

ISOC European Regional Bureau Newsletter

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Security/Open Internet

France: Ministry of Interior receives extraordinary powers to block terror-related websites

- On 19 November, the French Assembly **approved the proposed law on the state of emergency** which allows the **Minister of Interior to request Internet service providers (ISPs) to immediately block websites**, including on social networks, that encourage to commit acts of terrorism or which glorify such acts.
- Until now, under **the 2014 anti-terror law**, ISPs were required to block access within 24 hours, and the French data protection watchdog (CNIL) was entitled to designate a controller to verify that the websites were effectively blocked. A total of 89 sites were blocked using these provisions.

EU: Member States consider to fast-track reforms of surveillance laws

- In the aftermath of the Paris terrorist attacks, **UK Prime Minister David Cameron** suggested that the timetable of the draft **Investigatory Powers Bill** should be reviewed, which is to be understood as **fast-tracking its adoption**. The proposal to speed the legislative procedure was **originally voiced last week-end by Lord Carlile** (Liberal-Democrats), former UK's Independent Reviewer of Terrorism Legislation.
- Other EU Member States, including **Sweden and Finland**, have suggested similar regulatory **fast-tracking** of intelligence and surveillance laws. Both countries proposed amendments to existing laws which include **increased online surveillance powers** for police and military forces which will be presented to their respective parliaments next week.

EU: The role of the Internet in radicalisation gains prominence

- **EU Commissioner of Home Affairs Dimitris Avramopoulos** confirmed that on 3 December the European Commission will launch **the EU Internet Forum**. EU Heads of States and representatives of Internet companies will meet to discuss how to address issues of radicalisation through the Internet.
- The forum will be launched in the context of the EU institutions and Member States increasingly voicing concerns about the **Internet being a facilitator of terrorist activities**.
- France has been particularly vocal on this issue. This week, MP **Xavier Bertrand (Les Républicains)** criticised online services for facilitating radicalisation. Earlier this year, during his visit to Silicon Valley, **Minister of Interior Bernard Cazeneuve** also called on Internet companies to do more to tackle extremism online.
- On 25 November, the plenary session of the European Parliament **will vote on the report on measures to prevent radicalisation** and recruitment of EU citizens by terrorist organisations, which also includes considerations on the role of the Internet. The dossier is led by **MEP Rachida Dati** (EPP, France).

UK: Internet industry raises concerns about the Investigatory Powers Bill

- At the **20th Anniversary Conference of ISPA** (the UK's Internet Services Providers' Association), which took place on 18 November, the **Internet industry raised concerns** with regards to the **Investigatory Powers Bill**.
- **Definition of communications data**, what exactly constitutes an **Internet Connection Record**, and **attempts to undermine encryption** which could damage user trust in digital services were among the issues raised.

Cybersecurity

EU: Diverging views on online platforms continue to divide negotiators

- On 17 November, negotiators on the proposed **Network and Information Security Directive (NIS)** failed to reach an agreement on how the envisaged rules should apply to online services, such as cloud-service providers, search engines and social networks.
- The **European Parliament** has been arguing **against inclusion of the so-called Internet enablers** within the scope of the proposed Directive. Reportedly, at the last meeting, the Parliament was especially vocal about the exclusion of social networks and payment gateways from the scope.
- Despite the **limited amount of progress** in the latest rounds of negotiations, it was understood that negotiators believe an agreement on a final text could be reached on **7 December**.

Data protection

Belgium: Facebook meets with data protection watchdog to discuss cookie ruling implementation

- On 19 November, Facebook met with the **Belgian Privacy Commission** to discuss the recent **ruling** of a Belgian court which ordered the social network to **stop tracking Internet users** who do not have accounts with the network. The issue at stake is the so-called **datr cookie** which is placed within an individual's web browser.
- Facebook has **reiterated** that the cookie is necessary to **protect users from malware and spam** and **prevent hackers** from accessing users' accounts. According to the company, the datr cookie enabled Facebook to **stop 10,000 attempts to break** into the accounts of Belgian users over the past seven days.
- The company has agreed to comply with the Belgian court order, pending the outcome of an appeal. However, it stated that the **question of jurisdiction still needs to be settled** and that the issue will need to be examined by higher judges and could end up in the EU's top court.

EU: European Data Protection Supervisor publishes an opinion on big data

- On 19 November, the **European Data Protection Supervisor** Giovanni Buttarelli (EDPS) published his **opinion** on **big data**. The supervisor **presented** his intention to launch an open discussion with all stakeholders involved (legislators, regulators, industry, civil society and academia) to examine how to ensure that **society can reap the benefits of big data and be effectively protected**.
- According to the EDPS, the innovative ways companies find to use personal data should also be used in the implementation of data protection laws. The supervisor also highlighted that individuals should be given clear information with regards to the use of their data, calling on companies to be more transparent. One of the ways of doing this is **giving users greater control** and providing them with the opportunity to make an informed choice, the supervisor argued.
- The EDPS announced that a **Big Data Protection workshop** will be organised in the near future.

UK/EU: Court of Appeal of England and Wales asks EU court about data retention

- On 20 November, the Court of Appeal of England and Wales asked the **Court of Justice of the European Union** whether its 2014 decision to annul the **EU Data Retention Directive** is **binding on national programmes**. The issue was already raised in June by a **Swedish appeals court**.
- While some Member States (e.g. Austria and the Netherlands) struck down their national data retention provisions following the EU court's decision, others, including the UK, maintained their laws.
- The requested **EU ruling is likely to have an impact on the UK's Investigatory Powers Bill** as it includes data retention provisions.

EU/US: Fundamental right to privacy underlined as new rules for EU-US data flows are being negotiated

- EU Justice Commissioner **Věra Jourová** travelled to the US this week to continue negotiations on a new **Safe Harbour agreement** which was recently struck down by the decision of the Court of Justice of the European Union.
- In her **speech** delivered at the Brookings Institution on 16 November, the Commissioner underlined that transatlantic data flows are essential for commercial relationship and effective law enforcement. She also pointed out three dimensions that must go hand in hand with data: fundamental right to privacy and protection of personal data, need for security, and economic opportunities and growth.

Digital Single Market

Italy: Regulation of online platforms on table of the Italian legislators

- A committee of the **Italian Parliament** will next week **vote** on a proposal which would build up basis for Europe's first **regulation of online platforms**.
- The draft text would **empower users** to switch services more easily and would **enshrine net neutrality** into law, ahead of the recently approved EU law which is scheduled for implementation in 2017.
- **MP Stefano Quintarelli** who proposed the bill announced that he plans on tabling another proposal that would **regulate online platforms** further in spring 2016. The future proposal should **address algorithms** in order to assess whether companies do not use them to discriminate against competing services.
- The **European Commission launched a public consultation** on the matter of online platforms in September. The Commission will use the outcome to decide whether or not regulation of online platforms is necessary. A similar probe is being conducted in the **UK**.

Child Safety Online

UK: Ofcom's report reveals greater use of parental control mechanisms

- **The Children and Parents: Media and Attitudes report**, the UK's communications regulator (Ofcom) released on 20 November, **revealed** that **92% of parents of 8-15s manage their children's Internet use**, for example by using technical tools.
- Among the technical tools used are **network-level content filters** offered by broadband providers. The report said that 56% of parents of 8-15s are aware of these parental controls, up from 50% last year, and a quarter uses them, up from 21% in 2014.