aim is to ensure that European consumers' personal data is effectively protected in practice. A strengthened **Safe Harbor will restore trust in EU-US data flows**, Jourová said.
- The negotiations began in 2013, following revelations that a US intelligence program harvested personal data of EU citizens stored in the US.

UK: High Court strikes down data retention law

- The **UK High Court struck down** a key piece of the country's surveillance legislation, giving the government nine months to rewrite it. The Court concluded that the data retention law lacked sufficient privacy and data-protection safeguards.
- After the Court of Justice of the European Union struck down the **EU Data Retention Directive**, the **UK fast-tracked the Data Retention and Investigatory Powers Act (DRIPA)** as emergency legislation. The law empowered enforcement and intelligence agencies to request communications providers to store data of their customers' activities.
- The Home Office announced that it will appeal the High Court's ruling.

Germany: Privacy Commissioner calls data retention plans unfeasible

- **Dieter Kugelman**, Privacy Commissioner of Germany's Federal Province Rhineland-Palatinate, stated that the Federal Government's **plans for a new data retention law are not feasible**, stressing that both EU and German jurisdictions do not leave room for data retention provisions.

Russia: Over 80% of companies confirm their readiness to fulfil data localisation requirements

- According to a **survey** by the **Russian Association for Electronic Communications (RAEC)**, **81% of Russian and foreign IT companies serving Russian citizens are ready** or at least preparing to comply with the **country's data localization mandate**.
- The survey was conducted among more than **40 Russian and foreign IT-companies** in an anonymous format. 54% of the respondents said they are ready to comply with the requirements of the data localisation law as of 1 September.

Security/Open Internet

France: Constitutional Court backs proposed surveillance law

- On 23 July, the **French Constitutional Court concluded** that the proposed **surveillance law** is essentially in line with the French Constitution. Nevertheless, the **authority censored one provision and two articles**: the first on the so-called operational urgency procedure which, according to the Court, clearly bears a disproportionate interference with the right to respect for privacy; the second on international surveillance measures rejected on the grounds that the legislator has not determined the fundamental guarantees granted to citizens.
- **MP Jean-Jacques Urvoas**, Rapporteur on the text, welcomed the Court's decision, stressing that contrary to what has been reported, the text does in no way organise mass surveillance. French Prime Minister **Manuel Valls** underlined that France has now a security framework against terrorism that respects liberties.
- **Civil rights groups have opposed the law**, warning that its provisions undermine fundamental rights, widen extra-judicial surveillance, and lack any real oversight. **La Quadrature du Net**, French advocacy rights group, said that by refusing to implement effective control over the intelligence services, the Court rubber-stamped a historic step back for privacy and freedom of communication.

Open Internet

Turkey: Twitter blocked for the second time this year

- On 22 July, Turkey **briefly blocked Twitter** as users shared images of Suruc bombing, some of which accompanied with calls for protests against the government.
- A government official stated that the country requested Twitter to remove 107 URLs with images of the bombing's aftermath. Before it was blocked, Twitter had removed about 50 of the URLs. Access to Twitter was restored after the company removed malicious content, including hate speech, said the official. Facebook and YouTube received a similar request but were not blocked as they removed the content in question within the timeframe given by the Turkish authorities.

Russia: Ministry of Communications proposes fines for non-compliance with Wi-Fi hotspots regulation

- A year ago, Russia decided that **operators of Wi-Fi hotspots** will have to demand **identification** from anyone logging onto their networks. On 21 July, the country's Ministry of Communications proposed the **levels of fines for non-compliance** for individual entrepreneurs and for legal entities, ranging from 5,000 to 50,000 roubles for individual entrepreneurs and from 100,000 to 200,000 roubles for legal entities. Repeated violation of the law will be punished with higher fines.
- Should the government adopt the proposal, the system would come into force in early 2016.

Cybersecurity

EU: Member States should follow detailed criteria, Parliament says

- Under a **European Parliament compromise proposal** for a new EU cybersecurity law (the Network and Information Security Directive), **obligatory safeguards against cyberattacks** could be imposed on companies meeting certain criteria. Factors that Member States should consider when deciding which private and public organisations must follow the new rules proved complicated to agree on.
- According to the Parliament's note, the **criteria should be used to determine whether a cyber-incident would have a significant disruptive effect**. Among the **cross-sectoral criteria** the countries should follow, there is the **number of people relying on the services** offered by operators, the **impact on economic activities** if services stopped working, and an **operator's market share**.

Copyright

UK: Consultation on increasing penalties for online copyright infringement

- The **UK Intellectual Property Office** opened a **public consultation** on changes to penalties for **online copyright infringement**. The aim of the consultation is to gather views on **equalising the maximum custodial sentence for online and physical copyright infringement** at ten years. Currently, online copyright infringement is punishable by a maximum of two years imprisonment. By comparison, the maximum custodial sentence for infringement in respect of physical goods is ten years. The Office underlined that online infringement is much more significant.
- It is not the first time that the UK seeks to harmonise the maximum custodial sentence for physical and online copyright infringement. In 2005, **Gowers Review** of Intellectual Property recommended that the penalty for online copyright infringement should be increased from two to ten years as the intention and impact of physical and online infringement are the same.

Digital Single Market

EU: Rapporteur Gebhardt broadly supportive of Commission's stance on DSM

- According to Politico's reporting on a working document on the Digital Single Market prepared by **MEP Evelyne Gebhardt** (S&D, Germany), Rapporteur on the DSM for the Parliament's IMCO Committee, **Gebhardt broadly supports Commission's approach**. However, she deplored that **issues related to the shared economy and Internet disruptors are not tackled**.
- While the MEP recognises the utility and benefits of online platforms, she believes that they should be subject to sector regulation.