

Expert comment

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European data protection reform continues to be the focus of much discussion. Amid intense speculation, the European Parliament approved its compromise text of the proposed EU General Data Protection Regulation on 21st October 2013. The successful vote followed months of negotiations between the various parliamentary committees led by the LIBE Committee, which had the unenviable task of seeking to reconcile more than 3,000 proposed amendments.

The Parliament's vote represents a significant milestone towards a final text, but the path ahead is not easy. Under the Lithuanian Presidency, the Council continues to seek agreement on its text, which reflects a risk-based approach to data protection regulation. On 6th December 2013, the Justice Council will seek to adopt a partial approach, ahead of the European plenary vote on 14th January 2014. A trilogue between the Parliament, the Council and the Commission should commence in February 2014, although that leaves little time within which to reach agreement before the European elections in May 2014.

The European Parliament's compromise text was leaked in advance of the vote (for detail about the key amendments, see the news item on page 1).

Over the coming weeks, there will be detailed analysis and consideration of the Parliament's text, including in this journal, as attention turns to the Council's deliberations.

On a different note, the 35th International Conference of Data Protection and Privacy Commissioners was held early in October in Warsaw. It focused on four key themes:

- the challenges presented by technologies such as mobile apps and online profiling;
- multinational interoperability and enforcement;
- the pending EU data protection regulation and alternatives; and
- surveillance by the NSA and its repercussions.

Commissioners released a declaration on the 'appification' of society, addressing challenges posed by the increased use of mobile applications. In particular, the declaration expressed the clear commitment of data protection commissioners to

ensure that app users are offered a better privacy experience, and emphasising that apps should be developed on the basis of surprise minimisation. The declaration also made clear that app developers are not the only parties responsible for privacy; providers of operating systems also bear responsibility for their platforms.

A further focus was on interoperability and enforcement across national and regional boundaries. Data protection authorities adopted a resolution on international enforcement coordination, urging more countries to join the Global Privacy Enforcement Network. The resolution called on the International Enforcement Coordination Working Group to work with other networks to develop a common approach to cross-border case handling and enforcement coordination.

As expected, the NSA's surveillance activities, revealed by Edward Snowden, were widely discussed in Warsaw. Jacob Kohnstamm emphasised that "we need a better balance between security and surveillance, and privacy", and he characterised the NSA's activities as "building haystacks in order to find the needle".

Clearly concerns about the NSA's activities have influenced aspects of the Parliament's approach to the proposed Regulation, and have resulted in some of the further conservatism in the compromise text. Since that text appeared, there have been revelations of alleged tapping of the mobile phones of some of Europe's leaders, which has reignited debate about the timing and scope of the proposed reforms. The issues are very much mainstream, and require close observation over the critical next few weeks.

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