

**AT A GLANCE:** CIVIL LIBERTIES COMMITTEE PUBLISHES OPINION ON CYBERSECURITY – EP EVENTS ON CYBERSECURITY AND FREE FLOW OF DATA – FEEDBACK FROM NEGOTIATIONS ON EU SPECTRUM POLICY

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### BREXIT

## EU27 set out their position on transition deal

The General Affairs Council met in Brussels at the end of January to adopt supplementing negotiating directives for the Brexit negotiations, which detail the EU27 position regarding a transition period and thus to provide the Commission with a mandate to begin discussions with the United Kingdom on this matter. Summarising the decision, the Bulgarian Deputy Prime Minister Ekaterina Zaharieva explained that *“EU ministers have given a clear mandate to the Commission on what is the type of transition period that we envisage: full EU acquis to be applied in the UK and no participation in the EU institutions and decision-making”*.



The negotiating directives set out that during the transition period, the UK would have to both apply existing EU acquis, which is the body of EU treaties and legislation, as if it were a member state as well as any *“changes to the acquis adopted by EU institutions, bodies, offices and agencies during that period”*. In addition, the UK would under these terms be bound by the obligations stemming from trade and international agreements concluded by the EU, while it will no longer participate in any bodies set up by those agreements. By definition, this would mean that the UK would be unable to enter into new international agreements on its own. All of this would be required of the UK, whilst, it would not be able to participate in the institutions and the decision-making of the EU.

In terms of a timeline for the transition, the national ministers proposed an end date of 31 December 2020.

**Source:** Dods

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## CYBERSECURITY

# Civil Liberties Committee publishes opinion on Cybersecurity Act



The European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE) has **published** its draft opinion on the Cybersecurity Act. Drafted by Rapporteur for Opinion Jan Philipp Albrecht, this document includes his proposals for amendments to the Cybersecurity Act. In his draft opinion Mr Albrecht focuses on the following topics:

- **Fundamental rights:** the rapporteur notes that insecure systems can lead to data breaches or identity fraud resulting in real harm and distress
- **Fights against cybercrime:** the rapporteur calls for outreach and public education campaigns, as some forms of online crimes are based on abuse of trust, which IT security measures cannot cancel.
- **Democracy and the rule of law:** there is a risk for democracy as a result of attacks against IT systems by state and non-state actors through interference in free and fair elections.

Mr Albrecht thus proposes amendments to strengthen the proposed role for ENIS, whose role should include:

- Play a stronger role in promoting adoption by all actors of the European Information Society of preventive strong privacy enhancing technologies and IT security measures
- Propose policies establishing clear responsibilities and liabilities for stakeholders taking part in ICT ecosystems, where failure to act could result in severe impacts (environmental, financial, economic etc.)
- Propose clear and mandatory baseline IT security requirements, in consultation with IT security experts
- Propose an IT security certification scheme allowing ICT vendors to increase the transparency for the consumer about upgradability and software

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support time. Such a certification scheme needs to be dynamic as security is a process that needs constant improvement

- Conduct regular IT audits of MS critical infrastructure, upon invitation by Union institutions, bodies, offices and agencies
- Launch a long-term EU-IT security project
- Report IT security vulnerabilities that are not yet publicly known to manufacturers.

The Industry and Internal Market committees will play a key role in drafting the Parliament's position on this Act and the deadline for submitting amendments is 27<sup>th</sup> February.

Source: Dods + Intere!

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## Stakeholder meeting on Cybersecurity

On 9 January a stakeholder meeting was organised by MEP Pavel Telicka, the shadow rapporteur on ENISA/Cyber security certification Regulation. The meeting brought together around 30 participants who were invited to share their positions on the draft Regulation.

