

Copyright rules for the digital environment: Council agrees its position

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The Council's permanent representatives committee (Coreper) today agreed its position on a draft directive aimed at adapting EU copyright rules to the digital environment.

The common position will serve as a mandate for the presidency of the Council to start negotiations with the European Parliament, once the latter has agreed its own position.

All kinds of content are today easily made available online. The dissemination of creative content through the internet encourages cultural diversity. However, this has to be balanced against an appropriate level of protection and fair remuneration for those creating the content.

Boil Banov, Minister of culture of Bulgaria

The main objective of the directive is to modernise the European copyright framework and adapt it to the requirements of the digital age. By contributing to the harmonisation of practises across member states, it will also increase legal certainty in the digital single market.

The main issues of the Council mandate include the following:

Protection of press publications

The Council compromise text would create a new right for press publishers for the online use of their press publications, which is in line with the Commission original proposal. However, the protection would only last one year instead of the 20 years proposed by the Commission.

The protection would also cover the use of parts of press publications. However, insubstantial parts of press publications will not be covered. To determine whether a part of a press publication is insubstantial, member states will be able to apply either an originality criterion or a size

criterion (for instance very short excerpts), or both criteria.

Value gap

The directive seeks to strike the right balance between the remuneration received by authors and performers and the profits made by internet platforms when they make their works accessible. This difference is known as the value gap.

The Council text targets online service providers whose main purpose (or one of whose main purposes) is to provide access to a large amount of copyright-protected content uploaded by their users for the purpose of making profits from organising and promoting it.

Examples of organising and promoting content include indexing the content, presenting it in a certain manner and categorising it.

It would not include services such as internet access providers, providers of cloud services which allow users, including businesses, to upload content for their own use, or online marketplaces whose main activity is online retail and which do not give access to copyright protected content.

Websites which store and provide access to content for non-for-profit purposes, such as online encyclopaedias, scientific or educational repositories, or open source software developing platforms, are also not included.

Improved cooperation between rightholders and online platforms

The Council text encourages collaboration between online content sharing service providers and rightholders.

Service providers will have to obtain authorisation from rightholders. When no authorisation has been given, for example because rightholders do not want to conclude a licence, the service provider will have to prevent the availability of the works identified by rightholders. Otherwise, they will be considered to be liable for copyright infringement. Nevertheless, exemptions from liability may be granted to platforms under certain conditions linked notably to their size.

Upon notification by rightholders of an unauthorised protected work, an online content sharing service provider will have to take urgent steps to remove the work and prevent it from becoming available in future.

Exceptions to copyright on text and data mining

New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data. This is generally known as text and data mining. Those technologies allow researchers to process large amounts of information with a view to securing new knowledge

and discovering new trends.

In line with existing European research policy, which encourages universities and research institutes to develop collaboration with the private sector, research organisations should also benefit from the exception when their research activities are carried out in the framework of public-private partnerships. A mandatory exception for uses of text and data mining technologies in the fields of scientific research is included in the directive.

There will also be mandatory exceptions or limitations to the general copyright rules for illustrations used for teaching in the digital environment and for cultural heritage institutions such as public libraries, museums and archives.

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Main topics and media events 28 May – 10 June 2018

Overview of the main subjects to be discussed at meetings of the Council of the EU over the next two weeks.

Foreign Affairs Council, Monday 28 May 2018

The Council will focus on the situation in Iran, Venezuela, the Democratic Republic of Congo and the future agreement with the African, Caribbean, and Pacific countries. Foreign ministers will also discuss the situation in Gaza, following the recent developments.

Competitiveness Council (Internal market and Industry), Monday 28 May 2018

The Council will carry out a competitiveness check-up on the impact of the internal market on industry. It will hold discussions on mutual recognition of goods and on online platforms-to-business relations.

Competitiveness Council (Research and Space), Tuesday 29 May 2018

The Council will debate on space policy, the extension of the EURATOM research programme as well as research and innovation in the context of the next EU's multiannual budget. It is due to adopt conclusions on knowledge circulation and the European Open Science Cloud. It will also take note of a

report on high performance computing.

Justice and Home Affairs Council (Justice), Monday 04 June 2018

Justice ministers will discuss various topics including insolvency, contract law and parental responsibility. Jointly, home affairs and justice ministers will also discuss the draft legislation on e-evidence.

