

Press briefing

PERSONAL DATA PROTECTION EP INQUIRY ON ELECTRONIC MASS SURVEILLANCE OF EU CITIZENS

11-12 March 2014, Strasbourg

BACKGROUND

Data processing has changed extensively in the last two decades and attitudes towards data privacy have undergone considerable evolution. In response to all these issues, the European Commission had presented a package of proposals to eliminate the current legal fragmentation and provide a modern, consistent and strong legal framework for all data processing activities in the EU for the years to come.

Moreover, the European Parliament has recently carried out an inquiry on electronic mass surveillance of EU citizens, the results of which have been summed up in a report drawn up by the Committee on Civil Liberties, Justice and Home Affairs.

Both of these issues will be discussed and voted on during the European Parliament's plenary session of March 2014.

INSIDE

This leaflet provides extracts from a compilation of papers prepared by the European Parliament's Policy Departments on "Economic and Scientific Policy" and on "Citizens' Rights and Constitutional Affairs" in relation to broad data protection and privacy issues in the EU.

Scan the QR code or just click on the title of the publication to access it directly.



PUBLICATIONS

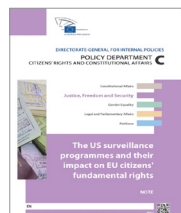
National programmes for mass surveillance of personal data in EU Member States and their compatibility with EU Law – October 2013



In the wake of the disclosures surrounding PRISM and other US surveillance programmes, this study makes an assessment of the large-scale surveillance practices by a selection of EU member states, namely France, Germany, the Netherlands Sweden and the UK. Given the large-scale nature of surveillance practices at stake, representing a reconfiguration of traditional intelligence gathering, the study contends that an analysis of European surveillance programmes cannot be reduced to a question of balance between data protection versus national security, but has to be framed in terms of collective freedoms and democracy. It finds that four of the five EU member states selected for in-depth examination are engaging in some form of large-scale interception and surveillance of communication data, and identifies parallels and discrepancies between these programmes and the NSA-run operations.



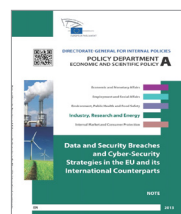
The US surveillance programmes and their impact on EU citizens' fundamental rights – September 2013



In light of the recent PRISM-related revelations, this briefing note analyses the impact of US surveillance programmes on European citizens' fundamental rights, including privacy and data protection. Prior to the PRISM scandal, European media underestimated this aspect, apparently oblivious to the fact that the surveillance activity was primarily directed at the 'rest-of-the-world', and was not targeted at US citizens. The note explores the scope of surveillance that can be carried out under the 2008 Amendments Act of US Foreign Intelligence Surveillance (FISA) and related practices of the US authorities, which have very strong implications for EU data sovereignty and the protection of European citizens' rights. The authors also develop some strategic options for the European Parliament and provide suggestions to improve future EU regulation and to provide effective safeguards for protection for EU citizens' rights.



Data and security breaches and cybersecurity strategies in the EU and international counterparts - August 2013



Following the European Commission's 2013 proposals for a Network and Information Security Directive, which contain measures to strengthen EU efforts in tackling cyber security, this document provides an overview of the definition of security incidents and breaches and an analysis of their scale and trends. The authors summarise the efforts made currently at EU-level in order to address network and information security. They also specifically review some of the provisions of the Commission's proposals, which include measures creating a system for the reporting of security incidents that would apply to critical infrastructure sectors as well as to market operators in the internet economy. Some of the concerns highlighted include: the relationship of incident notification achieving the outcomes of the directive, the potential for overlapping regulation and the definitions of covered entities and incidents addressed.



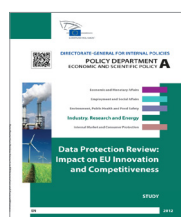
Protection of personal data in work-related relations - April 2013



In light of the European Commission's proposals for a General Data Protection Regulation, this study looks at the possibilities of complementing the general data protection framework with specific rules for employment relations. A number of attempts have been made to provide for data protection legislation in employment relations – complementary to the general framework – but without results. This study is therefore not limited to a legal study of the application of data protection in employment relations, but also looks at the political process linked to developing such legislation. With data protection in employment relations clearly touching on labour law, the specific actors involved, the social partners, and the strategies used in the past to harmonise labour law, are taken into account. The study evaluates the application of the existing general data protection framework in employment relations and considers possible options to improve it.



