

AT A GLANCE: INTER-INSTITUTIONAL DISCUSSIONS MOVE FORWARD ON THE CYBERSECURITY ACT - FRANCE STRONGLY ADVOCATES FOR AN EU DIGITAL TAX - HIGH-LEVEL CONFERENCE "CYBERSECURITY IN THE ENERGY SECTOR" – EUROPEAN PARLIAMENT MAY BRING OPERATING SYSTEMS INTO PLATFORM-TO-BUSINESS RULES - UK TO EU: WE NEED A DATA AGREEMENT IN CASE OF NO-DEAL BREXIT

Edition Content

CYBERSECURITY ACT

Inter-institutional discussions move forward on the Cybersecurity Act **P.2**

DIGITAL TAX

More pressure on the negotiations for an EU Digital tax **P.3**

CYBERSECURITY IN THE ENERGY SECTOR

High-Level Conference "Cybersecurity in the Energy Sector" **P.4**

PLATFORM-TO-BUSINESS RULES

European Parliament may bring operating systems into platform-to-business rules **P.5**

BREXIT

UK to EU: We need a data agreement in case of no-deal Brexit **P.6**

GLOSSARY

COUNCIL OF THE EU: Co-legislator, made up of representatives from Member State Governments. Has a six-month rotating presidency, currently held by Austria until the end of 2018.

ECOFIN COUNCIL: The Council of Economy and Finance Ministers (ECOFIN) 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. The ensuing agreement then needs to be formally adopted by the Parliament and Council of the EU.

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 (MEPs) are divided in 22 standing committees. These committees work on legislative proposals by proposing amendments and appointing a team to conduct negotiations with the Council of the EU on legislative proposals.

Edition Content

CYBERSECURITY ACT

Inter-institutional discussions move forward on the Cybersecurity Act **P.2**

DIGITAL TAX

More pressure on the negotiations for an EU Digital tax **P.3**

CYBERSECURITY IN THE ENERGY SECTOR

High-Level Conference "Cybersecurity in the Energy Sector" **P.4**

PLATFORM-TO-BUSINESS RULES

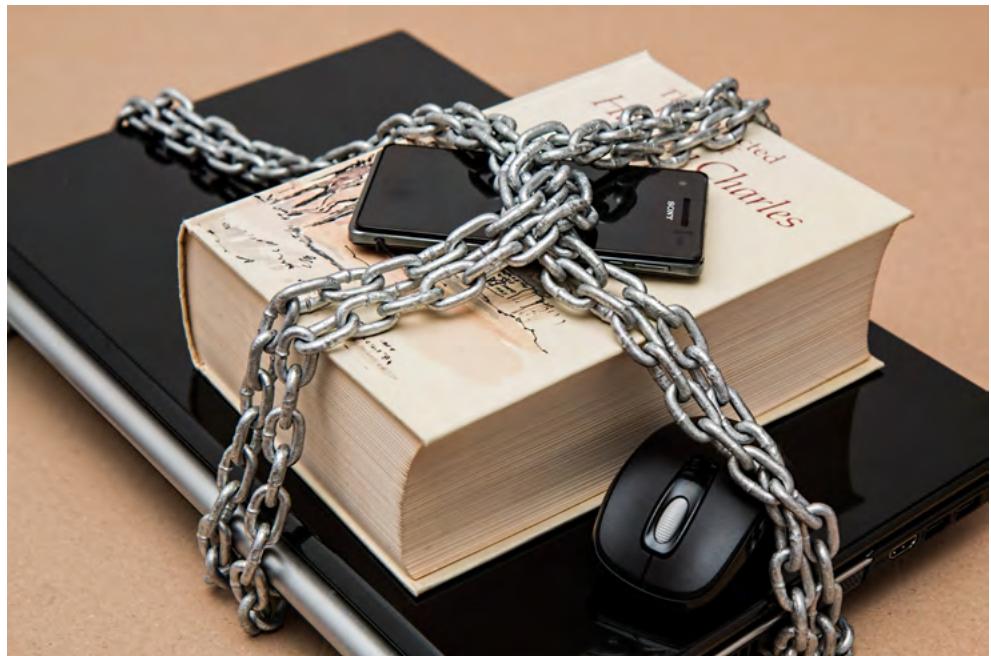
European Parliament may bring operating systems into platform-to-business rules **P.5**

BREXIT

UK to EU: We need a data agreement in case of no-deal Brexit **P.6**

CYBERSECURITY ACT

Inter-institutional discussions move forward on the Cybersecurity Act



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October saw some progress being made on the informal trilogue discussions on the Cybersecurity Act.

