

European Media Policy



A Newsletter from NORDICOM

No.3, 2015 (December)

Freedom of Expression

Concern about Increased Surveillance in Europe	p.2
Hate Speech: IT Companies to Police the Internet?	p.2
Hypocritical Response to Media Crackdowns in Turkey	p.3
Concern about Growing Threats to Female Journalists	p.4
CoE Looks into Threats to Journalists and their Effect	p.4

Online Platforms

Consultation on Role of Online Platforms	p.4
Power Balance in Media Sector Shifts to Platforms?	p.5
Search and Social Media Soon Main Sources of News?	p.6
Google Makes Editorial Decisions	p.6

Media - General

More Access to Online Content across the EU?	p.7
Action Plan for Further Copyright Reforms	p.7
EU Audiovisual Rules to Apply to New Services?	p.8

Internet

Net Neutrality: Law Adopted but Debate Continues	p.9
Critical Year for Internet Governance	p.9

Privacy/Data Protection

EU – US Agreement on Data Transfers Rules Illegal	p.10
New Privacy Rules Affected by Paris Attacks?	p.11
Data Protection Supervisor Wants Discussion on Big Data	p.12
Drones Need Privacy Rules	p.12
UNESCO to Work More on Privacy Issues	p.12

Freedom of Expression

Concern about Increased Surveillance in Europe

Ever since Edward Snowden's revelations in 2013 about mass surveillance there have been many calls in Europe to curb this practice, not least from the European Parliament. Nevertheless, in recent months – even before the brutal terrorist attacks in Paris on 13 November – more surveillance measures were introduced in Europe. And new proposals are under consideration.

On 4 November a bill was presented in the UK Parliament unveiling plans for sweeping new surveillance powers, including the right to find out which websites people visit. The bill has been widely criticised, among others by the OSCE Representative on Freedom of the Media Dunja Mijatović, who pointed out:

“The proposed bill provides for a wide expanse of surveillance activities that could fundamentally alter the way the state protects the freedom to seek, receive and impart information,” [Mijatović said](#). “Any legislation that allows government snooping must be narrowly drawn and include guarantees, as a basic pre-condition for investigative journalism, that confidentiality of journalists' sources would not be compromised.”

The United Kingdom is not the only EU country to call for more surveillance. On 29 October the European Parliament adopted a [resolution](#) on the matter.

Here the Parliament raises concerns about recent surveillance laws in several EU countries, such as France, the UK and the Netherlands. It is also worried by revelations of mass surveillance of telecommunications and internet traffic inside the EU by the German foreign intelligence agency BND in cooperation with the US National Security Agency (NSA). [Read more](#)

Three weeks later – just after the terrorist attacks in Paris - the French parliament (National Assembly) voted for giving the government extra powers to block online communications when the country is under a state of emergency.

“The government is giving guarantees of security to a traumatised population that asks for ever more security, even at the price of sacrificing its own freedoms,” said Noel Mamere, one of the few deputies to vote against the new measures. “In a few months, these same people will wake up with a hangover and realise that, in the name of fighting terrorism, the country has been locked down and our individual and collective liberties violated,” [he told Reuters](#).

Hate Speech:

IT Companies to Police the Internet?

Online firms should help to stop hate speech from spreading on the web, says the European Parliament and the Commission.

In early October – already before the deadly terrorist attacks in Paris – EU Justice Commissioner Vera Jourová brought up the issue at a colloquium. “If freedom of expression is one of the building blocks of a democratic society, hate speech on the other hand, is a blatant violation of that freedom. It must be severely punished”, [she said](#).

Shortly after the Paris attacks the European Parliament adopted a [resolution](#) saying it wants illegal content that spreads violent extremism to be deleted promptly (but in line with fundamental rights). “Member states should consider legal action, including criminal prosecution, against internet and social media companies and service providers that refuse to comply with an administrative or judicial request to delete illegal content or content praising terrorism”, MEPs add.