Data protection review: impact on EU innovation and competitiveness - December 2012



This document assesses the impacts of the proposed General Data Protection Regulation in terms of the effectiveness with which it is likely to attain its objectives, the efficiency with which it might do so and its consistency with other elements of European policy. It examines the likely impacts of the proposal and two alternative options on the competitiveness and innovation performance of the European data processing value network - those who control and process personal data and those who supply essential inputs or use the services provided. The assessment focuses on: (i) automated data processing and profiling; (ii) documenting and demonstrating compliance with the law; and (iii) data transfers to non-European jurisdictions. Whilst considering a variety of perspectives including big data, cloud computing and privacy-friendly technologies, it identifies a variety of impacts and areas for improvement.



Evaluating current and forthcoming proposals on JHA databases and a smart borders system at EU external borders - November 2012



This study examines current and forthcoming measures related to the exchange of data and information in the Justice and Home Affairs policies of the EU. It focuses on the so-called 'Smart Borders' initiative, which consists of an 'Entry/Exit System' to record the time and place of entry and the length of authorised short stays in an electronic database, and a 'Registered Travellers Programme' allowing certain groups of frequent travellers, subject to appropriate pre-screening. The study argues that there is no reversibility in the growing reliance on data and information exchange schemes and raises the question of whether current and forthcoming proposals are necessary and original. It also outlines the main challenges raised by the proposals, including issues related to the right to data protection, privacy and non-discrimination.





Fighting cyber crime and protecting privacy in the cloud - October 2012



This study addresses the challenges raised by cloud computing. Although not a new technology as such, cloud computing contributes to the increasing number of cross-border data transfers. In addition, the growing reliance on its infrastructures and services poses a series of challenges for EU policies and strategies. This study starts by investigating the issues at stake, including the risk of loss of control over individual identity and data, and explores how the EU is addressing the identified concerns. It examines the current EU framework in the field and highlights certain legal aspects related to the right to data protection, including the development of a legal definition of cybercrime, the issue of jurisdiction, responsibility and the regulation of data transfers to third countries.



Reforming the data protection package - September 2012



The reform of the data protection package promises to improve both the internal market dimension and consumer protection. This study aims to provide background information and advice on priority measures and actions to be undertaken in the reform of the data protection package. The study is based upon four aspects: mapping new technologies and services; analysing the internal market dimension; strengthening the rights of the consumer; and international data transfers. The study concludes that in general, the proposed Regulation represents improvements in each of the aspects covered, however, there are a number of recommendations which can be made to improve its content and achieve the goals set.



Data protection in the internal market information system - May 2012



This briefing note deals with some data protection aspects of the European Commission's proposal for a Regulation on administrative cooperation through the Internal Market Information System. Amongst other things, the proposal extends the data retention period from 6 months, as it is now, to 5 years. The briefing note investigates whether there are any grounds which justify this extension and assesses the compliance of the proposal with the existing legal framework. It generally concludes that the extension of the retention period may only be partly justified for allowing data subjects to exercise their rights effectively. However, if this were the sole purpose of the



longer retention period, the proposal would have to be amended in order to specify that the data may only be used for this purpose.

Does it help or hinder? - Promotion of innovation on the internet and citizens' right to privacy - December 2011



This study investigates the interplay between internet innovation and privacy in an attempt to suggest approaches to address the tensions and exploit the synergies identified. It proposes working definitions of innovation and privacy and reviews the literature about their interaction. The authors interpret the possible tensions and problems in terms of market and system failures and analyse the relevant legal and policy aspects in relation to examples of privacy invasion and/or protection by innovating companies. Relevant case studies such as cloud computing and online behavioural advertising are analysed, using a four-issue framework. Following a gap analysis according to a model of failure, a series of recommendations aimed at different stakeholders are also presented.



