

ISOC European Regional Bureau Newsletter

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Security

EU: Launch of the EU Internet Forum designed to tackle radicalism online

- On 3 December, the **European Commission launched** the so-called **EU Internet Forum** which brings together representatives of tech companies, the European Parliament, the EU Counter Terrorism Coordinator, EU Interior Ministers and Europol to **counter terrorist content and hate speech online**.
- The Forum is part of the key commitments of the **European Agenda on Security** the Commission presented in April 2015.
- Launched by **Dimitris Avramopoulos**, EU Commissioner for Migration, Home Affairs and Citizenship, in cooperation with **Věra Jourová**, Commissioner for Justice, Consumer and Gender Equality, the goal of the Forum is to **promote a joint, voluntary approach** based on a public-private partnership. It will aim to **detect and address harmful content online**, and **protect the public from the spread of terrorist material** and terrorist exploitation of communication channels. The participants will also hold discussions on the **better use of the Internet to counter terrorist narratives** and hate speech online.
- The Commission announced that it will want to **promote faster detection and take down** of online terrorism incitement and hate speech.

Germany: Watchdog to bring intelligence services to court

- For the first time in its history, the **German Parliament's committee overseeing** the national intelligence services, the so-called **G10**, prepared a **complaint** to the country's Federal Constitutional Court. The issue at stake is **transfer of selected data collected by the country's intelligence services to the US National Security Agency (NSA)**.
- The G10 had approved the surveillance of the **German Internet Exchange Point De-Cix** by the German intelligence services. However, revelations about selected data being transferred to NSA through **Operation Eikonal (see below)** prompted the G10 to request access to the complete list of subjects whose data was transferred, as it appeared that the list included names of EU military projects and European diplomatic bodies. The government rejected the request.
- The existence of a **secret cooperation agreement** called Operation Eikonal, which the German intelligence services struck with the NSA to share telephony and Internet data from Germany through Deutsche Telecom's switching centre, was revealed to the public in October 2014.
- De-Cix is the world's biggest IXP based in Frankfurt and winner of the Capacity Award for best Internet Exchange 2015.

Data protection

EU: Higher fines for privacy violations backed by Member States

- On 2 December, EU Member States reportedly accepted a proposal made by the Luxembourg Presidency of the European Union under which companies that would violate the reformed EU data protection rules could be **fined up to 4% of their annual turnover**.
- While the European Parliament has been pushing for fines worth up to 5% of a company's turnover, Member States initially proposed a 2% ceiling for the fines.
- Currently, **not all national data protection watchdogs have the power to levy fines**. Moreover, when they do, the amounts are very limited compared to the global revenues of multinational companies.

EU/US: New framework agreement for transatlantic data transfers should be ready in January

- In an interview with Austrian newspaper *Wirtschaftsblatt*, **Commissioner Věra Jourová** confirmed that a **new EU-US agreement on data transfers** between the EU and the US shall be **ready by the end of January 2016**. The negotiators will take stock of negotiations on **17 December**.
- Considering that the decision of the Court of Justice of the European Union which struck down the Safe Harbour agreement highlighted the power of national data protection authorities, the new framework is expected to **confirm this larger role of watchdogs** and allow citizens to complain directly to national authorities about how their personal data is being handled.

EU: European Data Coalition asks for more time for data protection reform talks

- In a **letter** sent to the Council of the European Union, the **European Data Coalition** urged the members **to disregard the deadline** to conclude the General Data Protection Regulation negotiations by the end of 2015, and **take the necessary time** to ensure strong privacy rules for a data-driven economy. The letter also called for proportionate breach **sanctions**.
- Earlier this year, all parties to the negotiations **informally agreed to conclude an agreement by the end of 2015**, as stakeholders criticised the lengthy process which has been ongoing since January 2012.
- This letter from the industry coalition, which represents a variety of European companies (e.g. Allegro, Ericsson, Klarna and SAP), built on a **similar plea made last week by MEP Axel Voss** (EPP, Germany).

EU: Facebook's data transfers to the US questioned by activist who brought down Safe Harbour

- In a letter sent to the Irish, Belgian and Hamburg data protection watchdogs, **Max Schrems**, an activist whose complaint brought down the **EU-US Safe Harbour agreement**, requested for the authorities to declare the so-called **standard contractual clauses** used by Facebook to transfer data to the US invalid.
- Following the annulation of Safe Harbour, many companies rely on contractual clauses to transfer personal data of EU citizens to the US.

Belgium: Facebook introduces new log-in control in reaction to the cookie judgement

- In reaction to the recent **ruling** of a Belgian court on the so-called **datr cookie**, Facebook announced that it will **stop tracking browsers** of Facebook pages in Belgium who are not signed into a Facebook account. Up until now, non-users could view public Facebook pages from business, celebrities or tourist attractions without needing to log into Facebook. In Belgium, registered users who are using a particular browser for the first time may also need to complete additional security steps.
- Facebook has argued that **Belgium has no authority on the issue** as its headquarters are in Ireland, and therefore the company should be policed by Irish regulators only. The changes implemented are expected to make the company compliant with the Belgian ruling against which Facebook plans to appeal.

Net neutrality

Germany: *Die Linke* calls upon the government to come up with a strict net neutrality law

- On 3 December, the German **Left Party** (*Die Linke*) called on the German government to address loopholes in and clarify certain aspects of the **Telecom Single Market Directive** that the country needs to implement following the Directive's adoption by the European Parliament and the Council of Ministers.
- The party expressed concerns with regard to exceptions to the net neutrality principle for the so-called specialised services, fearing that the transposition of the **Directive could lead to a two-tiered Internet**.
- The party argued that the legislator, not a telecoms regulatory body, should decide what constitutes **justified traffic management** and what should be considered as breach against the net neutrality principle. According to the party, the *Bundestag* should minimise the regulatory agency's margin of discretion.

Digital Single Market

EU: MEPs go against the Commission on single definition of platforms

- The European Parliament's draft report on the **Digital Single Market** indicates that MEPs seem to agree that **there is not one single definition for online platforms**. This goes against the European Commission's attempt to coin a definition.
- Published in May 2015, the **Digital Single Market Strategy** called for a **comprehensive assessment** of the role of online platforms. As part of the assessment, the Commission launched a **public consultation** asking stakeholders to give their opinion on a possible definition of an online platform.
- **MEP Evelyn Gebhardt** (S&D, Germany), Rapporteur on the DSM Strategy from the Parliament's Internal Market Committee, explained that an **all-embracing definition is not possible** as online platforms are very diverse. She added that it is important to **distinguish between web platforms as structures, and platforms as service providers**. MEP **Michał Boni** (EPP, Poland) also supported the need to consider several definitions.

Copyright/Digital

France: French Digital Council (CNN) calls for adjustments to the draft digital bill

- On 1 December, the French Digital Council (*Conseil National du Numérique* - CNN), an independent advisory commission on the digitisation of the economy and society, issued **a critical opinion** on the proposed digital bill.
- CNN voiced regrets that the bill dropped the idea of **knowledge commons**, which enable data and content to be collectively owned and managed by a group of online users. It also warned about **potentially clashing provisions on data access, re-use of data and flow of data**, which could be contrary to the EU Directive on the re-use of public sector information which is in the process of transposition.
- However, the Council also congratulated the government for the overall ambitious text. **Benoît Thieulin, President of CNN, praised the fact that the government** opened the draft bill to a public consultation.