Then, on 3 December, the EU Commissioner for Migration, Home Affairs and Citizenship, Dimitris Avramopoulos and Commissioner Jourová [launched the EU Internet Forum](#), which

brings together EU Interior Ministers, high-level representatives of major internet companies, Europol, the EU Counter Terrorism Co-ordinator and the European Parliament.

The goal is “to reach a joint, voluntary approach based on a public-private partnership to detect and address harmful material online”. The internet industry can play a key role in the fight against radicalisation online and incitement to violence, says the Commission. Senior representatives of Facebook, Google, and Twitter were among those who participated at the launch of the Forum.

Civil society groups are critical of these developments: “...there is no debate of whether it's appropriate to use coercion of Internet intermediaries to delete unwelcome or possibly illegal content, whether there should be safeguards to protect legal but challenging speech...”, commented the European Digital Rights organisation, EDRI.

Hypocritical Response to Media Crackdowns in Turkey

It is important to give solemn tribute to freedom of expression. But you mustn't get the timing wrong, the European Commission seems to think.

“I have heard it said that the EU has “lost its interest” in media freedom in the Western Balkans and in Turkey. There, we have seen worrying developments in the last weeks in the run-up to the elections, such as the intimidation of journalists in various forms. Let me be very clear: Freedom of media is at the core of the EU integration process and is not negotiable!” [declared](#) the EU Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn at a conference on 4 November.

“A deteriorating media situation impacts the overall readiness of the accession country to join the European Union”, stressed Commissioner Hahn.

A few days later the Commission issued a scathing report on Turkey's EU candidacy, saying that there had been “serious backsliding” on freedom of expression under the regime of President Erdogan, highlighting criminal cases against journalists and writers, intimidation of media outlets and changes to Internet law.

Originally due for release before the elections on 1 November that returned President Erdogan's party to power, this report was withheld for some weeks. When it was finally published, after the elections, the report could do little damage to more pressing EU interests.

For a month earlier the EU had made a refugee cooperation deal with the government in Turkey, the main launching point for migrants coming to Europe, which included a possible € 3 billion in aid and pushing forward Turkey's long-stalled accession process as well as speeding up visa liberalisation for Turks travelling to Europe.

“For the so-called 'deal' that Vice President Timmermans closed on the refugee crisis, principles apparently had to give way”, commented MEP Marietje Schaake.

At a European Union summit in Malta on 12 November EU leaders discussed the deal and decided to invite Turkey to another European Council (summit meeting) in the near future. (“This is about showing to Turkey that they are equal partners”, said an EU source to the news agency EurActiv).

As the EU leaders gathered in Malta, the news broke that Turkish police raided a well-known opposition newspaper in Erdogan's latest media crackdown.

On 29 November the EU and Turkey agreed on the deal to stem the flow of refugees to Europe, coupled with an unfreezing of accession negotiations, and an initial €3 billion assistance package.

Concern about Growing Threats to Female Journalists

Policymakers are becoming more aware of the growing threats to journalists in many parts of the world, including Europe. Female journalists seem to be targeted all the more often.

This is a subject close to the heart of Dunja Mijatović, the Representative on Freedom of the Media of OSCE, the Organization for Security and Co-operation in Europe. Alarmed by the increasing number of reports she has received about how female journalists and bloggers are singled out and fiercely attacked in social media, she invited media experts, journalists, policymakers and government representatives to Vienna in September to discuss what actions should be taken to respond to these threats.

Based on the discussions at the meeting, the Media Freedom Representative has issued [recommendations](#) on how various actors can assist in ensuring that female journalists can work without fear.

States should, i.a., “recognize that threats and other forms of online abuse of female journalists and media actors is a direct attack on freedom of expression and freedom of the media”. They should also “strengthen the capacity of law enforcement agencies to understand international standards on human rights so they can identify real threats to safety and protect individuals in danger”.

Media organizations, for their part, should – among other things – adopt industry-wide guidelines on identifying and monitoring online abuse. Intermediaries and social media platforms should provide information to users about best practices for online safety and about technical solutions on how to report abusive content.