MEP Telicka stressed that the MEPs are still on the learning curve, as the work on the proposal is still in an initial stage. We hereby also share the timetable for the Parliament's review process:

- 23 January – presentation by the European Commission in the Industry Committee
- 21 February – consideration of the draft report
- 27 February – deadline for amendments
- 19 June – vote

Most of stakeholders agreed that the proposal generally goes in the right direction although some improvements are needed. The main points raised were:

- Focus on international standards
- "criticality" and risk-based approach in selecting categories of products and services for which certification schemes should be created
- Industry/stakeholders involvement in the process of development of future certification schemes
- Harmonised approach to the implementation of the Regulation in different Member States
- The need for evaluation of conformity assessment bodies, to make sure that they have the right expertise and equipment – some stakeholder suggested that this should be done through an audit by a group of experts led by ENISA
- There were divergent views on whether ENISA should create a black list of products and companies that do not comply and apply sanctions where necessary – e.g. BusinessEurope is against this idea because the scope of the Regulation is too broad. According to MEP Telicka, the level of underestimation of cyber threats in Europe is very high, that's why a stick is also needed, not only a carrot
- It is not clear who triggers the process of development of schemes – according to the proposal, ENISA can't do it on its own, the request needs to come first from the Commission. Some stakeholders would like to see the role of the industry as an initiator of this process recognised in the Regulation

**Source:** [Interel](#)

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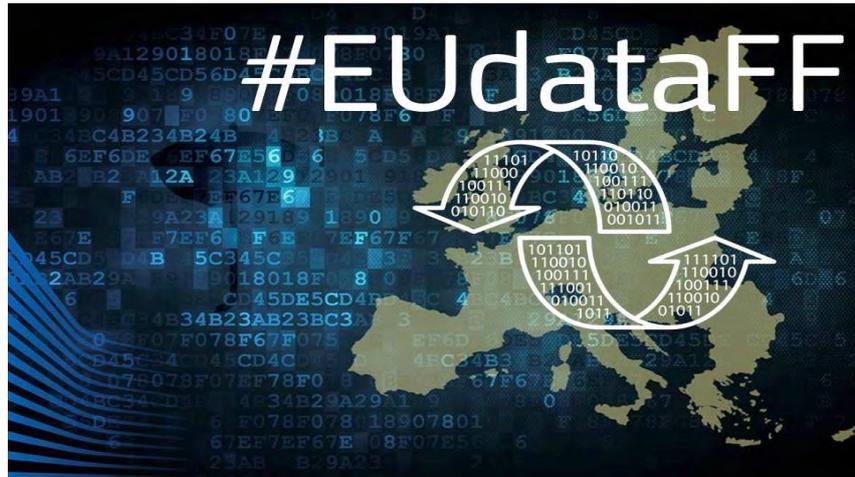
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## DATA PROTECTION

**EP event on free flow of data**

Interrel attended a European Parliament event on free flow of data, chaired by Dita Charanzova MEP (ALDE, Czech Republic) and Shadow Rapporteur on the proposal, with a keynote by Commissioner for the Digital Economy and Society Mariya Gabriel. The key takes were that the free flow of data proposal has broad support across a wide spectrum of actors (Governments, industry etc.) and there is strong political impetus behind a swift adoption. However, some concerns remain over the definition of exceptions to free data flows and agreeing on which rules (GDPR or non-personal data) to apply in cases of mixed data sets.

Other key points raised include:

**Dita Charanzova MEP (ALDE, Czech Republic), Shadow Rapporteur on free flow of non-personal data proposal**

- Reiterated that free flow of data is the “5th freedom”
- Noted the EP will try to speed up the adoption process

**Mariya Gabriel, Commissioner for Digital Economy and Society**

- Called for a fight against data protectionism, which can undermine the Single Market
- Outlined benefits of proposed regulation
  - no burden for businesses, only for Member States
  - regulation made up of 10 simple articles
  - does not create any issues with the GDPR
- Noted that an EC study, due to be released soon, shows that 75% of public data on the cloud are held by two operators. This is due to current difficulties with porting.
- Responded to a question by Ms Charanzova on whether the regulation means that Member States will impose security requirements, by stating that MS are given room to manoeuvre. Some MS are very cautious, but it is important to understand that data localisation does not equal data security.
- MEPs Henna Virkkunen (EPP, Finland) and Sean Kelly (EPP, Ireland) voiced concerns over exceptions and whether there are any significant European operators in the cloud sphere.