Towards a new EU legal framework for data protection and privacy - Challenges, principles and the role of the European Parliament - September 2011



This study addresses the new challenges stemming from data processing policies and systems falling in the scope of police and judicial cooperation in criminal matters in the EU Area of Freedom, Security and Justice. It suggests that the new EU legal framework on data protection needs to ensure it has a genuine impact on future EU security measures and delivers protection in a practical way. Such an impact can only be realised if data protection becomes relevant at all stages of EU policy-making processes as a fundamental right. For this to take effect, the principles of accountability, openness and transparency, along with other specific, common legal standards and monitoring mechanisms for data protection need to be established and guaranteed.





Developing biometrics in the EU - March 2010



Although biometrics as such are not problematic, their naïve use can raise serious ethical questions about their impact on society. It can compromise claimed security objectives, inadvertently putting citizens' rights in danger, whilst not necessarily boosting either interoperability at the technical level, nor politico-security goals at Member State and EU level. The paper addresses biometrics, body scanner and related issues of identity management function and mission creep. It makes suggestions for a better evaluation of legislative options which address and safeguard citizens' liberties, privacy and data protection and overcome weaknesses in current legislative responses and data practices. The paper also concludes that a well thought ethical use of information and communication technology is imperative.



POLICY DEPARTMENTS: WHO ARE WE?

Effective parliamentary work relies on specialised, objective, high-quality and up-to-date information. To this end, five units responsible for research, analysis and policy advice, known as policy departments, were created to provide this expert advice. Their activities cover all areas of competence of the European Parliament, producing high-level independent advice, based on research carried out either in-house or by external researchers.

Outputs: The written output of these departments comprises a wide range of products, including internal studies, policy briefings, briefing notes, horizontal notes, quick policy insights, country briefings, country security assessments, data sheets, tables and databases of budgets, financial services and the Single Market, speaking points and draft speeches, factsheets (available both in printed form and on the Parliament's website), newsletters and 'Awareness Research' bulletins, regular email updates to MEPs on important issues by policy area.

On the basis of political decisions taken by the coordinators of the committees, the Policy Departments also supervise external studies commissioned from researchers and experts. The staff nurture contacts with the academic community and with Think Tanks, law firms and specialised consulting firms. Policy Department staffers regularly update their technical and legal knowledge and create links between internal and external experts.

Events: The Policy Departments organise events that enhance Parliament's analytical capacity and develop common approaches to current political issues. The following events occur regularly:

- thematic workshops;
- conferences held in cooperation with national parliaments;
- monetary dialogue with the European Central Bank;
- presentations by external experts for committee hearings and exchanges of views;
- technical meetings organised by internal experts to support major legislative reports, with PowerPoint slides and detailed notes for the coordinators, rapporteurs and MEPs;
- Parliament's citizens AGORAs;
- conferences such as the Euromediterranean Agricultural Conference and the Joint Coordination Meetings on CFSP/CSDP;
- Policy hubs including in-house experts and Think Tanks.

Scrutiny: Policy Departments also provide research support to enhance the European Parliament's capacity to monitor EU negotiations and the implementation of international agreements, including trade agreements. The departments have developed an in-house methodology to scrutinise EU-funded projects.

Disclaimer: The items contained herein are drafted by the Policy Departments of the European Parliament and are provided for general information purposes only. The opinions expressed in this document are the sole responsibility of the author(s) and do not necessarily represent the official position of the European Parliament. The leaflet may contain links to websites that are created and maintained by other organisations. The Policy Departments do not necessarily endorse the views expressed on these websites.

FACT SHEETS ON THE EU

The Fact Sheets provide an overview of European integration and of the European Parliament's contribution to that process. They cover six main themes:

- how the European Union works;
- citizens' Europe;
- the internal market;
- the economic and monetary union;
- sectoral policies; and
- the EU's external relations.

The online version is reviewed and updated regularly throughout the year.



All Fact Sheets:

www.europarl.europa.eu/factsheets

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