CoE Looks into Threats to Journalists and their Effect

At the end of October the Council of Europe (CoE) created a working group to conduct a comprehensive quantitative study on unwarranted interference, fear of crime and self-censorship among journalists in Europe.

The European Federation of Journalists (EFJ) is one of the members of the working group and a partner of the research project, called “Journalists at Risk: part of the job?”. The completion of the research, publication and presentation to public is expected by the end of 2016. [Read more](#)

In November the EFJ expressed extreme concerns over a “witch hunt” and attacks on journalists who cover the refugees and migrants crisis. The federation is also, in more general terms, deeply concerned about the growing hostility against journalists and the media.

Hopefully the CoE study will also ponder on the possible reasons for this hostility.

Online Platforms

Consultation on Role of Online Platforms

In Europe many worry about the increasingly important role of online platforms such as Google and Facebook. Users are concerned about their handling of personal data and control over information, publishers are worried about the loss of advertising revenue and the platforms' growing power over the distribution of their work, and European competitors and start-ups are afraid of being squeezed out of the market.

The EU Commission shares some of these concerns but also seems interested in the potential utility of the platforms as intermediaries to help police the Internet. On 24 September it launched a [public consultation on platforms, online intermediaries, data, cloud computing and the collaborative economy](#)

The consultation looks into the role of platforms in online content distribution. It also explores how to handle illegal online content (for example hate speech, child abuse content or content that infringes intellectual property rights), how far and in what way online intermediaries should respond, and what duty of care intermediaries may have towards their users.

The consultation will close on **30 December 2015**. It is the first step in the Commission's examination of the issues around platforms, and will feed into a comprehensive assessment on the role of platforms and intermediaries planned for the first part of 2016.

To make one's voice heard in the consultation about online platforms is vital, [says the European Digital Rights organisation, EDRI](#). "The consultation is of crucial importance because it will help define the rules that govern how you use the Internet. It will be crucial for new rules on important issues such as online law enforcement, online privacy, open data and copyright."

Power Balance in Media Sector Shifts to Platforms?

In May Facebook launched Instant Articles, an initiative which enables media companies to publish their content directly on Facebook and get a share of the advertising revenue. Now many renowned publishers – among them the New York Times, the BBC, the Guardian, the Washington Post – have joined the project. This has sparked a debate about the changing role of platforms.

At first the media partners only published part of their content on Facebook. But in September the Washington Post announced that it would send 100% of its stories to Facebook "Launching Instant Articles on Facebook enables to give this extremely large audience a faster, more seamless news reading experience," [explained the Post](#).

This probably had something to do with the [announcement](#) by Facebook's CEO Mark Zuckerberg in August: "We just passed an important milestone. For the first time ever, one billion people used Facebook in a single day. On Monday, 1 in 7 people on Earth used Facebook to connect with their friends and family".

What all this may entail for journalism and the role of publishers was discussed at a conference in November at the Columbia School of Journalism in New York. "Platforms as Publishers" was the telling title of one of the sessions.

Here it was pointed out that social networks and publishers need each other but that platforms have begun making editorial decisions and that the power balance is shifting towards the platforms. And there are differences between them, for example with regard to news values. For Facebook the only value is to maximise its traffic and make money, whereas publishers have other concerns at heart too.

"Now, while they are still young and maybe willing to listen, is the time to start a discussion with the platforms and make them aware of their responsibilities", said Zeynep Tufekci from the University of North Carolina.

As for the prospects of serious journalism, the participants seemed rather pessimistic. Good journalism will be increasingly non-profit – created out of ideological rather than commercial motivations – and financed through foundations and the like.

"Distribution is a good business. Journalism is a crabby business. The gig is up", said Neil Barsky, a former hedge fund manager who now leads The Marshall Project, a nonprofit, nonpartisan news organization covering America's criminal justice system together with former New York Times executive editor Bill Keller.

