



## News Online 29 May 2015 (12/15)

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### **EU-UK-GCHQ-USA-NSA SURVEILLANCE**

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1. NSA Planned to Hijack Google App Store to Hack Smartphones
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And see: **NEWS DIGEST:** dozens of news links every month:

<http://www.statewatch.org/news/Newsinbrief.htm>

## NEWS

1. UN: [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye](#) (pdf):

*"In the present report, submitted in accordance with Human Rights Council resolution 25/2, the Special Rapporteur addresses the use of encryption and anonymity in digital communications. Drawing from research on international and national norms and jurisprudence, and the input of States and civil society, **the report concludes that encryption and anonymity enable individuals to exercise their rights to freedom of opinion and expression in the digital age and, as such, deserve strong protection.**"* [emphasis added]

2. EU: Council of the European Union: [EU Action on Migratory Pressures - targeted update on Turkey](#) (LIMITE doc no: 8161-15, pdf) See detailed ANNEX pp6-15. And: *"Reports indicate that the surge of migration flows towards the EU from Turkey is partly due to Egypt and Algeria (since January 2015, also Lebanon) implementing visa requirements for Syrian nationals, who enjoy a visa-free entry to Turkey."*

3. EU: [Ombudsman opens investigation to promote transparency of "trilogues"](#) (pdf, letter to the Council of the European Union)

The European Ombudsman, Emily O'Reilly, has opened an investigation into the transparency of "trilogues" with a view to boosting transparent law-making in the EU. Trilogues are informal negotiations between the European Parliament (EP), the Council and the Commission aimed at reaching early agreements on new EU legislation.

See: Statewatch Analyses: [Secret trilogues and the democratic deficit](#) (pdf) and [Abolish 1st \[and 2nd\] reading secret deals - bring back democracy warts and all](#) (pdf)

4. EU Ombudsman: [Annual Report for 2014](#) (pdf)

5. UK: New Bills in Queen Speech: [EU Referendum Bill](#) published (pdf) and [Explanatory Memorandum](#) (pdf) and [Communication Data Bill 92012\) resurrected](#) (pdf) Also see: [Press Pack All new Bills](#) (pdf)

[Wide-ranging snoopers' charter to extend powers of security services](#) (Guardian, link):

*"David Cameron is to use the Tories unexpected parliamentary majority to press ahead with a turbo-charged version of the snoopers charter that will extend the powers of the security services in response to the debate that followed surveillance disclosures by NSA whistleblower Edward Snowden.*

*In a surprise move, the government is to introduce an investigatory powers bill far more wide-ranging than expected. The legislation will include not only the expected snoopers charter, enabling the tracking of everyones web and social media use, but also moves to strengthen the security services warranted powers for the bulk interception of the content of communications."*

6. GERMANY-EGYPT: [New measures on the part of the Federal Criminal Police Office and the Federal Police to assist Egyptian police authorities](#) (pdf) including migrants, football fans and protest.

7. [Germany imposing border control checks](#) (euobserver, link): *"Germany is imposing temporary*

internal border control checks as part of broader security measures for hosting the G7 international summit in Elmau. The controls will take place from 26 May to 15 June 2015 "at certain German land, air and sea borders within the Schengen area," says the European Commission."

See: [Temporary reintroduction of border controls at the German internal borders in accordance with Article 23\(1\) of Regulation \(EC\) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders \(Schengen Borders Code\)](#) (pdf)

8. [Data Protection or exploitation? The erosion of safeguards for health and genetic research](#) (Genewatch, link): "This briefing describes proposed changes to the research exemption which, if adopted, would allow data to be stored and shared with commercial companies without peoples knowledge or consent. It considers the implications of these changes for the future storage and use of personal medical records and genetic data."

9. European Parliament: INTERPARLIAMENTARY COMMITTEE MEETING: National Parliaments - Conference on the Democratic oversight of Intelligence services in the European Union, 28-29 May 2015: [Agenda](#) (pdf) and [Background documents](#) (pdf)

10. European Commission: Report: [Progress report on the implementation of the Common Approach on EU decentralised agencies](#) (COM 2176-14, pdf):

"On the important issue of the prevention and management of conflicts of interest the Commission issued guidelines in December 2013. The Commission invites the agencies to adopt without delay respective frameworks on conflicts of interest in line with these guidelines. Agencies hereby need to strike an adequate balance between managing conflicts of interest and preserving their capability to obtain best possible scientific advice. The Commission recalls the fact that as the agencies are legally independent entities, they alone are responsible for the way they handle the issue of conflicts of interest in practice and notably, how they enforce and control that the key principles in this domain are respected, as well as for reporting on it."

11. FRANCE-ECHR: [Judgment against France for not providing, at the relevant time, an effective remedy to address inhuman or degrading detention conditions](#) (Press release, pdf):

"the Court found that at the relevant time French law had not provided Mr Yengo with any preventive remedy by which he could have promptly obtained the termination of his inhuman and degrading conditions of detention. There had therefore been a violation of Article 13 of the Convention.."

