

ISOC European Regional Bureau Newsletter

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Data protection

EU: European Data Protection Supervisor to set up an Ethics Board

- On 11 September, **Giovanni Buttarelli**, the European Data Protection Supervisor (EDPS), announced his intention to establish an **external ethics board** that will help to better assess the ethical implications of how personal information is defined and used in big data and artificial intelligence.
- In an opinion entitled ***Towards a New Digital Ethics***, the EDPS urged the EU to promote an ethical dimension in future technologies in order to retain the value of human dignity and prevent individuals from being reduced to mere data subjects.

EU/US: Data protection “Umbrella agreement” reached

- The EU and the US have reached an **agreement** on a set of protections for personal data designed to offer a high level of protection for **data exchanged** between American and European investigators. The agreement will limit data for the purpose of preventing, investigating or prosecuting criminal offenses, and limit the ability of the US, or a European country, to pass the shared data to a third country.
- EU Justice Commissioner Věra Jourová said that the finalisation of the **“Umbrella Agreement”** negotiations is an important step to strengthening the fundamental right to privacy and to rebuilding trust in EU-US data flows. In order for the agreement to become operational, the US Congress still need to sign additional legislation giving Europeans the right to sue federal agencies that misuse their data.
- Meanwhile, negotiations on the separate **Safe Harbour agreement** carry on. The negotiations have been blocked due to concerns over data-collection practices used by US security services. However earlier this month, Commissioner Jourová reiterated that a deal was impending.

Digital Single Market

EU: Commission ready to launch public consultation on online platforms

- A **leaked draft** of the forthcoming **public consultation on online platforms** (expected to be launched on 24 September) contains a rather **broad definition of platforms**, ranging from general search engines, to online market places and video-sharing platforms. The document **does not consider Internet Service Providers as platforms**.
- Included in the draft there is a section on the **free flow of data** and on **transparency**. The Commission would also seek to assess whether data held by private entities about users should be open for re-use by the public and/or private sector.
- Commissioners involved in the Digital Single Market cluster discussed the issue of platforms at a meeting in Strasbourg on 8 September. According to media reports, the Commissioners stressed the need **not to appear protectionist in their approach to platforms**.

EU: Commission launches public consultations on the future of telecoms framework

- On 11 September, the European Commission launched two **public consultations** on the future of Europe's telecom rulebook: one on **Europeans' broadband needs** and the other on the **review of the current telecoms framework**.
- Following the evaluation process, the Commission will present its proposal on how to address the identified challenges. A **legislative draft is expected in mid-2016**. The creation of the right conditions for digital products, networks and services is part of the **Digital Single Market Strategy**.
- The consultations are open until 7 December.

EU: Delays in implementation hamper attempts to streamline EU tech law

- According to a **European Parliament study** entitled **Smart Single Market Regulation**, delays in implementation are hampering pre-Digital Single Market attempts to streamline EU tech law. Almost two dozen "digital agenda for Europe" actions set to be implemented from 2011 onwards are already delayed or at risk of delay.
- Meanwhile, in his **State of the Union address** delivered on 9 September, President of the European Commission Jean-Claude Juncker briefly mentioned the Digital Single Market. He noted that together with other projects, the **DSM will reduce obstacles** to cross-border activities and use the scale of the EU to stimulate innovation, connect talents and offer a wider choice of products and services.

Cybersecurity

EU: Member States remain divided over the scope of the NIS Directive

- A meeting which took place last week revealed that **Member States remain divided** with regards to which companies should fall within the **scope of the proposed Network and Information Security Directive (NIS)**. The Luxembourg Presidency recently asked Member States to explain their positions on so-called Internet enablers.
- A majority led by **Spain, France and Germany** is in favour of including at least six Internet enablers within the Directive's scope. They argued that considering the widespread use of Internet services and the number of businesses that rely on the Internet, Internet enablers should be subject to the security and reporting requirements contained in the proposed Directive. The **UK, Ireland, Sweden, the Netherlands, Czech Republic, Slovakia and Poland** voiced their opposition to including any Internet companies.
- The **Presidency called for a light touch approach to Internet enablers** and proposed to come up with a **new text by 16 September**, in view of reaching an agreement before a new round of triologue talks which will take place in November.

Open Internet

EU: Parliament's report defends encryption, anonymity and digital freedom

- On 8 September, the **European Parliament** narrowly **approved** a non-legally binding **report** that **defends encryption, anonymity and digital freedom**.
- The Parliament stated that the EU should **counter the criminalisation of the use of encryption**, anti-censorship and privacy tools. Limitations to the use of encryption within the EU should be refused, and third-country governments that criminalise such tools should be challenged, the report argued.
- The Parliament also condemned the weakening and undermining of encryption protocols and products by intelligence services seeking to intercept encrypted communications.

EU/Germany: Social networks should not tolerate hate speech and extremist propaganda

- In an interview with *Bild*, German Federal Minister of Justice Heiko Maas reiterated his call on Facebook and Twitter **not to tolerate** the spread of **extremist propaganda**. The comment follows a recent surge in animosity towards minorities and refugees on social networks. The Minister had previously asked Facebook to delete racist posts. A similar point was recently raised by Chancellor Angela Merkel.
- **Eva Kühne-Hörmann**, Hessen's Minister of Justice, warned users about the legal consequences of propagating hate speech online, stating that **Internet is neither a legal vacuum** nor subject to special conditions.
- **MEP Jan-Philipp Albrecht** (Greens, Germany) said that a **specialised department** that can work in cooperation with local authorities to search forums and social networks, and effectively carry out cross-border prosecution, **should be set up at Europol**. Albrecht added that there is an urgent need to **promote EU rules** that would define what is and what is not legally acceptable on Facebook.