

ISOC European Regional Bureau Newsletter

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Privacy Shield

EU: EDPS issues official position and considers the Privacy Shield is not robust enough

- On 30 May, the European Data Protection Supervisor (EDPS) published its official position on the privacy shield agreement.
- It recognises the importance of providing a sustainable legal framework for commercial transfers of transnational data. However, it calls for **further safeguards** and significant improvements should the European Commission wish to adopt an adequacy decision compliant with the key data protection principles of **necessity, proportionality and judicial redress**.
- The opinion is not binding but exerts pressure on the European Commission and could potentially reopen negotiations should significant changes be needed.
- The Article 31 committee is expected to meet on 6 and 20 June in hopes of getting the deal approved; should this happen, the College of Commissioners is scheduled to agree on the deal by end June.

EU and US sign Umbrella Agreement

- The Umbrella Agreement, signed on 2 June, sets a comprehensive high-level data protection framework for criminal law enforcement cooperation.
- The agreement covers all personal data exchanged between police and criminal justice authorities for the purpose of prosecution of criminal offences and terrorism. It offers safeguards of the legality of data transfers, including provisions on clear limitations on data use, prior consent obligation, and the right to access and rectification.
- The agreement is awaiting approval from the European Parliament.

Data protection

UK: Investigatory Powers Bill

- The House of Parliament's Joint Committee on Human Rights issued its legislative Scrutiny of the Investigatory Powers Bill on 1 June.
- The Committee stated the collection of large volumes of personal data is not "inherently incompatible" with privacy laws and "was capable of being justified."
- Addressing the issue of human rights, the report called for more work to "further the compatibility of the legal framework with human rights"; it also called for the operational use of the Bill's to be subject to scrutiny and a parliamentary report by the independent reviewer of terrorism legislation.
- The legislation will pass to the Commons on 6 June for further scrutiny; Home Secretary Theresa May's intention is for it to enter into law by the end of 2016.

Digital Single Market

EU: European Standards for the 21st Century

- On 1 June, the European Commission published its **Standardisation Package** which aims to **harmonise technology and service standards** across the EU.
- The Package includes a **Commission decision providing the framework for the Joint Initiative on Standardisation**, which will bring together representatives of public authorities and industry, with a remit to modernising, prioritising, and speeding up the **delivery of standards by the end of 2019**.

Sharing economy

- On 2 June, the European Commission issued **recommendations** to Member States which will serve as guidance for the collaborative economy – addressing issues such as liability, user protection, the consolidation of an employment relationship, applicable tax rules and advice on market access requirements.
- Reflecting the recent tone of the **Communication on online platforms**, the Commission highlighted the benefits brought about for consumers and innovation by companies such as Airbnb and Uber, advocating the use of existing regulatory tools (such as the E-commerce Directive) rather than sector-specific regulation.

Cybersecurity

EU: agreement on a common level of security of network and information systems across the Union

- On 30 May, the Council published a **Communication** from the Commission to the European Parliament on the position of the Council on the adoption of a **Directive concerning measures for a high common level of security of network and information systems across the Union**.
- The European Commission supported the inter-institutional negotiations and accepted the Council's position at first reading.

EU: Annual Cyber Security Summit

- On 31 May, Politico hosted its second annual conference, bringing together MEPs, security experts and the European Commission to discuss the threats posed by cyberattacks, cyberwarfare and online radicalisation.
- There was general agreement that while the NIS Directive and efforts - particularly by cloud providers, online platforms and social media companies – were steps in the right direction, more coordinated concerted efforts were needed if the EU was to deal more effectively with a growing and ever-more sophisticated issue.
- The EU should take a lead in establishing principles on a global level that reflect European values. All stakeholders **need to cooperate** to provide solutions and responses to the threats.

Hate Speech Online

EU: new Code of Conduct on fighting online hate speech

- The European Commission, together with YouTube, Facebook, Twitter and Microsoft, announced a new EU **Code of Conduct** on illegal online hate speech.
- The Code requires that companies “have in place clear and effective processes to review notifications regarding illegal hate speech on their services so they can remove or disable access to such content.”
- Companies will be required to review the majority of flagged hate speech posts within 24 hours and remove the material if needed; provide guidance to their users on what is and is not acceptable; offer regular training to their staff on dealing with content; cooperate amongst themselves on how to deal most effectively with such material.

Internet Governance

EU: Council of Europe closely safeguards online content

- The Council of Europe’s Secretary General, Thorbjørn Jagland, stressed the importance of having transparent and clear legal frameworks in relation to blocking, filtering and removing online content; he also called for appropriate safeguards for freedom of expression and access to information to be granted.

AVMS

EU: publication of impact assessment concerning the provision of audiovisual media services

- Following the proposal for an updated AVMS Directive presented on 25 May, the Council published the final drafts of the Commission staff working document impact assessment and its executive summary.
- The main challenges involve a **lack of protection of minors and consumers** of video platforms, lack of playing field between traditional broadcasting and on-demand services, and lack of preciseness of AVMSD rules, as well as rules on commercial communications which are no longer appropriate.
- The Ex-post REFIT evaluation of the AVMS Directive was also made public, together with an executive summary.

Cloud Computing

EU: An overview of economic and policy issues

- The European Parliament Research Service published research findings on cloud computing.
- The Commission intends to propose a **‘free flow of data initiative’**, tackling restrictions on data location, as well as a **European Cloud initiative**.
- Areas of concern include personal data protection and privacy, security and interoperability and portability of data and applications.

Broadcasting

EU: Parliament briefing on the Satellite and Cable Directive

- The briefing introduces new forms of broadcasting - including online broadcasting, webcasting, and simulcasting - that raise new challenges to copyright and related rights. The document will be reviewed by the Commission to ensure compliance with the latest developments in the world of broadcasting.