EU Policy News Bulletin

ICT

November 2018

AT A GLANCE: UK'S WITHDRAWAL AGREEMENT RELEASED IN NOVEMBER – FRENCH PRESIDENT LAUNCHES PARIS CALL FOR TRUST AND SECURITY IN CYBERSPACE – CONFERENCE AT THE EUROPEAN PARLIAMENT ON CYBERSECURITY IN THE EU'S DIGITAL ECONOMY – TRILOGUE DISCUSSIONS MOVE FORWARD ON THE CYBERSECURITY ACT – DIVISIONS ARISE AT THE EUROPEAN PARLIAMENT'S COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS ON THE DIGITAL TAX

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GLOSSARY

ECOFIN COUNCIL: The ECOFIN Council is made up of the economics and finance ministers from all Member States. Relevant European Commissioners also participate in meetings.

TRILOGUES: Informal negotiations between the European Parliament, Commission and Council of the EU to reach an agreement on a specific legislative proposal. Agreement then needs to be formally adopted by the Parliament and Council.

RAPPORTEUR: A rapporteur is a member of the European Parliament made responsible for handling a legislative proposal drawn up by the European Commission, both procedurally as well as with regard to the substance of the proposal. The rapporteur leads negotiations with the other institutions on the dossier and handles the discussions in the responsible committee of the European Parliament as well as in plenary.

COMMITTEE: Members of the European Parliament are divided up among 20 specialized standing committees. These committees instruct proposals through the adoption of reports, propose amendments to Plenary and appoint a negotiation team to conduct negotiations with the Council on EU legislation.

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BREXIT

UK's withdrawal agreement released in November

This month marked an important milestone in the EU27-UK Brexit discussions. The 585 page draft Withdrawal Agreement provides the legal basis for the UK's departure from the EU. It is accompanied by a much shorter, legally non-binding outline of the **political declaration** setting out the framework for the future relationship.

The Commission has produced a **detailed summary** of what is in the Withdrawal Agreement and the **Protocol on Northern Ireland**. The main decisions are:

- Irish backstop: The EU has accepted the UK's proposal for a single customs territory between the EU and UK, if no permanent alternative is found to prevent a hard border in Ireland. The UK has had to concede that it cannot unilaterally leave the backstop and it can only be removed by joint decision.
- Transition period: if both sides agree, they can request before 1 July 2020 a one-off extension of the transition period beyond 31 December 2020. At present time, there is no limit on how long this could be. This would require a separate financial settlement. The UK would only participate in EU programmes on the same rules as other 3rd countries.
- Governance: Disputes will be settled by a Joint Committee, or if no solution is found, referred to a 5-person arbitration panel made up of independent judges who will make decisions by mutual consent. Any issues relating to EU law will still be subject to the European Court of Justice(ECJ).
- Level playing field: To address fear of undercutting by UK business, the UK has committed to a level playing field on state aid, competition taxation, environment and labour, and social standards. These will be enforced by the Joint Committee.
- Good faith: Article 184, or the so-called Good Faith Clause, ensures both sides will use their best endeavours to negotiate a future relationship. This is seen as a means of ensuring the UK is not locked into the Irish backstop for ever.

In presenting the deal to Parliament, Theresa May made clear there were 3 choices: the deal, no deal or no Brexit. In terms of next steps, at the end of November the European Council will sign off on the Withdrawal Agreement and the political declaration. After that, the House of Commons will hold a "meaningful vote" on the Withdrawal Agreement ahead of the vote on the Withdrawal and Implementation Bill (WAIB), which puts agreements into UK law in early 2019.

(Source: Interel)

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CYBERSECURITY

French President launches Paris Call for Trust and Security in Cyberspace

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Earlier this month at the UNESCO Internet Governance Forum (IGF), taking place in the context of the **Paris Digital Week**, French President Emmanuel Macron launched the **Paris Call for Trust and Security in Cyberspace**, which establishes a series of principles for securing the cyberspace. This high-level declaration particularly aims at limiting the escalation of cyber conflict, through commitments to rein in malware, tackle election disruption and cybercrime, as well as prevent cyber espionage.

