

ISOC European Regional Bureau Newsletter

19– 25 October 2013

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Data protection

EU: LIBE Committee strengthens proposed data protection measures

- On 21 October, an overwhelming majority of members of the European Parliament's **Civil Liberties Committee** (49 votes in favour, 1 against) voted on the proposed overhaul of the **EU data protection framework**. The text adopted comprises 104 amendments (nearly 4,000 of them were tabled) and **reinforces some of the proposed measures**: data transfers outside the EU; sanctions for breaches; explicit consent; right to erasure and profiling.
- Reacting to the concerns raised with regards to US surveillance, MEPs have inserted **stronger safeguards for data transfers outside the EU**. If a non-EU member state requests disclosure of personal data processed in the EU, it will have to be authorised by a national DPA. The data processor will also be required to inform the data owner about the request.
- As for the **sanctions**, companies breaching data protection provisions would face fines of up to €100 million or up to **5% of the annual worldwide turnover**. The Commission proposed penalties of up to €1 million or 2% of the global annual turnover.
- Also everyone would have the **right to have his personal data erased** on request. The data controller dealing with the request would also be required to inform other controllers where the data in question is replicated. Thus, this right to erasure replaces the **right to be forgotten** proposed by the Commission.
- Where data processing is based on **consent**, a company processing personal data may do so only after obtaining clear permission from the data subject (freely given, specific, informed and explicit indication of subject's wishes). The consent can be withdrawn at any time.

EU: Members States don't want to rush data protection overhaul

- At the European Council meeting of 24 October, Heads of EU Member States agreed to **eliminate a 2014 target for the adoption** of the proposed data protection overhaul, despite the momentum gained during the last days due to the revelations on US surveillance.
- The Council Meeting's conclusions linked the adoption of the data protection reform to the **completion of the Digital Single market by 2015**. The same deadline has been put forward for the adoption of the Network and Information Security Directive.
- The next meeting of EU Justice Ministers on data protection reform will take place on **5-6 December 2013**.

Open Internet

Italy: Opposition mounts against the proposed site-blocking law

- A draft **regulation on digital copyright** proposed by the Italian telecommunications watchdog AgCom has been widely criticised as threatening internet users' freedom of expression and imposing excessive **economic burdens on ISPs**. In a letter sent to the lower house of the Italian parliament, the opposing coalition calls for the assembly to suspend the regulation, which could be effective as of February 2014.
- The proposed regulation gives AgCom the power **to request blocking of websites, domain names or IP addresses** following a copyright holder request, without court authorisation.
- ISPs have argued that the newly proposed system would impose economic burdens perceived as **devastating for small ISPs' business**, underlined president of Assoprovider, an association of ISPs. According to the proposal, the ISP would have two days to implement the block.

Copyright infringement

EU needs copyright regime for digital age, but no decision taken yet

- At the meeting of the European Council, Ministers voiced support for the **reform of EU the copyright regime** but delayed the decision on whether a legislative overhaul was needed. A section of the draft conclusions from the Council which encouraged the Commission to propose legislation has been erased.
- EC **Internal Market department**, the leader on the dossier, has been working with other Commission departments to **frame an impact assessment**. Meanwhile, an external contractor is soon to deliver reports assessing the current copyright framework with respect to the **territoriality of copyright** and the existing (and possible future) **exceptions to copyright** (e.g. private use of protected content).
- A **public consultation** on the subject is expected to be launched before the end of the year. The Commission is to complete the on-going review of the copyright framework by spring 2014.

General

Commission creates expert group on digital taxation

- On 22 October, the Commission has decided to create a **High Level Expert Group on Taxation of the Digital Economy**. The main task of the body is to guide the EU's approach to digital economy taxation and allow the **Commission to develop any necessary initiatives** to improve the tax framework for the digital sector in Europe.
- The group should start its work before the end of the year and report back to the Commission in the **first half of 2014**. The European Council will return to taxation issues at its December 2013 meeting.

EU: Broadband may become universal service

- **Commissioner Kroes** announced that the Commission will evaluate whether **broadband connections** should be listed amongst **universal services** designed to provide a safety net for low-income households and remote regions. The rules were put into place during the liberalisation of Europe's telecom industry in the late 1990s. Kroes' announcement came in response to MEPs who have called for the revision of the rules. EU law gives Member States considerable margin on the implementation of measures.