

ISOC European Regional Bureau Newsletter

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Net neutrality

EU: Parliament approves net neutrality rules

- On 27 October, the **European Parliament adopted** the so-called **Connected Continent package**. Proposed in 2013, the originally omnibus package designed to build Europe's Telecoms Single Market was stripped down to **two main provisions** aiming to **enshrine net neutrality in law** and bring an end to roaming surcharges within the EU by June 2017.
- **Amendments** tabled by several MEPs in order to close what they perceived as loopholes in the legal text were all rejected, receiving support from between 160 and 230 MEPs at the 751-MEP plenary session.
- In **a blog post** published ahead of the vote, **Tim Berners-Lee** called on the MEPs to vote in favour of amendments that would close the perceived loopholes. For example, closing the loophole in specialised services would prevent the creation of online fast lanes and keep the Internet a level playing field. **MEP Marietje Schaake** (ALDE, the Netherlands) qualified the agreement on net neutrality rules as a **missed opportunity**. Commenting on the vote, **MEP Julia Reda** (Greens/EFA, Germany) stated that the vote is **a broken promise** as the final text does not even include the words net neutrality.

Data protection

EU/US: Report calls for bridging the gap between EU and US approaches to data privacy

- A group of independent **EU and US experts in the field of privacy and data protection**, convened on the initiative of **Jacob Kohnstamm**, chairman of the Dutch Data Protection Authority, published a **report** which identifies practical steps to **bridge gaps between the existing approaches to data privacy of the European Union and the United States**.
- The report argues that tensions between the different legal systems result in users losing confidence and provoke confusions of commercial entities. It is therefore necessary to build privacy bridges that would advance privacy values while respecting the differences between the two jurisdictions.
- Deepening of the relation between the **US Federal Trade Commission (FTC)** and the European data protection authorities united in the **Article 29 Working Party (WP29)** is among the proposed bridges.
- In order to promote coordination on policy matters, the report calls on the FTC and WP29 to agree on a **memorandum of understanding**. Currently, the FTC has only bilateral memoranda with concrete countries including Ireland, the Netherlands and the UK.
- The report also seeks to **empower users**, calling on the appropriate EU and US public agencies to cooperate on the creation of a directory of basic information about relevant jurisdictions and how and to whom complaints concerning data privacy may be brought.

EU/US: Data transfer arrangements remain high on political agendas in the EU and the US

- Appearing before the European Parliament's **Civil Liberties Committee**, **EU Justice Commissioner Věra Jourová** stated that the EU and US negotiators working on a new transatlantic data transfers deal are discussing putting into place an **annual joint review mechanism** that will cover all aspects of the functioning of the new framework. The mechanism would involve the relevant authorities from both sides and would cover the use of exemptions for law enforcement and national security grounds.
- On 29 October, **FTC Chairwoman Edith Ramirez** stated that the Safe Harbour ruling has led to an **untenable situation**. However, she remains optimistic about the ongoing EU-US negotiations to come to an agreement by the end of January 2016, deadline set by the WP29. If by then no appropriate solution is found with the US authorities, and depending on the outcome of the alternative tools assessment, national data protection watchdogs would take all necessary steps, including enforcement action, to address the situation.

Germany: Privacy watchdogs stop authorising new data transfers to the US

- In a position paper published on 26 October, **Germany's federal and state data protection authorities** announced that they will **stop authorising new data transfers to the US**.
- The decision is in sharp contrast with the announcements made by the European Commission and the **Article 29 Working Party** which, in the aftermath of the Safe Harbour ruling, called for a coordinated approach to EU-US data transfers.
- In Germany, the approval of new standard contractual clauses, binding corporate rules, and other inter-firm agreements on data transfers are on hold until the **end of January 2016**.
- Furthermore, **Johannes Caspar**, Hamburg's privacy regulator, said that his office will investigate whether companies based in Hamburg are still using Safe Harbour. In order to avoid legal and political consequences of the Safe Harbour judgment, companies should consider storing personal data on servers in the EU, Caspar added.

EU: Protection of personal data is a right for everyone around the globe, says Jourová

- Speaking at the International Privacy Conference which took place this week in Amsterdam, Commissioner Jourová underlined the importance of restoring trust in the Internet. Nowadays, 75% of Internet users in the EU do not feel in complete control of their personal data, Jourová stated. Thus, restoring trust in digital is high on the Commission's agenda.
- The Commissioner added that with the upcoming Data Protection Regulation, the **EU can set a global benchmark** as the **protection of personal data is more than a European fundamental right**: it is a right for everyone around the globe.

Cloud computing

France/Germany: Basic requirements for cloud computing are needed

- A joint declaration of French and German economy ministers following a conference on digital transformation of economies highlighted that France and Germany will coordinate their efforts at the EU level to **create a label guaranteeing the security and integrity of data stored on the cloud**.
- In order to foster confidence in the use of cloud technology, France and Germany consider that it is imperative to agree on basic requirements. The label could **provide for different levels of security and data protection** and be used both by governments in their public procurement of cloud services and by companies in the sector.

Security/Open Internet

France: Senate approves international surveillance law

- On 27 October, French Senate adopted the proposed measures on **surveillance of international electronic communications**. The text provides a legal framework for the monitoring of electronic communications abroad by French intelligence services.
- **Despite strong objections** from human and digital rights advocates, the text gathered a broad support across the French political spectrum, with the exceptions of the Greens and the Communists.
- **La Quadrature du Net** ironically saluted French consistency in terms of serious violations of human rights.
- The text approved by the Senate must be formally approved by the French National Assembly.

Cybersecurity

EU: ENISA presents its 2016 Work Programme

- The **European Network and Information Security Agency** (ENISA) published its **2016 Work Programme** confirming that the agency will **continue working on established priorities**, such as pan-European cyber security exercises, and will support the EU Cybersecurity Month and the CERT community.
- The agency will also **broaden its scope of work** in areas including mHealth and security of the Internet of Things.

Copyright

EU: Copyright reform timeline confirmed

- Speaking at a Policy-UK **event** entitled *The way forward for Copyright – European reforms and implications to the UK* which took place on 27 October, **Anna Herold**, cabinet member of Commissioner Oettinger, revealed the timeline for the reform of the current copyright regime. A proposal on the **portability of content will be released on 9 December**, together with the **Communication on the copyright reform**.
- The remaining proposals will follow in spring 2016. Later next year, the Commission will present its proposal on **IP enforcement**.

General

EU: Commission presents its 2016 Work Programme

- On 27 October, the European Commission published its 2016 Work Programme (CWP) entitled **No business as usual**. Out of 23 **initiatives** announced for 2016, five are related to the digital economy and society.
- In the programme, the Commission reiterated its intention to **present all DSM-relevant proposals before the end of 2016** in order to achieve a functional Digital Single Market during the mandate of the Juncker Commission.
- On top of the copyright framework reform, the Commission will present initiatives on the **free flow of data** and the **cloud**, and will continue its work on a **review of the telecoms regulatory framework** and revision of **satellite and cable directive**.