

ISOC European Regional Bureau Newsletter

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Data protection

EU: Article 29 Working Party issues action plan for GDPR implementation

- The umbrella organisation of the EU national data protection authorities, **Article 29 Working Party (WP)**, published a statement on the **2016 action plan for the implementation of the General Data Protection Regulation (GDPR)** which is close to adoption.
- The reform of the EU data protection framework will establish a **new governance model** built on three pillars: national data protection authorities, enhanced cooperation between authorities and European Data Protection Board (EDPB) level for consistency. The WP's action plan draws priorities in preparing the transition into the new legal framework
- The **plan is based on four priorities**: set-up of the administrative structure of the EDPB, preparation of the one-stop shop and consistency mechanism, issuance of guidance for controllers and processors, and communication around the EDPB/GDPR.
- The WP Chair, the Vice - Chairs and the European Data Protection Supervisor (EDPS) set up a task force on the EDPB whose secretariat will be ensured by the European Data Protection Supervisor.
- The WP selected **priority subjects** to which it will **provide guidelines or processes** to help and accompany controllers and processors to get prepared for the entry into force of the GDPR. The guidelines will cover the following topics: new portability right, notion of high risk and Data Protection Impact Assessment (DPIA), certification and data protection officer.
- This **action plan will be subject to periodical reviews** and will be complemented in 2017 with new objectives and deliverables. Where appropriate, the WP pledged to consult the relevant stakeholders to exchange views on the GDPR implementation.

UK: Computer hacking by GCHQ is not illegal, court rules

- The **Investigatory Powers Tribunal (IPT)** ruled that hacking of computers, networks and smartphones in the UK or abroad which is carried out by the UK's security and intelligence organisation GCHQ does not breach human rights. The ruling confirmed that computer network exploitation, which may involve remotely activating microphones and cameras on electronic devices without the owners' knowledge, is legal.
- The IPT which investigates complaints about surveillance and intelligence services **dismissed complaints brought by the campaign group Privacy International** and seven Internet service providers from around the world.
- In the ruling, IPT emphasised the necessity to strike the right balance between the need of the intelligence agencies to safeguard the public and the protection of an individual's privacy and freedom of expression, and welcomed a code of practice for hacking published by the Home Office.

US/EU: Backdoor into encryption could result in a conflict with EU regulation

- The **FBI has asked Apple** to cooperate with the US government **to unlock and decrypt** the iPhone of one of the shooters of the recent San Bernardino attack, **disable a software** feature which enables the phone to erase all data if the wrong password is entered too many times, and give **authorisation to the FBI to submit passcodes remotely**.
- **Tim Cook**, Apple's Chief Executive Officer, **warned against the repercussions** this would have on the future of **encryption**, saying that it could be **tantamount to creating a generalised backdoor**. If the decryption of San Bernardino attacker's phone was to be ordered, it would create precedent in US jurisdiction and could lead to similar demands in other countries.
- A source at the **European Commission** said that such order could result in Apple losing its **legal basis for transatlantic data transfers** (Article 43A of the GDPR).
- Backing the **Dutch government's position in favour of strong encryption**, French State Secretary in charge of Digital Affairs **Axelle Lemaire** recently stated that backdoors into encryption would increase vulnerability of systems.

Belgium: Parliament Committee discusses data retention

- On 16 February, the **Justice Committee of the Belgian Parliament** discussed **plans for a new data retention law**. The Belgian law on data retention was struck down by the country's Constitutional Court in June 2015.
- The **EU Data Retention Directive** was invalidated by the 2014 ruling of the Court of Justice of the European Union which declared that the Directive was interfering seriously with the fundamental rights to respect of private life and to the protection of personal data.

Cybersecurity

EU: ENISA launches an e-learning platform on National Cybersecurity strategies

- The **European Network and Information Security Agency (ENISA)** has launched the **National Cyber Security Strategies e-learning platform** which provides courses aiming to facilitate designing of national cybersecurity strategies, implementing a national action plan and raising awareness on cybersecurity topics.
- ENISA expects the **platform to be used by experts** involved in the process of creating or implementing a strategy at a national level.

Open Internet

Russia: Report reveals exponential growth of Internet censorship in 2015

- According to the results of a report by Agora, a group of human rights lawyers, **Internet censorship in Russia soared in 2015** as the government stepped up efforts to filter content online.
- The "The Triumph of Censorship" report found that media reports, government statements about blocked web pages, and prosecutions of people for what they posted online increased exponentially last year compared to the 2014 figures. Overall, incidents of Internet censorship increased from 1,019 in 2014 to 9,022 in 2015.
- Commenting on the results, Damir Gainutdinov, one of the report's authors, stated that **Internet censorship will further intensify this year**. Gainutdinov argued that the Russian government is also likely to increase pressure on foreign Internet companies.

Cloud computing

EU: Commission readies European Open Science Cloud project

- According to media reports, the **European Commission readies a proposal on the European Open Science Cloud** which would **create a free, open-access cloud network**.
- The cloud is expected to **offer European researchers and science and technology workers** access to services for storage management, analysis and re-use of data across borders.

Global

Global: Recommended outcomes for promoting innovation and the digital economy at G7

- In a joint press release, **DigitalEurope**, the Information Technology Industry Council (ITI) and Japan Electronics and Information Technology Industries Association (JEITA) called on the participants of the upcoming **2016 G7 Summit and ICT Ministerial meeting** to promote innovation and the digital economy. The press release underlined that G7 is a critically important setting to outline approaches to managing global ICT policy challenges.
- The press release contains a **list of recommended outcomes** for the meeting through which G7 would demonstrate global leadership on ICT priorities - advancing privacy protection, enhancing national and data security, and enabling cross-border data flows.
- With regards to **data flows and localisation measures**, the signatories called on countries not to impose measures requiring the local storage or processing of data. As for **cybersecurity**, the press release underlined that any cybersecurity measure should reflect the global nature of cyberspace and rely on risk management-based approaches.
- The importance of **using global, voluntary, and industry-led standards** in the development of new products and services, and **refraining from mandating the disclosure** of production processes, development methods, or other proprietary information as a condition for doing business, were also highlighted as key for the ICT sector to thrive.