Search and Social Media Soon Main Sources of News?

Based on a survey of over 20,000 online news consumers in the US, UK, Ireland, Germany, France, Italy, Spain, Denmark, Finland, Brazil, Japan and Australia, Reuters' recently published Digital News Report reveals new insights about digital news consumption. For example about the way people access news today. A few quotes:

We see increased usage of digital-born brands that produce content for a mobile and social world....But three quarters (74%) still access a traditional newspaper in print or online each week. 89% access a broadcaster via TV, radio or online.

France, Germany, and Japan have the strongest allegiance to traditional media and they have been slower to adopt new digital trends such as smartphones and social media. But these averages hide even more stark splits between generations. Young Germans or Japanese are likely to have more in common with young Americans or Finns – in preferring online news and social media to TV news, radio, or print.

Although audiences still consume the majority of their online news from familiar and trusted brands, the way they access that content is changing. The starting point to a news journey is less likely to be a brand homepage and increasingly likely to be via a search engine, a social network, email, or the lockscreen of a smartphone.

We see significantly fewer people accessing the front page of a news website where a list of stories is displayed. More people are going directly to stories via a side door such as search or social media. [Read more](#)

Google Makes Editorial Decisions

A recently published report by Google gives an indication of the search company's gatekeeper function and the editorial-like decisions it makes.

Since the EU Court of Justice ruled in May last year that people have a right to be forgotten online, Google has received 348,085 requests for tidbits to vanish from search results. Facebook was the top online spot where people wanted information forgotten from searches.

Google complied with less than half of the demands, basing decisions on criteria intended to balance privacy with the public's right to know, says the news service EurActiv in its summary of the company's [report](#) .

"We may decline to delist if we determined that the page contains information which is strongly in the public interest," Google said in an online post. "Determining whether content is in the public interest is complex and may mean considering many diverse factors."

The list of factors included whether content relates to the petitioner's professional life, a past crime, political office, position in public life, or whether the content itself is self-authored content, government documents, or journalistic in nature, according to Google.

The search company makes other types of editorial decisions too. Google uses humans to complement its search algorithm, to help it sense check the quality of its rankings. Recently the company issued updated [search quality guidelines](#) which gives an idea about what it considers "quality" when it comes to content.

"We will consider content to be low quality if it is created without adequate time, effort, expertise, or talent/skill." So is content written by people who "lack expertise, authoritativeness, or trustworthiness".

Media - general

More Access to Online Content across the EU?

On 9 December the European Commission proposed a [Regulation](#) to allow residents of the EU to access legal digital content when they're traveling outside the country they live in.

Today a Dutch subscriber to Netflix traveling to Germany is only able to watch films offered by Netflix to German consumers. If he visits Poland, he is not able to watch films on Netflix as Netflix is not available in Poland. This will change. When traveling across the EU,

users will have access to their music, films and games as if they were at home, explains the Commission.

The Regulation will oblige online content service providers to offer cross-border portability to their customers. Under the proposed rules, the provision of the online content service will be considered to take place in the Member State in which the consumer resides. No separate license would be required to cover the temporary use of the service in other Member States.

The proposed rules do not set any time limits for the use of the portability feature, as long as the user resides in another Member State.

The regulation will need to be discussed with and endorsed by the European Parliament and the EU Council. Since it is a proposal for a Regulation, once adopted it will be directly applicable in all 28 EU Member States. The Commission expects the new rules to be a reality in 2017. [Read more](#)

Reactions to the proposed Regulation have been mixed. Several stakeholder groups criticised the Commission for not defining how long someone can be temporarily abroad and access content they paid for at home, reports the news service EurActiv.

"We need to avoid that people staying somewhere long-term can be beneficiaries," said Yvon Thiec of Eurocinema, an association representing the French film industry, "It's too easy for people to misuse. It would destroy the principle of territoriality," he added.

This principle is important to the film industry as much of its business model rests upon it. Film associations have therefore adamantly lobbied the Commission not to touch geoblocking, or the technical blocking of access to material based on where someone is.