[Judgment](#) (French, link)

12. EU: [DATA PROTECTION REGULATION: Council of the European Union: LIMITE documents](#): Despite the claims of the Council Presidency that it hopes to conclude the negotiations between Member States by the end of June much remains to be agreed:

[Chapter I - Article 2\(e\) - scope of the General Data Protection Regulation and the Data Protection Directive](#) (LIMITE doc no: 8745-15, pdf):

"a number of delegations expressed concern about the use of the term **maintain law and order** and broadening the scope of the Directive." So two options are proposed:

Option 1: "Article 1: Subject matter and objectives: 1. This Directive lays down the rules relating to the protection of individuals with regard to the processing of personal data by competent () authorities for

*the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties and **the prevention of threats to public security.***

Option 2, proposed by the UK would read: "***falling within the scope of Chapter 4 or 5 of Title V of Part Three of the Treaty on the Functioning of the European Union.***" which, for the uninitiated, covers "***Such competent authorities may include not only public authorities such as the judicial authorities, the police or other law enforcement authorities but also any body/entity entrusted by national law to performing public duties or exercising public powers***" In other words covering the maintenance of "law and order"

[Article 6 and recital 40 in Chapter II and Chapter III](#) (LIMITE doc no: 9082-15, pdf) 59 pages with 248 Member State positions or reservations.

[Chapter III and horizontal issues, including Chapter II, Article 6](#) (LIMITE doc no: 8835-15, pdf) 56 pages with 230 Member State positions or reservations

[Chapter VIII](#) ( LIMITE doc no: 8383-15, (pdf) 73 Member State positions or reservations

Interesting comment on what "partial general approaches" agreements within the Council mean:

*"The Council gave priority on achieving progress on the General Data Protection Regulation finding agreement on several partial general approaches between June 2014 and March 2015. These partial general approaches are based on the understanding that:*

- *nothing is agreed until everything is agreed and future changes to be made to the text of the provisionally agreed Articles to ensure the overall coherence of the Regulation are not excluded;*
- *such partial general approaches are without prejudice to any horizontal question; and*
- *such partial general approaches do not mandate the Presidency to engage in informal trilogues with the European Parliament on the text."*

[Delegated and implementing acts](#) (LIMITE doc no: 8833-15, pdf) 20 Member State positions or reservations:

*The Commission proposal for a General Data Protection Regulation contains 26 delegated acts and 22 implementing acts. In the Presidency compromise text the majority of delegated acts and implementing acts have not been retained or replaced by an alternative, such as a providing more details in the regulation itself or leaving these rules to be worked out in codes of conduct."*

[German delegation: Horizontal issues](#) (LIMITE doc no: 8836-15, pdf)

[Applicability of the General Data Protection Regulation to the activities of the International Committee of the Red Cross \(ICRC\)](#) (LIMITE doc no: 8837-15, pdf):

*"The ICRC has indicated that the draft Regulation may give rise to two different concerns. A first concern relates to the effect certain provisions of the draft Regulation may have on the confidentiality of personal data processed by the ICRC..... The ICRC has referred to the possible impact on confidentiality regarding detainees, where the ICRC may intervene with the detaining authorities to request respect of their obligations under international humanitarian and human rights law. An intervention of this type is likely to provide details of the alleged ill treatment and conditions of detention and is confidential. "*

See also: [See Data bill enters final leg of state-level talks](#) (euobserver, link): "*Five chapters remain*

to be wrapped up in the next few weeks. We still think this is a reasonable aim and feasible, said one EU diplomat. The remaining chapters include issues on data subject rights, sanctions, definitions, final provisions, and the complex legal interpretations of implemented and delegated acts (secondary legislation)".

13. LONDON: SNOWDEN MEETING: [Stand Up for Truth: Whistleblowers speaking tour London](#): Monday, 1 June 2015 from 18:30 to 21:00 at Birkbeck (University of London) Main building, Room B35 (entrance on Torrington Square) London WC1E 7HX Speakers: Eileen Chubb, Daniel Ellsberg, Thomas Drake, Jesselyn Radack, Coleen Rowley, Norman Solomon & Justin Schlosberg

See also [Statewatch Observatory EU-UK-GCHQ-USA-NSA: Data surveillance: June 2013 - ongoing](#)

14. UK: [Legal experts call for greater scrutiny of surveillance laws - Government must not repeat mistakes of previous administrations, but instead must have an open and transparent assessment and critique of UK surveillance powers, academics say](#) (Guardian, link): "An alliance of prominent academics have signed a letter to the government warning against any expansions of state surveillance without the full involvement of parliament and the public. The letters 38 signatories, led by LSE law professor Andrew Murray and University of East Anglia lecturer in IT law Paul Bernal, call on the new government to ensure that any changes in the law, and especially any expansions of power, are fully and transparently vetted by parliament, and open to consultation from the public and all relevant stakeholders."

and see: [Open letter to UK MPs: Ensuring democratic scrutiny of UK surveillance law changes](#) (EU Law Analysis, link)

15, EU: CIVILIAN USE OF DRONES: European Parliament: [Draft Opinion: on safe use of remotely piloted aircraft systems \(RPAS\), commonly known as unmanned aerial vehicles \(UAVs\), in the field of civil aviation](#) (pdf):