The document underlines that international law is applicable to cyberspace and condemns malicious cyber activities in peacetime. It received the backing of more than 50 States, as well as many private companies, such as Microsoft and Oracle, associations and civil society organizations, reaching more than 100 signatures. Next year, supporters will gather to follow up on the progress in their commitment to enforce security in cyberspace. While this is an attempt from the French Government to launch a conversation on global cybersecurity rules, it should be noted that the US, China and Russia didn't support the call.

Supporters of the Paris Call are committed to working together to strengthen prevention against, and resilience to, malicious online activity; protect the accessibility and integrity of the Internet; cooperate in order to prevent interference in electoral processes; work together to combat intellectual property violations via the Internet; prevent the proliferation of malicious online programmes and techniques; improve the security of digital products and services as well as everybody's "cyber hygiene"; clamp down on online mercenary activities and offensive action by non-state actors; and to work together to strengthen the relevant international standards.

(Source: Interel)

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CYBERSECURITY IN DIGITAL ECONOMY

Conference at the European Parliament on Cybersecurity in the EU's Digital Economy

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This month, the S&D Group and Marsh & McLennan companies organised the conference, "Which way for EU's Economy and Society? A Comprehensive Debate on Cybersecurity." The event's clear aim was to promote cybersecurity insurance, which speakers presented as a way to encourage organisations to invest in boosting their cybersecurity skills and resilience. One of the speakers in particular identified three trends in cybersecurity:

- A movement from a narrow focus on cyber risk prevention to a holistic risk approach, with an investment in response. ("From prevention to response");
- Cyber insurance helps build resilience (i.e., providing reduced premiums if an organization invests in measures to boost its resilience); and
- An increasing focus on cyber risk in emerging technologies (AI, IoT etc.)

It was also stressed that in many organisations there is still a belief that cyber is the responsibility "of the IT department," although their function is to detect and prevent. In the end, cybersecurity is the responsibility of all actors. Cyber risk is essentially a business decision and insurance helps in that regard, as it puts a price on it, making it more easily understandable for senior executives (the so-called C-suite. Also on the C-suite, Tim Roberts, Vice President and Partner at IBM Security, underlined that it is important that all of us, board members included, become more literate on cyber risk.

On skills, a European Commission representative stressed that Member States are guarding this area of competence, so the EU is concentrating on adjacent topics and specific measures: supporting graduate students, PhD and graduate programmes. The hope is that successful programmes will receive attention in other Member States.

(Source: Interel)

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CYBERSECURITY ACT

Trilogue discussions move forward on the Cybersecurity Act

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Trilogue negotiations will continue this month in Brussels on the Cybersecurity Act. To date, three rounds of talks have been held (13 September, 1 and 31 October), with another planned for 28 November and one in December.

The talks are now focussing on the competences of the European Union Agency's for Network and Information Security (ENISA) and the certification aspects of the proposal, with some divergences remaining on the latter. This is where discussions will focus later this month. The Parliament Rapporteur, Angelika Niebler MEP (EPP, Germany), noted that this is primarily an issue depending on Member States.

The goal is still for this proposal to be finalised before the end of the year, so formal adoption can take place in early 2019.

(Source: Interel)

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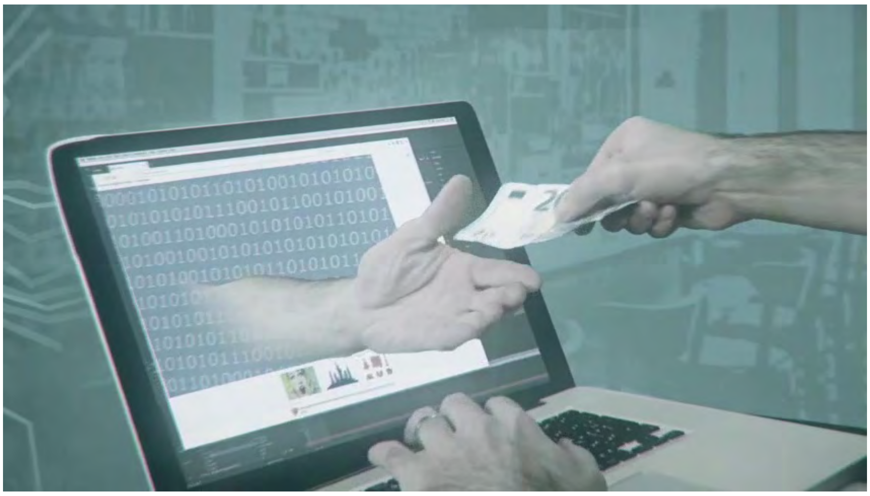
DIGITAL TAX

Divisions arise at the European Parliament's Committee on Economic and Monetary Affairs on the Digital Tax



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The European Parliament's Committee on Economic and Monetary Affairs (ECON Committee) held a joint debate this month on the topics of corporate taxation of a significant digital presence, and on the common system of a digital services tax on revenues resulting from the provision of certain digital services. The debate showed the divisions between MEPs that have been previously reported.