Others, however, seem disappointed that the Commission proposal did not go far enough in this respect. "Unfortunately, the new rules will not solve the problem that many Europeans are currently still unable to buy film or video subscriptions from another Member State," said Monique Goyens, director general of the European Consumer Organisation (BEUC), adding that the Commission should end geoblocking.

German MEP Julia Reda, rapporteur on the Parliament's copyright report, expressed similar views: "The proposals will clearly benefit those who have subscriptions to providers like Sky or Netflix and want to use them while abroad. However, geoblocking is a problem that most adversely affects those who need access to services not offered in their countries of residence, such as linguistic minorities or immigrants".

When the EU Parliament discusses the draft regulation the issue of geo-blocking is therefore likely to become – once again – a bone of contention.

Action Plan for Further Copyright Reforms

The Regulation on the portability of content outlined above is the first step in the European Commission's plans for a modernization of EU copyright rules, described in a separate [action plan](#) (9 December).

By spring 2016 the Commission will consider, i.a., legislative proposals to:

- ⤴ enhance cross-border distribution of television and radio programmes online, in light of the review of the Satellite and Cable Directive;
- ⤴ allow public interest research organisations to carry out text and data mining of content they have lawful access to for scientific research purposes;
- ⤴ provide clarity on the scope of the EU exception for "illustration for teaching", and its application to digital uses and to remote learning;

The Commission will also look at the controversial issue of private copying levies and at "how levies could be more efficiently distributed to rights holders".

A question often asked is whether the EU Commission will legislate on the use of copyright-protected content by news aggregation services. Here the Commission says that it "will consider whether any action specific to news aggregators is needed, including intervening on the definition of rights".

Furthermore the Commission wants to tackle the issue of piracy. It will analyse the legal framework for the enforcement of intellectual property rights and come forward with a possible revision of this framework in 2016.

The Commission will also consider whether solutions at EU level are required to increase legal certainty, transparency and balance in the system that governs the remuneration of authors and performers. [Read more](#)

Journalists seem pleased about the latter. "The EFJ welcomes the recognition of the unfair contractual practices facing journalists and many authors as well as performers", says the European Federation of Journalists. In [a joint statement](#) with a group of European authors' organisations, the EFJ calls upon the EU Commission to act to ensure at EU level a better protection of authors against unfair contracts.

EU Audiovisual Rules to Apply to New Services?

In July the European Commission launched a public consultation on the 2010 EU Audiovisual Media Services Directive (AVMSD) in view of developments in the sector. A month after the consultation closed the Commission described preliminary trends in the replies it received:

- ⤴ Convergence of views regarding the need for possible *changes of* the rules on the scope of application of the Directive as well as on the independence of national regulators.
- ⤴ Support for *maintaining the status quo* as regards the country of origin principle; must-carry/findability; accessibility for persons with disabilities; listed events, short news reports and right of reply.
- ⤴ *No clear consensus* on commercial communications (i.e. advertising), protection of minors and promotion of European works.

Interested to know what those who answered the consultations had to say? See links to their replies in [the Commission's article](#).

Now the EU Commission is carrying out an in-depth analysis of the replies. A full report will be published online in due course. The results will feed into the evaluation of the directive and the impact assessment accompanying a legislative proposal in 2016.

Internet

Net Neutrality:

Law Adopted but Debate Continues

New EU rules on the right to internet access will soon become law following the EU Parliament's final approval of the new telecoms package on 27 October 2015. But the debate on certain controversial points is not over yet.

[The new law](#) will oblige companies offering internet access to treat all traffic equally, i.e. not to block or slow delivery of content, applications or services from selected senders or to selected receivers, unless this is necessary to obey court orders, comply with laws, prevent network congestion or combat cyber-attacks. If such traffic management measures are needed, they will have to be "transparent, non-discriminatory and proportionate" and may not last for longer than necessary.