Up until now there have been three trilogues, which focused on the roles and competences of the European Union Agency for Network and Information Security (ENISA); on a sensible certification system in the EU; and on the governance arrangements (the role and involvement of Member States and other stakeholders).

Concerning ENISA competences, EU lawmakers are not very far apart on this issue, especially on the matter of a permanent mandate, doubling budget and staff increase. Some disagreements exist over the role the Agency should have, with Member States preferring to keep it as a supporting unit. Another key issue is whether ENISA should be receiving instructions through Member State agencies or through the European Commission.

On certification, one key issue is how to link the different stakeholders, particularly industry. Mandatory certification will be needed for certain operators, but not much progress was made on that.

Overall, the discussion is going in the right direction. The key bone of contention is that Member States consider cybersecurity as their competence. Regarding the timeline, there is the ambition that talks will have concluded by the end of 2018.

([Source: Interel](#))

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Edition Content

CYBERSECURITY ACT

Inter-institutional discussions move forward on the Cybersecurity Act **P.2**

DIGITAL TAX

More pressure on the negotiations for an EU Digital tax **P.3**

CYBERSECURITY IN THE ENERGY SECTOR

High-Level Conference "Cybersecurity in the Energy Sector" **P.4**

PLATFORM-TO-BUSINESS RULES

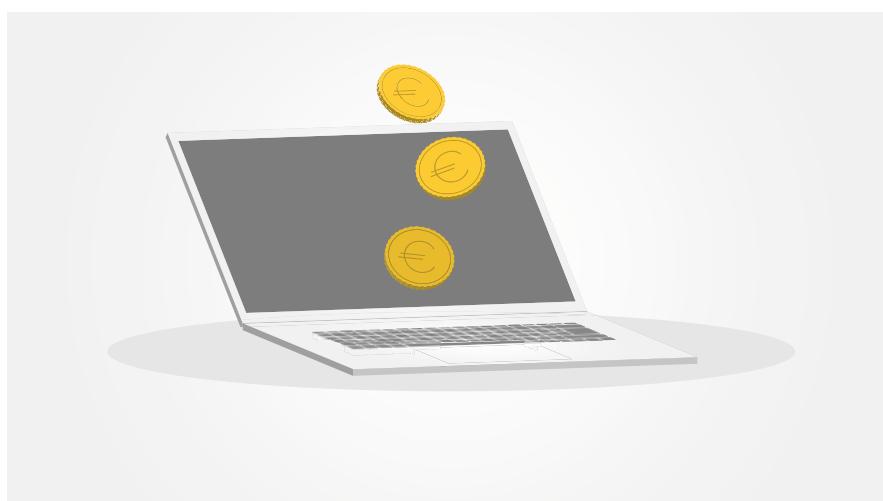
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BREXIT

UK to EU: We need a data agreement in case of no-deal Brexit **P.6**

DIGITAL TAX

More pressure on the negotiations for an EU Digital tax



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In October the Council of the EU's Legal Service published an opinion casting doubt over the legal basis used by the European Commission to introduce this tax. The opinion examines Article 113 of the Treaty of Lisbon "concerning turnover taxes, excise duties and other forms of indirect taxation, to secure the functioning of the internal market and avoid the distortion of competition". The opinion raises doubt on the grounds of the proposal being a tax within the meaning of article 113.

Meanwhile, the French Government increased pressure to secure adoption of this proposal. Economy Minister Bruno Le Maire appeared in the European Parliament to drum up support for the digital tax, ahead of crucial talks at the November ECOFIN. Despite these efforts, the first reports from 6th November ECOFIN discussions suggest that an agreement on this proposal might not be reached in 2018.

The latest intelligence suggests that Ireland and Luxembourg, despite some initial resistance, could support the proposal. Germany is expected to do so, too, especially if its manufacturing sector will not be affected by this digital tax, for which some reassurances have already been offered. Denmark also came out against the proposal, noting that there are still substantial technical issues which need to be solved before the proposal can be adopted. By the end of the year. In response, France stressed that adopting the proposal by the end of the year is a red line for them, cautioning against market fragmentation resulting from various Member States adopting their own versions of the digital tax proposal.