Justice and Home Affairs Council (Home Affairs), Tuesday 05 June 2018

Home affairs ministers will cover different aspects of the EU migration, security and terrorism policy.

Transport, Telecommunications and Energy Council on transport (Transport), Thursday 07 June 2018

The agenda includes, among other topics, key proposals on drivers' driving and rest times, the posting of road hauliers and cabotage restrictions; safeguarding competition in air transport; port reception facilities for the delivery of waste from ships; electronic road tolling and exchange of information; and the use of hired vehicles.

Transport, Telecommunications and Energy Council on transport (Telecommunications), Friday 08 June 2018

The Council is due to agree a general approach on a proposed Cybersecurity Act regulation. Ministers will also look at the progress made on a proposal to update privacy rules for electronic communications (ePrivacy), and discuss a draft directive to promote the re-use of public sector information.

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Indicative programme – Competitiveness Council, 28-29 May 2018

Place:

Europa building, Brussels

Chairs:

Emil Karanikolov, Minister for Economy of Bulgaria

Krasimir Valchev, Minister of Education and Science of Bulgaria

All times are approximate and subject to change

MONDAY, 28 MAY 2018

+/- 08.00

Arrivals

+/- 08.50

Doorstep by Minister Karanikolov

Internal Market and Industry

+/- 09.30

Roundtable

Adoption of the agenda

Adoption of A items

+/- 09.40

Competitiveness check-up

+/- 10.30

Mutual recognition of goods – draft regulation ([public session](#))

+/- 11.30

Businesses using online platforms – draft regulation ([public session](#))

+/- 13.15

Artificial intelligence (informal lunch debate)

+/- 14.45

Roundtable

Any other business: ([public session](#))

– Recent initiatives in the digital single market

– Copyright package

– New deal for consumers package

– Company Law package

– Outcome of event in the field of tourism in 2018

– Supplementary protection certificates for medicinal products

Any other business: (not in public session)

- Unitary Patent and Unified Patent Court
- SOLVIT online service on the internal market (outcome of conference)
- Work programme of the incoming presidency

+/- 18.45

Press conference ([live streaming](#) from Europa building press room)

TUESDAY, 29 MAY 2018

+/- 08.30

Arrivals

+/- 09.25

Doorstep by Minister Karanikolov

Space

+/- 10.00

Roundtable

+/- 10.00

Future of the European space policy (debate)

Any other business:

- Outcome of events dedicated to space
- Work programme of the incoming presidency

Research

+/- 12.45

High-performance computing (informal lunch debate)

+/- 14.30

Roundtable

+/- 14.30

European high-performance computing joint undertaking (draft regulation)

+/- 14.45

Euratom programme 2019-2020 (draft regulation)

+/- 15.00

European Open Science Cloud (conclusions)

+/- 15.15

Accelerating knowledge circulation in the EU (conclusions)

+/- 16.00

Research and innovation within the context of the next Multiannual Financial Framework ([live streaming](#))

+/- 17.30

Any other business:

Work programme of the incoming presidency

+/- 17.45

Press conference ([live streaming](#) from Europa building press room)

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Keynote speech by Commissioner Jourová at General Data Protection Regulation conference

Ladies and gentlemen,

Today's conference marks the entry into application of the new regulation on personal data protection – the General Data Protection Regulation (GDPR). This is of course not the end of the road, but a beginning of a new chapter.

Data protection is of vital importance and I think it is safe to say that the conversation about privacy has moved beyond the conference rooms of lawyers and other data experts. It's often a subject of a coffee table conversation, and not only in Europe.

I think our event today is a testimony to that as we gather representatives of civil societies, companies big and small, academics and regulators.

I think there is no doubt that data protection is crucial for our citizens as personal data protection is a fundamental right in the EU. But it is also crucial for our business as data protection is a gateway issue for trust in the digital economy.

The recent Facebook/Cambridge Analytica is a reminder that privacy is much more than just a luxury. It is a necessity.

These revelations focus the attention on some core challenges that we face today when we think about the protection of personal data: how do we ensure that individuals are informed about what happens to their data? What are business operators allowed to do with data that was handed to them for a specific purpose? How can we ensure that individuals remain in control of their data and what are their rights in this respect? What mechanisms guarantee effective oversight and enforcement?