On the significant digital presence proposal, a number of MEPs wanted to see the proposal linked with the Common Consolidated Corporate Tax Base (CCCTB) file. German MEP Wolf Klinz (ALDE) has also recommended rejecting the Commission's proposal.

The disagreements are more pronounced on the digital services tax, where MEPs disagree on the level of the tax, the threshold, and whether to have an annual tax allowance of 750,000 euros to further protect small businesses. There are also amendments on the scope of the proposal, aiming to include digital content, online sales of goods, both of which would increase the scope of the proposal to cover more of the activities of Amazon and Netflix. Again, some MEPs (Germany's Wolf Klinz - ALDE, Sweden's Gunnar Hökmark - EPP and Portugal's Miguel Viegas - GUE/NGL) called on the European Commission to reject the proposal, favouring a decision at the Organisation for Economic Cooperation and Development (OECD). French EPP MEP Alain Lamassoure stated that calling for the OECD to give an opinion before the EU is a "stalling position."

The ECON Committee MEPs will vote on 3 December, the day before the crucial ECOFIN Council meeting. The Parliament has only an advisory role on tax matters.

It was also reported that financial firms will have an explicit exemption from the digital tax proposal. Further discussions on the proposal at Council are expected on 21 and 22 November.

(Source: Interel)

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ARTIFICIAL INTELLIGENCE

American Chamber of Commerce hosts meeting with European Commission's DG CNECT on AI Priorities

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The American Chamber of Commerce in Brussels (AmCham) hosted a meeting earlier in November with Bjoern Juretzki, Advisor on AI to Director General of DG CNECT Roberto Viola. Mr. Juretzki provided some information on the timeline of the different deliverables of the AI expert group and gave some hints as to what AI aspects might feature in the next Commission.

In his speech, Mr. Juretzki reiterated the key deliverables envisaged in the Commission's AI Strategy, such as finalising the AI ethics guidelines; the first draft is expected to be delivered by the end of the year, with a final version in March. This is a key challenge, given the diversity of the actors involved. They will also work on the policy and investment report, which will outline where regulation is needed as well as touch on investment issues. Moreover, they will also produce a deliverable on skills - expected in June - and liability. On skills, the Commission is interested in creating more European PhDs on AI.

Mr. Juretzki also noted that the AI expert group is working in subgroups, along the lines of trusted AI, use cases (concrete examples, which will attempt "bring to life" the ethical principles with concrete examples) and red lines, exploring which areas the Commission should not go into. This work will be complemented by the wider AI alliance, which includes about 1,700 organisations from over 60 countries. He also explained that any proposal coming out of the expert group's work will be aligned with the ethics by design principle.

Other points of interest mentioned during the event included AI in healthcare will be one of the areas covered, as the Commission sees strong potential for making a difference and delivering substantial savings, and that the EU is keen to create more test facilities and develop cross-border "connectivity corridors".

(Source: Interel)

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EU DIGITAL POLICY

AmCham Working Group reveals on the Digital Priorities for the next Commission

In November, a discussion at the AmCham Working Group on the Digital Priorities for the next Commission revealed some intelligence on digital issues.

The information, apparently coming from Martin Selmayr, Head of the Commission's Secretariat General, was they are examining the possibility of not having a Commissioner for digital in the next Commission. The rationale for this is that digital now permeates all sectors, cutting across all issues. Some in the industry, mostly from "traditional" companies, broadly agree with that direction, although the digital sector would like to have a dedicated representative. There is also the question of who will manage overarching technology topics such as AI and Blockchain.

There have also been some rumours that Cybersecurity will be brought under a new department, which will include space and defence. It is also possible that Cybersecurity and tax issues could be moved to the international level, given their global nature.

(Source: Interel)