Elsewhere, the European Parliament has continued its work on the proposal. A divergence of opinion has emerged among MEPs, with some calling for an outright rejection of the proposal, while others want to see the rate increased to 5%. Some MEPs also call for a global solution on this issue. However, the European Parliament only has an advisory role on taxation matters.

(Source: Interel)

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More pressure on the negotiations for an EU Digital tax **P.3**

CYBERSECURITY IN THE ENERGY SECTOR

High-Level Conference "Cybersecurity in the Energy Sector" **P.4**

PLATFORM-TO-BUSINESS RULES

European Parliament may bring operating systems into platform-to-business rules **P.5**

BREXIT

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On 11 October, an event organised in Brussels by the Austrian Presidency of the Council of the EU gathered representatives from European Institutions (mainly the European Commission and European Parliament), industry and experts to discuss cybersecurity applied to the Energy sector.

Speakers included representatives from European Network of Transmission System Operators for Electricity (ENTSO-E), the European Union Agency for Network and Information Security (ENISA), EU Member States, Members of the European Parliament, and European Commission's DG CNECT and DG ENER amongst others. The key point of the discussion was that information exchange and building of trust are among the key issues facing cybersecurity in the energy sector. Actors are reluctant to share information about cyberattacks they have suffered, while at the same time the industry market operates across borders, so a weakness in one location can potentially be exploited to adversely affect the entire system or parts thereof, an aspect that was stressed by a number of speakers.

In addition, Christina Kubecka, CEO of HypaSec, showcased that a number of energy generators, as well as smart devices used at homes are extremely vulnerable to unauthorised access, often lacking even basic elements of cybersecurity, such as password-protected access.

A recording of the event and the presentations can be accessed [here](#).

(Source: [Interel](#))

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More pressure on the negotiations for an EU Digital tax **P.3**

CYBERSECURITY IN THE ENERGY SECTOR

High-Level Conference "Cybersecurity in the Energy Sector" **P.4**

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European Parliament may bring operating systems into platform-to-business rules **P.5**

BREXIT

UK to EU: We need a data agreement in case of no-deal Brexit **P.6**

PLATFORM-TO-BUSINESS RULES

European Parliament may bring operating systems into platform-to-business rules

Political groups in the European Parliament are discussing whether to include operating systems within the scope of platform-to-business rules, according to the file's Rapporteur.

Parliament and Member States are discussing a European Commission proposal for a regulation on the relations between platforms and their business users, ahead of final negotiations between the three institutions due in December.

The Commission proposal would make online platforms give users a 15-day notice before changing their terms and conditions. Concerned that platforms might circumvent that obligation by implementing changes through an update of their operating systems, the center-right European People's Party seeks to include the operating systems to the scope of the proposal.

The parties are also discussing whether the regulation should apply to operating systems of goods other than smartphones or tablets, such as connected cars, Rapporteur Christel Schaldemose said.

The Danish MEP added that other points under discussion included: whether a black list enumerating a number of unfair practices should be included in the text or rather added as an annex; whether the text should include a Europe-wide ban on price parity clauses; and how to deal with vertically integrated platforms.

According to Schaldemose, the three EU institutions are likely to first discuss the new rules during an informal meeting on 15 December 2018. After a crucial vote in the Parliament's internal market committee on 6 December 2018, the plenary should give a mandate to the Parliament's negotiating team between 10 and 13 December 2018, the MEP said.

[\(Source: Politico Pro\)](#)

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High-Level Conference "Cybersecurity in the Energy Sector" **P.4**

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UK Digital Secretary Jeremy Wright urged the European Commission last month to begin talks about data transfers in the event there is not a wider Brexit deal.

The U.K. government is "ready to go," but is "finding more difficulty" than it would like in formulating a "sensible insurance policy" to keep data flowing through an adequacy agreement in the event talks break down, Wright told MPs on the House of Commons digital, culture, media and sport committee.

The European Commission has agreements to allow the free flow of data with some non-EU countries providing they are deemed to have a comparable level of protection of personal data to that of the European Union. Wright said the UK was "ready to go" with talks to settle an adequacy agreement "one way or the other" to "avoid a potential gap."

"That requires a contemplation of a no-deal scenario now, not because we want to see it happen, but because it is sensible to have an insurance policy, and it is on that we are finding more difficulty," he said.

"We think this should be a relatively straightforward conversation, but every conversation requires two participants and we need the rest of Europe and the European Commission to be prepared to talk to us about what you might do if we were not able to reach a deal, and yet we would still need data to transfer between us ...," he added.

(Source: Politico Pro)

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