EU Policy News Bulletin
ICT

August 2019

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GLOSSARY

AI: Artificial Intelligence, the simulation of human intelligence processes by machines, especially computer systems.

CEN: European Committee for Standardization, a public standards organization whose mission is to foster the economy of the European Union by providing an efficient infrastructure for the development, maintenance and distribution of standards and specifications.

CENELEC: European Committee for Electrotechnical Standardization, responsible for European standardization in the area of electrical engineering. Together with CEN, it forms the European system for technical standardization.

COUNCIL OF THE EU: Co-legislator, made up of representatives from Member State Governments. Has a six-month rotating presidency, currently held by Finland until the end of December 2019.

DG CONNECT: The European Commission Directorate General for Communications Networks, Content and Technology. Directorate General responsible for digital policy.

DLT: Distributed ledger technology, digital system for recording the transaction of assets in which the transactions and their details are recorded in multiple places at the same time.

EFTA: European Free Trade Association.

EP: European Parliament, institutions of the European Union constituted of 751 Members of Parliament directly elected by European citizens.

GDPR: General Data Protection Regulation, it replaces the Data Protection Directive 95/46/EC and is designed to harmonize data privacy laws across Europe, protect and empower all EU citizens' data privacy and reshape the way organizations across the region approach data privacy.

MEP: Member of the European Parliament, a co-legislator within the EU that is made up of representatives from political parties throughout Member States.

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EU ELECTIONS

Latest developments in the European Commission

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Over the past weeks, European Commission President-elect, Ursula von der Leyen, received nominations from Member States for Commissioner positions. As of the end of August 2019, 19 countries have submitted their candidate, out of which 9 are women and 12 are men. If Ms von der Leyen, is to honour her promise to have a gender balanced College of Commissioners, she will have to pressure remaining countries to designate more female candidates. Meanwhile, she began interviewing the nominees in order to allocate policy portfolios. In this exercise, she will need to take into consideration Member States' expressed preferences, while keeping a balance between different European regions, as well as political parties.

As of September 2019, Commissioner portfolios will be announced and the candidates will be submitted to a hearing in the European Parliament, where they will be questioned on the their future plans and their ability to take on the job. Hearings are expected to last until October 2019 and will be followed by a vote from the European Parliament on the new Commission as a whole. If endorsed, the Commission is to present its work programme. By November 2019, the new Commission should take office and resume legislative work.

Confirmed Commissioner candidates are the following:

- **Germany**: Ursula von der Leyen – President (F)
- **France**: Sylvie Goulard (F)
- **Spain**: Josep Borrell – High Representative for Foreign Affairs (M)
- **Denmark**: Margrethe Vestager (F)
- **Netherlands**: Frans Timmermans (M)
- **Latvia**: Valdis Dombrovskis (M)
- **Bulgaria**: Mariya Gabriel (F)
- **Slovakia**: Maroš Šefcovic (M)
- **Ireland**: Phil Hogan (M)
- **Austria**: Johannes Hahn (M)
- **Estonia**: Kadri Simson (F)
- **Finland**: Jutta Urpilainen (F)
- **Hungary**: Laszlo Trócsányi (M)
- **Luxembourg**: Nicolas Schmit (M)
- **Greece**: Margaritis Schinas (M)
- **Croatia**: Dubravka Šuica (F)
- **Slovenia**: Janez Lenarčič (M)
- **Malta**: Helena Dalli (F)
- **Cyprus**: Stella Kyriakides (F)
- **Belgium**: Didier Reynders (M)
- **Poland**: Janusz Wojciechowski (M)

(Source: Interel)

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EU ICT PRIORITIES

European Commission draft strategy

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A leaked version of a European Commission draft strategy for the next five years has emerged, outlining possible initiatives across a range of policy areas. It includes information on three areas of interest for IEEE: Artificial Intelligence (AI), digital leadership and cybersecurity in banking.

AI regulatory framework

The main problem to address here is the significant risk posed by AI for fundamental rights. Examples provided are decision making affecting citizens without a clear explanation, possibility of recourse or even a responsible person. This is not limited to the use of personal data.

The strategy foresees a single market legal instrument, providing clear and simple EU-wide rules and setting transparency obligations for the development and use of AI solutions. Impact assessments on fundamental rights will also be mandated. These horizontal rules will allow room for sector- and application-specific initiatives, as well as voluntary measures. An independent and appropriately resourced oversight and technical assistance system will also be set up.

The framework should be adaptive and able to respond to emerging challenges, while questions of liability, robustness and safety will be addressed in impact assessments. The EU's stated ambition is to set the world standard for AI regulation.

These issues are in line with the Commission's work on AI to date and reflect points made in various documents, such as the Communication on AI of April 2018, the AI ethics guidelines of April 2019 and the Policy and Investment Recommendations of June 2019.

Digital leadership

EU industry is currently unable to independently guarantee the supply of key digital technologies, despite strong EU presence in some parts of the digital supply chain. The European Commission will present a package of "focused, high-impact projects", which will be proposed in the first semester of 2020. These will aim at reinforcing industrial competitiveness and technology leadership in the digital supply chain. This issue goes beyond the competitiveness of the tech sector, as capabilities in key technologies are detrimental to the success of industries across the board. The document also acknowledges the need for substantial capital investment and the

"concentration of digital markets around a few non-European companies which benefit from large home markets and strategic public policy".

This action appears to be the top priority of the new Commission and among the first ones to be delivered. It is also linked to the wider industrial policy debate that took place in the last couple of years of the previous Commission.