**Source: Interrel**

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## MEPs call for a swift implementation of the GDPR and Privacy Shield

On Monday 29 January, Isabelle Falque-Pierrotin, Chairwoman of the Article 29 Working Party (i.e. EU data protection authorities) delivered a presentation on the implementation of the GDPR and Privacy Shield within the European Parliament's Civil Liberties (LIBE) Committee. This was followed by an exchange of views with LIBE members.

### Executive summary:

Both the WP29 Chairwoman and MEPs attending the debate underlined the slow implementation of the GDPR by EU countries whereas the deadline is set for 25th May 2018. Moreover, all speakers criticised the slow implementation of commitments by U.S. authorities to improve the Privacy Shield. Commissioner Jourova underlined yesterday in the press that "her patience was wearing in", another comment reflecting the deterioration of relations and the lack of trust between the European Commission and the Trump Administration.

### GDPR:

Falque-Pierrotin emphasised the WP29 will publish its own guidelines on GDPR implementation in May 2018, while the Commission already published its **guidance** on 24th January. The data portability right will enable emerging players to compete with incumbents, she said, adding this will address the lock-in effect.

### Privacy Shield:

The WP29 Chairman called on the Trump Administration to quickly appoint the Ombudsperson tasked with treating EU citizens' complaints over U.S. intelligence services' use of their data within the U.S. Department of State. MEPs also warned against the risk that would pose the forthcoming U.S. Supreme Court ruling in the Microsoft case for international data flows if it were to rule in favour of extraterritoriality of U.S. law to access data stored overseas.

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## SPECTRUM

## Feedback from on-going negotiations on EEC and BEREC

On January 23, the Industry Committee heard feedback from the ongoing negotiations on the European Electronic Communications Code and BEREC.

Pilar de Castillo Vera (EPP, ES), rapporteur of the European Electronic Communications Code file, explained that they had two trilogue meetings with the Estonian Presidency. The next trilogue meeting is taking place on February 1. She said that they tried to get as close as they could to reach an agreement on the spectrum part. However, they still need further debates. They are trying to see if in the next trilogue meeting they can make progress on more controversial points. If not, they can think of the possibility of closing the spectrum part in the second trilogue meeting with the Bulgarian Presidency and then start with the second larger area which is access to networks. The idea is still to keep the agenda and try to finalise the file at the end of April. She underlined that the European Parliament (EP) has a strong position on spectrum. The entire spectrum part was included in just 1 compromise amendment. According to Mrs del Castillo, Member States are more reluctant in going forward and in having a more harmonised provision of the use of spectrum.

Evžen Tošenovský (ECR, CZ), rapporteur of the BEREC file, said that the BEREC file is tightly linked to the Code file. Therefore, they are keeping the technical timeline entwined. The line of the Council is similar to the Parliament's attitude. They can agree on the need for a dual structure for BEREC. The Commission expressed a certain disappointment vis-à-vis this as they would like to keep the current structure. He explained that they are now looking for a common approach. The question is now whether there will be certain decisions taken for the Code that could be incorporated in BEREC. There are outstanding issues such as the delegated acts that are transferred to BEREC. Another issue is the role of potential responsible authorities. He said that they are ready to negotiate in another trilogue meeting and expect that the last trilogues will take place at the end of April. They are trying to use the time they have to move things forward. They want to keep the consistency between the two topics.

On a different note, BEREC Chair Mr Johannes Gungl said at the [ETNO-MLex Regulatory Summit 2018](#) that 5G will be BEREC's top priority for 2018. The main topics discussed at the Summit include ongoing regulatory debate on the European Electronic Communication Code (EECC) and implementation of Net Neutrality in Europe, including ongoing work on connectivity and questions on access regulation.

**Source: Dods**

If you have any suggestions for content, or would like to know more about IEEE's European Public Policy activities, please contact [eppc@ieee.org](mailto:eppc@ieee.org). Thank you