

# EuroISPA monthly report

March 2021

*In March 2021, EuroISPA was able to finalise several extremely important internal positions. First, after years of background work, EuroISPA adopted its views on the DSA, which were shared with the European Commission and which will be shared with other policymakers in the coming weeks. In addition, the association completed and submitted its position on the European Commission's proposal for a revision of the NIS Directive. The other area in which significant progress has been made is the response to the European Commission's Open Public Consultation on the upcoming legislation on combating child sexual abuse. The EU institutions continued internal work during the so-called trilogues on the e-evidence package and on the e-Privacy temporary Directive derogation to combat CSAM. When it comes to the DSA and the revision of the NIS Directive, work is expected to begin soon in the European Parliament, which has been until now dealing with various conflicts of competence between several aspiring lead Committees.*

## Intermediary Liability

### **DSA: still no progress in sight in the European Parliament**

In the European Parliament, work on the DSA has been slowed down by several conflicts of competences between various Committees. The IMCO Committee (Internal Market and Consumers) leads on the dossier; however, the Committees in charge of Industry (ITRE), Civil Liberties, Justice and Home Affairs (LIBE) and Legal Affairs (JURI) are contesting that. The matter escalated to the attention of the President of the European Parliament, who stressed that the IMCO Committee should remain the lead on the file. This conflict of competence will likely further delay the timeline of the discussions, with internal negotiations which will go well into April before finding a final compromise. This situation challenges the ambition of the Parliament, which wants to finalise its position by the end of the year.

#### **Actions:**

- EuroISPA published its [position](#) on the DSA.
- EuroISPA held its [first event](#) on the DSA on 7 April.

## Cybersecurity

### **NIS2: European Parliaments finds a solution for conflict of competences**

After several weeks of discussions, the Parliament's Conference of Committee Chairs recommended that the Industry, Research and Energy Committee (ITRE) remains as the lead Committee for the NIS2 (as a reminder, the attribution of the file was challenged by the Internal Market Committee (IMCO) on specific parts). The recommendation will have to be formally approved by the Conference of Presidents, which normally is a formality.

**Actions:**

- *EuroISPA submitted its position on the European Commission's proposal and will hold a meeting with the Parliament's rapporteur on the file, MEP Bart Groothuis, on 16 April.*

**E-Evidence trilogues move on to discussions on “notification” and “data categories”**

On 18 March, the second E-Evidence trilogue took place with institutions welcoming the progress made at technical level. The meeting allowed to reach some progress on definitions and on the right of suspects to request a Production or Preservation Order. Negotiators also agreed on starting technical discussions on the very important issue of “notification” and on trying to close the talks on the “data categories”, with a view to meet for a third trilogue on 20 May.

- **Action:** *EuroISPA to continue having meetings with the negotiating teams to discuss and put forward our position.*

**Portuguese Presidency puts forward a discussion paper on data retention**

In early March, the Council's Presidency sent a [discussion paper](#) on data retention to national delegations with a view of having a discussion at the informal videoconference of the Ministers of Justice. The goal of the Presidency is to gather Member States' views on whether a new EU legislation is needed to tackle the practice of governments holding on to personal data, or if law enforcement and judicial authorities should rely on national schemes.

- **Action:** *EuroISPA to monitor developments in this area.*

**Safer Internet****Negotiations to continue on the e-Privacy temporary Directive derogation to combat CSAM**

The fourth political trilogue on the interim e-privacy derogation was held on 25 March and concluded without major breakthroughs regardless the several technical meetings and the new text presented by the Portuguese Presidency to the Council before the meeting, that intended to get Member States endorsement for possible compromises. Further technical meetings in April and at least a new trilogue will be needed to solve key political issues and advance on the negotiations.

**EuroISPA participates at Commission's stakeholder dialogue on the new proposal to fight CSA**

On 5 March, EuroISPA participated in a stakeholder meeting with industry organised by DG HOME's Cybercrime Unit. The meeting, led by Head of Unit Cathrin Bauer-Bulst and Policy lead Antonio Labrador Jimenez, was envisaged to gather feedback on key points that the upcoming legislation should cover, including the role of the possible EU Centre to prevent and counter CSA.

Main points of interest for EuroISPA, like the ask for proportionality of the measures, avoiding a no one-size-fits-all solution, consistency with other legislation, concerns about the scope of the centre, etc., were touched upon and brought forward extensively by several stakeholders. Participants asked

the Commission to look into possible conflicts of law as regards the US/UE data transfers, the non-general monitoring obligation of the e-commerce Directive and net neutrality. On its side, the Commission noted the idea was for the legislation to apply for “relevant service providers” hinting at intermediaries that already have voluntary measures in place and pointed that the added value of the possible centre could be the speed of the transmission of data, especially in a context where there are no data retention rules.

- **Action:** EuroISPA to finalise its contribution to the Commission's public consultation on the upcoming legislation on combating child sexual abuse by 15 April.

## Miscellaneous

### Digital Decade

The European Commission published on 9 March 2021 its [Communication](#) entitled ‘2030 Digital Compass: the European way for the Digital Decade’. The document sets digital transformation targets relating to European citizens, businesses, and the environment; unveils a governance structure that will allow the European Union to monitor its progress toward its 2030 digital goals and identify areas needing improvement and creates a framework to allow uniform implementation and cooperation among Member States. Companies will be able to feed into the Commission’s thinking in the coming months through a public consultation. The Commission is also expected to establish a stakeholder forum.