And if things go wrong, as they clearly did in this case, what sanctions and redress possibilities exist, both to address past non-compliance and to deter further violations in the future?

The GDPR modifies and updates data protection rules at EU level to make Europe fit for the digital age. Today individuals leave digital traces in everything they do.

And they risk to lose control over their self-image, over their freedom to choose as consumers and, as a society, over their democratic process.

Data protection is directly linked to trust. When individuals are afraid that others will not respect their privacy or fail to guarantee the security of their data, they lose confidence and become reluctant to share those data. Trust is thus a key resource of the digital economy.

The new rules aim to offer benefits both for citizens and for business. More than 9 in 10 Europeans told us they want the same data protection rights across the EU – and as of today this will be the reality.

Citizens will have easier access to their own data; a right to transfer it from one service provider to another – for example a bank or mobile provider; a clarified right to be forgotten online; and the right to know quickly should their data be hacked.

For companies and authorities, one single set of rules will make it simpler and cheaper to do business across the EU; a one-stop shop will allow them to deal with only one supervisory authority; there will be a level-playing field for EU and non-EU companies in Europe; and rules will be fit for innovation.

We now need to ensure that those rules are properly applied on the ground from today onwards. We all have our roles to play: the Commission, the Member States, the Data Protection Authorities (DPAs) individually and in the form of the European Data Protection Board (EDPB), the companies and the civil society.

The DPAs are entrusted with the monitoring and enforcement of the application of the GDPR – both for the private and the public sector. They have a key role to play to make the GDPR effective. The Regulation gives them better means of cooperation. It clearly divides the competences between the DPAs in cross-border cases, and it harmonises the enforcement powers, in particular the power to impose fines.

I am delighted to welcome Ms Jelinek at our event. This morning, she was elected as Chair of the European Data Protection Board (EDPB). I warmly congratulate her for her appointment. She will head the work of the newly constituted EDPB and will have a major role in leading the DPAs through the changes and adjustments necessary for them to embrace the new work culture and functioning.

As guardian of the treaties, the Commission will monitor the proper application of the GDPR. We have a battery of actions to carry out from now on, we will continue our work with the Member States and closely monitor the application of the Regulation in Member States.

We will take appropriate actions as necessary, including the recourse to infringement actions. I have sent a letter this morning to the ministers, so

there is a full clarity about this.

- We have allocated grants to support DPAs by co-financing their awareness-raising activities. These activities will start in the second half of this year and will continue in 2019.
- We will continue our work with stakeholders to explain the GDPR.
- In one year's time from now, in May 2019, we will take stock of the Regulation implementation. I want to talk to practitioners to understand better the real impact of the GDPR on businesses.

Even today, some people are still afraid of the GDPR.

In fact, when I was in Berlin a few weeks ago I publically gave out my email to one of the newspapers to ask for feedback. I have received almost 500 emails from SME's, Web Page Owners, Photographers, Bloggers, Online shops, schools, doctors – and many others.

All of them have questions and all of them are in the need of advice.

Of course I would like to reassure them. The GDPR is based on common sense and the DPAs are not sanction machines.

Privacy issues are becoming a part of global conversation.

Our event is actually the second of three conferences that the European Commission is having in the world today. The other EU conferences are being held in New Delhi and Santiago de Chile.

This just highlights the global dimension of the upward convergence towards higher data privacy standards taking place in the world today.

An increasing number of countries around the world are adopting new privacy laws that tend to be based on common elements, such as:

- a comprehensive legislation that applies across industries and sectors (rather than sectorial rules);
- a core set of enforceable rights;
- and the setting up of an independent supervisory authority.

While improving the level of protection of personal data transferred abroad, this developing convergence in privacy standards at international level offers new opportunities to facilitate data flows and thus trade. Companies increasingly operate across border and prefer to apply a single set of rules in all their business operations worldwide. Being part of this global trend can help the domestic economy, it can contribute to an environment conducive to direct investment, and it can improve trust between commercial partners.

The GDPR as a regulation starts applying today. But the GDPR is also a conversation that will continue for months and years to come.

I am very honoured of the presence of Luxembourg Justice Minister, Mr Braz, who played a key role in finalising the negotiations on the GDPR.

I am also very grateful to all the distinguished speakers from business, civil society, and from countries outside the EU, who have joined us to mark this memorable day.

I very much look forward to fruitful discussions.