An operator will nonetheless be able to offer specialized services (such as the improved internet quality needed for certain services), but only on condition that this does not have an impact on general internet quality.

"While the compromise text is seen by many commentators as a major step towards ensuring network neutrality in the EU, some remain critical of outstanding loopholes and ambiguities. Concerns have been expressed in particular on how to implement the rules on reasonable traffic management, specialised services and price discrimination practices such as zero rating", writes the European Parliamentary Research Service (EPRS) in [an informative briefing on the issue](#).

Critics of zero rating practices generally warn that they allow ISPs to strike preferential commercial agreements. Regulators in the Netherlands and Slovenia have already found some of these practices to be abusive, and some Member States have expressed concerns regarding the lack of a clear ban on price discrimination in the Regulation, reports the EPRS.

A debate on this issue was held in the EU Parliament's Industry Committee on 11 November. Here some MEP argued that the new telecom law gives national regulators enough tools to combat possible negative sides of zero rating. Other MEPs said that the adopted rules are too weak and put consumer's rights and start-ups' possibilities to grow at risk.

The rules on network neutrality in the EU are applicable from 30 April 2016. Discussions – and lobbying by various groups – are, however, likely to continue until the Body of European Regulators (BEREC) has laid down guidelines for the implementation of the regulation, as called for in the new law. These guidelines must be adopted no later than nine months after the regulations enters into force.

Critical Year for Internet Governance

On 10-13 November the international, multi-stakeholder Internet Governance Forum (IGF) held its 10th annual meeting in Joao Pessoa, Brazil. Here EU Commission Vice President Andrus Ansip and Members of the European Parliament [argued strongly](#) for:

- ⤴ improved internet access all over the world;
- ⤴ an open and independent internet as a global, common resource, together with non-discriminatory access to knowledge;
- ⤴ the need to find solutions related to cybersecurity and cybercrimes, ranging from: (i) solutions to improve the security of critical infrastructures; (ii) giving the appropriate tools for secure communication to individuals and small businesses;

The EU delegation recognised that fundamental freedoms and human rights must be protected both online and offline and stressed the economic and social importance of online rights for privacy and of users' control of their personal data.

2015 will be a critical year for global internet governance, said the EU representatives. On 15-16 December the General Assembly of the United Nations will gather in New York for the 10 year review of the World Summit on Information Society ([WSIS+10 Review](#)). As part of this review the future of the IGF will be decided.

The EU calls on the General Assembly to renew the mandate of IGF and to further strengthen its resources. The IGF is an important space that "offers a positive and concrete context for the shaping of the internet's future on the basis of a multi-stakeholder approach".

Certain countries seem to prefer other types of internet governance. Russia has advocated the allocation of Internet functions to the UN and much increased governmental control. China, Saudi Arabia and some other countries advocate a more enhanced role for governments, explains the EU Commission in a [report](#).

At the IGF meeting in Brazil this issue was discussed. Government representatives from the United States and United Kingdom as well as representatives of the technical community were especially critical about a potential establishment of an intergovernmental UN working group on internet issues, reports the news service Intellectual Property Watch.

Data Protection/Privacy

EU-US Agreement on Data Transfers Ruled Illegal

On 6 October the EU's highest court struck down the Safe Harbour agreement, a deal between the EU and the US that allowed companies to easily transfer personal data from Europe to the United States. This landmark ruling has stirred up much debate on both sides of the Atlantic.

Safe Harbour allowed companies to transfer consumers' personal data from Europe to the US if they vouched for adequate privacy standards. The European Court of Justice [ruled](#) the 15-year-old agreement illegal on the basis of the inadequate protection given to Europeans' data once it is transferred to the US.

Predictably, while some are happy about the Court's ruling, others are not. The United States said it was "deeply disappointed" and business people were naturally worried: "Today's court judgment gives rise to great legal uncertainty that must be remedied urgently", said Markus J. Beyrer, director general of BusinessEurope.

