

ISOC European Regional Bureau Newsletter

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Data protection

EU: CNIL charges Google for not properly implementing the right to be forgotten

- The **French data protection authority** (CNIL) **announced** that it fined Google €100,000 after the company **refused to comply** with the authority's injunction. In May 2015, CNIL requested Google to extend delisting of search results subject to the right to be forgotten to all of its search engine's domain name extensions.
- Google had argued that a **wide application of the right to be forgotten could have a negative impact** on the free flow of information, and in January 2016 proposed an alternative solution. Google said that in the EU, it will delist search results subject to the right to be forgotten from all its websites when a user conducts a search from the country where the removal request was submitted. The search results will be **filtered based** on the geographic origin of the person performing the search.
- CNIL criticised Google's proposal arguing that solely delisting on all of the search engine's extensions, regardless of the extension used or the geographic origin of the person performing the search, can **effectively uphold the right to be forgotten**.

EU: GDPR will not hamper attempts to counter cyberattacks, Commissioner Jourová says

- In her **response** to **MEP Pablo Zalba Bidegain's** (EPP, Spain) **question** on what the European Commission's plans are to ensure that the General Data Protection Regulation rules for profiling and processing of personal data do not impede the work of European cybersecurity companies, EU Justice Commissioner Věra Jourová stated that companies will be allowed to **sidestep the EU data protection law to address cyberattacks**.
- The Commissioner recalled that **Recital 39 of the Regulation** which says that to avoid deterring cybersecurity efforts, the processing of certain personal data for purposes including preventing unauthorised access to electronic communications networks and stopping 'denial of service' attacks, can be carried out on the basis of the legitimate interests of the data controller.

Security

EU: Leaders pledge to increase cooperation to effectively combat terrorist threat

- In a **joint statement** following the Brussels terrorist attacks, **EU Justice and Home Affairs** ministers highlighted the urgent need to **find ways to effectively and quickly secure and obtain digital evidence in terrorist investigations**. One of the suggested channels is intensification of cooperation with service providers active in the EU.
- In order to **tackle radicalisation and counter terrorist propaganda**, the statement also confirmed that the Commission will intensify work with tech companies, notably in the **EU Internet Forum**. A **code of conduct** against hate speech online will be **developed by June 2016**.

EU: Director of Europol calls for rules addressing encrypted communications

- In an interview with *Politico*, **Rob Wainwright**, Director of Europol, stated that **encrypted communications via the Internet and smartphone hamper terrorism investigations**, and called on the EU to find a more constructive legislative solution for what he called **a problem of encryption**.
- Wainwright said that the EU is currently struggling to create laws dealing with the **challenges of Internet-based communications**. While there are established rules for law enforcement agencies to intercept private phone calls, there are no rules addressing encrypted communications.

Belgium: Brussels attacks likely to speed up overhaul of Belgian laws

- Belgium is likely to speed up work on the proposed laws designed to increase the powers of intelligence agencies and render access to data in criminal investigations easier.
- Streamlining of **rules for online activities and hacking rights** and greater freedoms for intelligence agencies to **tap on communications** are among the proposals currently under revision by the Council of State.
- In January, the government introduced a **proposal on data retention** which would allow prosecutors to request users' data gathered by providers during the past 12 months. A vote on the draft is expected to take place in April. Belgian data retention law was struck down by the country's Constitutional Court last year.

Denmark: Government proposal to reintroduce session logging on hold due to new findings of high costs

- On 17 March, the **Danish Minister of Justice Søren Pind** announced that he would put on hold the controversial proposal to **re-introduce session logging** that would **require Internet Service Providers to retain information about users' source and destination IP addresses**, port numbers and timestamps. The decision was taken after a government commissioned report by E&Y revealed that the **investment cost** in new equipment and **operational costs would increase substantially**.
- Session logging was repealed in Denmark in 2014 after the European Court of Justice invalidated the EU Data Retention Directive.
- Pind announced a proposal to reintroduce session logging on 29 January 2016 in a meeting with the Danish Telecom Industry Association and civil society organisations, which refuted the proposal's effectiveness and proportionality.
- Shedding light on the cost of session logging in Denmark has echoed in the British debate on the **Investigatory Powers Bill**.

Copyright

EU: Consultation on publishers' role in the copyright value chain and on panorama exception opened

- On 23 March, the European Commission launched a public consultation on neighbouring rights and the so-called panorama exception in view of the copyright reform proposal expected in September. **Stakeholders are invited to respond to the consultation in the period running until 15 June**.
- The matters discussed in the public consultation touch upon **the impact that a new neighbouring right, which the new copyright rules could grant to publishers, would have on the publishing value chain** and whether the press is a sector that requires a specific intervention in comparison to other publishing sectors. The so-called **panorama exception** is also subject to a specific questionnaire.

Telecoms framework

EU: Telecoms framework overhaul should focus on network openness and connectivity for all

- **Sebastien Soriano**, Chairman of the French telecom regulator *Arcep* who will take over the rotating chairmanship of BEREC (Body of European Regulators for Electronic Communications) next year, said that the planned overhaul of the EU telecoms framework should focus on providing **a clear direction for the future**.
- Talking at the European Parliament's event "*The Digital Revolution: How to Finance Network Infrastructures?*", Soriano said that the direction should consist of two main streams: **keeping networks open** and **ensuring connectivity for all**.