Cybersecurity in banking

The Commission believes that existing horizontal cybersecurity activities only partially address financial services, who need specific and better integrated actions across the EU due to their importance and the "exponentially increasing cyber risks". The main objective is to strengthen the cybersecurity and resilience of financial market participants and infrastructures across the EU. Action in this field will cover: requirements for ICT security and risk management; sectoral cybersecurity reporting requirements, direct oversight or supervision of third party providers, cyber resilience testing framework.

It is noted that DG FISMA's cyber team is currently working on the outline of such an initiative which should be preceded by an impact assessment and public consultation. This project can be launched in the first year of the new Commission.

(Source: European Commission and Interel)

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BLOCKCHAIN

European Economic and Social Committee opinion on blockchain

The European Economic and Social Committee (EESC), a consultative body of the European Union (EU), released an **own-initiative opinion** on Blockchain and Distributed Ledger Technology (DLT).

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The opinion, called *'Blockchain and distributed ledger technology as an ideal infrastructure for Social Economy'* highlights that Blockchain can have multiple applications in the social economy, as it has great social, cultural, political and economic potential, but must not create a new "digital economy elite" resulting from the concentration of data and technological networks. It adds that since this technology uses chains that can be created irrespective of national borders, EU regulation makes sense. The large investments required call for coordinated, structured European action, mainly to avoid the risk of data concentration.

For background, in 2018 the European Commission proposed to develop a **European Blockchain Partnership,** triggering the creation of the **EU Blockchain Observatory and Forum**, which has already published a number of **thematic reports.** Furthermore, the EESC is currently working on a report on **Blockchain and the single market**, due to be finalised in October 2019.

The EESC has drawn up a list of possible applications for blockchain and DLT that might be of interest, including:

- **Authenticating activities** carried out at a distance by associations and co-operatives working in education and training or entertainment, or staging artistic and intellectual productions;

- **Certificating skills**, ensuring the security of qualifications and diplomas in digital format;

- **Making intellectual property rights and copyright clearer and more certain**, establishing "smart contracts" for the transfer of content;

Offering secure telemedicine and e-care systems. A huge number of social economy organisations are involved in health care and social assistance located in close proximity to the people needing them, including in decentralised areas where this application could have a considerable impact on people's quality of life;

(Source: European Economic and Social Committee)

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European Parliament study on blockchain compliance with GDPR

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On 5th August 2019, the European Parliament published a **study** on the tensions between blockchains and the European Union's General Data Protection Regulation (GDPR), as there appears to be significant tensions between the very nature of blockchain technologies and the overall structure of data protection law. Whereas, the GDPR is based on an underlying assumption that in relation to each personal data point there is at least one data controller, blockchains make the allocation of responsibility and accountability burdensome. Furthermore, although the GDPR is based on the assumption that data can be modified or erased where necessary to comply with legal requirements, blockchains render the unilateral modification of data purposefully onerous in order to ensure data integrity and to increase trust in the network.

The study concludes that the relationship between blockchain and the GDPR legal framework cannot be determined in a general manner but must rather be determined on a case-by-case basis. On the other hand, it also highlights that this technology could offer distinct advantages that might help to achieve some of the GDPR's objectives.

The first policy option is for the EU to provide **regulatory guidance**, because there is currently a lack of legal certainty as to how various elements of European data protection law ought to be applied in the blockchain context. Almost one year after the GDPR became binding, many pivotal concepts remain unclear, such as anonymisation or (joint-) data controllers. Moreover, an attempt to map the regulation to blockchain technologies reveals broader uncertainties regarding the interpretation and application of this legal framework. Therefore, it is suggested that supervisory authorities coordinate action with the European Data Protection Board to draft specific guidance on the application of the GDPR to blockchain technologies.

The second policy option is for the EU to **support codes of conduct and certification mechanisms.** As a technologically-neutral legal framework, the GDPR was designed to enable its application to any technology. Codes of conduct and certification mechanisms, which are designed in a co-regulatory spirit between

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regulators and the private sector, could lay down principles designed to ensure that the principles of European data protection law are upheld where personal data is processed. This has, for instance, been achieved in relation to cloud computing.

The third policy option is for the EU to invest in **research funding**. In some cases there are technical limitations to compliance, therefore, solutions could be found by means of interdisciplinary research, devising both technical and governance remedies and experiments with blockchain protocols that could be compliant by design.

(Source: European Parliament)

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STANDARDIZATION

European Standardization Organizations Work Programme 2019

The officially recognized European Standardization Organizations: the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC), published, on 19th August, their **Work Programme 2019.**

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CEN and CENELEC bring together the national standards agencies of 34 countries and their network involves business federations, commercial and consumer organizations, environmental groups and other societal stakeholders. Together, these two organizations provide a platform for the development of European Standards and other technical specifications across a wide range of sectors and work closely with the European Commission to ensure that standards correspond with any relevant EU legislation.

The Work Programme 2019 gives an overview of the main standardization developments and strategic priority areas for 2019 across 14 business sectors and 3 horizontal topics of activity. Per sector, the Work Programme lays down a list of technical bodies involved in carrying out the work, the number of standards published by CEN and CENELEC in that sector, the work items that are currently in the work programmes and the standardization requests received from the European Commission and the European Free Trade Association (EFTA).

It is highlighted that Artificial Intelligence (AI), autonomous driving and cybersecurity are part of the program. CEN and CENELEC are planning to continue working on their ambition to deliver standards in innovative, more flexible and solution-driven formats.

(Source: CEN & CENELEC)