Others were pleased. Monique Goyens, director general of the European Consumer Organisation (BEUC) called the ruling "a historic victory for the protection of European data privacy rights".

The European Parliament, too, [welcomed](#) the ruling, stressing that it "has confirmed the long-standing position of Parliament regarding the lack of an adequate level of protection under this instrument" and called on the EU Commission to "immediately take the necessary measures to ensure that all personal data transferred to the US are subject to an effective level of protection that is essentially equivalent to that guaranteed in the EU".

Following the Court's ruling the EU Commission has stepped up negotiations with the US on "a renewed and safe framework" on transfer of personal data. It also issued guidelines on how transatlantic data transfers could be done following the ruling until a new framework is put in place, mainly through contractual solutions and binding corporate rules.

The judgment is a blow to the EU Commission's credibility as the Commission had stuck by the Safe Harbour agreement even after Edward Snowden's revelations about America's mass surveillance program, which was much condemned by the European Parliament.

The EU's independent data protection authorities, on the other hand, seem to have gained power, as the ruling establishes that they are now key players in ensuring high protection for those rights.

During negotiations in November with her U.S. counterparts over a new deal to replace the

Safe Harbour agreement EU Justice Commissioner Vera Jourová said that the U.S. had already committed to stronger oversight by the Department of Commerce, stronger cooperation between European Data Protection Authorities and the Federal Trade Commission.

But she conceded that the talks with her counterparts “have not been easy” and that the biggest challenge was to ensure that there are sufficient limitations and safeguards in place to prevent access or use of personal data on a “generalised basis” and that there is sufficient judicial control over such activities.

Civil society organisations warn that without significant changes to domestic law and international commitments by the United States, a “Safe Harbour 2.0” will almost certainly fail. Such legal changes may, however, be difficult to achieve for various reasons.

Views on privacy differ in the EU and the United States – Americans, for example, tend to be more forgiving about corporate data gathering – which partly has to do with differences between the two legal systems and legal traditions.

To make changes in US privacy law would be extra difficult now, given the locked situation in Congress. And after the Paris attacks and the new calls for surveillance in Europe, the US Safe Harbour negotiators are likely to dig in their heels.

The EU Commission aims to conclude negotiations on a new agreement with the US in January 2016.

New Privacy Rules Affected by Paris Attacks?

For the past few years there has been increasing concern in Europe about data protection and privacy issues and many are now waiting impatiently for the EU legislators to strike a deal on the draft General Data Protection Regulation (GDPR). How the attacks in Paris in November – and the level-4 terror threat in Brussels – will affect the negotiations remains to be seen. The legislation is expected to be finalized by the end of December.

“A growing number of political leaders are listening to frightened voters who are willing to sacrifice more privacy in order to feel secure”, writes the news service Politico. Those already earlier disappointed with the EU Council's position on the GDPR are probably not very happy about this.

In early November the European Digital Rights organisation, EDRI, drew attention to the use of Big Data, the collection and aggregation of personal data from a wide range of sources to create detailed profiles of individuals. “How do the proposed new EU rules address this huge challenge?”, asked EDRI, pointing to the watered-down provisions on profiling in the GDPR draft texts.

The European consumer organisation BEUC seems worried too. In November BEUC's Director General Monique Goyens wrote in [a letter](#) to the EU Presidency that the GDPR must “at the very least” comprise, among other things, requirements to ensure that users are clearly informed about who is processing their personal data and for what purposes, as well as about their rights and how to exercise them.

The timing of Goyens' letter was unfortunate. The letter was sent just the day before the Paris attacks.

The tech industry's European Data Coalition, however, may have reasons to be more optimistic now. Companies have been concerned about the European Parliament's proposal to impose sanctions on companies of 5% of their yearly global turnover if they break the new privacy rules. The most recent leaked version of the draft regulation includes a proposal from the EU Council Presidency for sanctions of maximum 2%.