*"whereas Remotely Piloted Aircraft Systems (RPAS) can be used for a range of civil (non-military) purposes, such as critical infrastructure and civil protection, disaster management and search and rescue, environmental protection, law enforcement and surveillance, journalism, commercial activities and leisure...*

*reiterates that when personal data are processed by RPAS operated in the EU, including for law enforcement purposes, the right to the protection of personal data enshrined in Article 8 of the Charter of Fundamental Rights of the EU and Article 16 of the Treaty on the Functioning of the European Union (TFEU) applies and that the EU legal framework for data protection is to be fully complied with"*

See: Statewatch Report: [Eurodrones Inc](#)

16. EU: European Data Protection Supervisor (EDPS): [Healthcare on the move](#) (Press release, pdf) and [Opinion - full-text](#) (pdf):

*"Failure to deploy data protection safeguards will result in a critical loss of individual trust, leading to fewer opportunities for public authorities and businesses, hampering the development of the health market. To foster confidence, future policies need to encourage more accountability of service providers and their associates; place respect for the choices of individuals at their core; end the **indiscriminate collection of personal information and any possible discriminatory profiling**; encourage privacy by design and privacy settings by default; and enhance the security of the technologies used."* [emphasis in original]

17. UK: [One Nation: but whose? The first of a post-election two-part series on civil liberties in the UK examines the governments proposal to replace the Human Rights Act by a British Bill of Rights](#) (IRR, link) by Frances Webber: *"Prime minister David Cameron was quick to don the mantle of One Nation Toryism after his partys election victory. But the Tories priorities set out in their manifesto would suggest that Camerons version of One Nation owes more to Thatcher and Bush than to its inventor Harold Macmillan."*

And: [Where the war on welfare and the war on migrants and refugees lead - The war on welfare has parallels with the war on migrants and refugees, both in terms of rhetoric and impact](#) (IRR link) by Jon Burnett.

18. EU: DATA PROTECTION: [Resolution of the European Data Protection Authorities Conference 18-20 May 2015 Manchester, United Kingdom Meeting data protection expectations in the digital future](#) (pdf):

*"Data Protection Authorities are increasingly facing financial and other resource constraints whilst at the same time the demands on them are increasing. Not only does the law need to keep pace with the ever changing digital world but so does the capacity of the Data Protection Authorities for effective supervision at national, EU and the wider European level. If individuals are to have the trust and confidence necessary for a successful digital future the powers and resources available to Data Protection Authorities must be sufficient to enable them to properly uphold the fundamental rights and freedoms of individuals in the digital age."*

## EU-USA

1. [NSA Planned to Hijack Google App Store to Hack Smartphones](#) (Intercept, link): *"The National Security Agency and its closest allies planned to hijack data links to Google and Samsung app stores to infect smartphones with spyware, a top-secret document reveals."*

*The surveillance project was launched by a joint electronic eavesdropping unit called the Network Tradecraft Advancement Team, which includes spies from each of the countries in the Five Eyes alliance the United States, Canada, the United Kingdom, New Zealand and Australia."*

See: [Document from Five Eyes](#) (4MB, pdf)

2. USA: Congressional Research Service reports: [Government Collection of Private Information: Background and Issues Related to the USA PATRIOT Act Reauthorization in Brief](#) (pdf) and [Government Collection of Private Information: Background and Issues Related to the USA PATRIOT Act Reauthorization in Brief](#) (pdf)

3. GERMANY-NSA: [Germany silent on report that leak has made US review spying cooperation - Bild reported intelligence director James Clapper had ordered review - Secret documents allegedly leaked to media from parliamentary committee](#) (Observer, ink):

*"The German government declined on Saturday to comment on a report that US intelligence agencies were reviewing their cooperation with German counterparts and had dropped joint projects due to concerns secret information was being leaked by lawmakers."*

*The Bild newspaper reported on Saturday that the US director of national intelligence, James Clapper, had ordered the review because secret documents related to the BNDs cooperation with the US were being leaked to media from a German parliamentary committee."* and see:

[German parliament inquiry 'more dangerous' than Snowden](#) (DW, link): "There are reports US intelligence director James Clapper wants to put future cooperation with Germany's BND under review. The agency is facing scrutiny following revelations it helped the NSA spy on European targets."

4. USA: [NSA bulk phone records collection to end despite USA Freedom Act failure - Administration has not applied to secret court for 90-day extension - USA Freedom Act fails in early hours after long Senate session](#) (Guardian, link)

"We did not file an application for reauthorization, an administration official confirmed to the Guardian on Saturday. The administration decision ensures that beginning at 5pm ET on 1 June, for the first time since October 2001 the NSA will no longer collect en masse Americans phone records....

A chaotic early morning on Saturday in the Senate ended with the procedural defeat of the USA Freedom Act, which would have banned the NSA bulk collection program while renewing an expiring Patriot Act provision allowing FBI access to business records and a vast amount of US communications metadata."

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Database, over 31,000 items: <http://database.statewatch.org/search.asp>

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