Data Protection Supervisor Wants Discussion on Big Data

The European Data Protection Supervisor (EDPS) has recently published an [Opinion](#) entitled Meeting the Challenges of Big Data. Here he says he wants to launch an open discussion with legislators, regulators, industry, IT experts, academics and civil society to explore how the social benefits that big data brings can be harnessed while protecting the dignity and the fundamental rights and freedoms of individuals in a more effective and innovative way.

“Privacy laws have been developed to protect our fundamental rights and values. The question industry and public entities must ask themselves is not whether to apply these laws to big data processes, rather how to apply them more effectively,” said Giovanni Buttarelli, the EDPS.

Tracking people’s behaviour has become an essential revenue stream for some of the most successful companies. This development calls for a critical assessment and the search for workable alternatives, underlines the data protection supervisor.

Drones Need Privacy Rules

One hears much about drones these days. They can, it seems, be used not only for military but for many other, more peaceful and often useful purposes too. Collecting images in public spaces can, however, also be used for surveillance and other forms of intrusions on privacy.

For the past year the EU has shown an increasing interest in drones. In October 2014 the EU Commission issued a [Communication](#) on opening the aviation market to the civil use of drones (officially called remotely piloted aircraft systems (RPAS). “(This) market poses a real opportunity to foster job creation and a source for innovation and economic growth for the years to come”, writes the Commission, mentioning that, for Europe, about 150,000 jobs by 2050 are forecast, excluding employment generated through operator services.

The growth potential can only be unleashed if an enabling legal framework is established at the European level, stresses the European Commission, which is now in the process of developing such a framework.

The Commission seems to think that potential public resistance to drones due to concerns about privacy must be countered. Drone operations “must not lead to fundamental rights being infringed, including the respect for the right to private and family life, and the protection of personal data”, says the Commission, pointing out that many drone applications may involve collection of personal data and “raise ethical, privacy or data protection concerns, in particular in the area of surveillance, monitoring, mapping or video recording”.

On 29 October the European Parliament adopted a [resolution on drones](#), saying that they can provide many useful services. “But safety, privacy, data protection and liability issues must be addressed”, they add.

Policies should include privacy and data protection safeguards, and drones should be equipped with ID chips and registered to make it easier to catch criminals who use them to breach privacy and data protection rules or commit other crimes, say the MEPs.

At an international privacy conference taking place in Amsterdam the same day, the Dutch Minister of Security and Justice announced that he would put a dialogue about drones on the agenda during the Dutch EU Presidency in the first half of 2016.

UNESCO to Work More on Privacy Issues

In a [major decision](#) on UNESCO’s role in the digital age, the Organization’s 195 Member States in November endorsed options for action on Internet-related issues, including those related to privacy.

In addition to UNESCO’s continued work in promoting universal access to information and knowledge, fostering freedom of expression online and off-line, and building ethical principles

for knowledge societies, the Organization now has a strong mandate to work on issues related to privacy.

UNESCO will, for example:

- ▲ support research to assess the impacts on privacy of digital interception, collection, storage and use of data,
- ▲ reaffirm that the right to privacy applies and should be respected online and offline
- ▲ support best practices and efforts made by Member States and other stakeholders to address security and privacy concerns on the Internet in accordance with their international human rights obligations
- ▲ support initiatives that promote peoples' awareness of the right to privacy online and the understanding of the evolving ways in which governments and commercial enterprises collect, use, store and share information, as well as the ways in which digital security tools can be used to protect users' privacy rights

European Media Policy

Editor: Anna Celsing, anna.celsing@skynet.be

Publisher:

Ingela Wadbring
NORDICOM
University of Gothenburg
Box 713
SE 405 30 Göteborg
Sweden

The Newsletter provides an up-date on policy developments at the European level. We concentrate on news from the European Union – current issues and trends in media policy, new proposals for legislation, debates in the European Parliament, recently taken or impending policy decisions and reactions among those concerned, new support programmes, EU studies in the field etc. There will also be some coverage of policy developments in the Council of Europe and at the international level. The newsletter will be published three times a year.