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A B S T R A C T

This article tracks developments at the national level in key European countries in the area of IT and communications and provides a concise alerting service of important national developments. It is co-ordinated by Herbert Smith Freehills LLP and contributed to by firms across Europe. This column provides a concise alerting service of important national developments in key European countries. Part of its purpose is to complement the Journal's feature articles and briefing notes by keeping readers abreast of what is currently happening "on the ground" at a national level in implementing EU level legislation and international conventions and treaties. Where an item of European National News is of particular significance, CLSR may also cover it in more detail in the current or a subsequent edition.

1. Belgium

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No contribution for this issue

2. Denmark

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2.1. *New recommendation on the revision of the Danish copyright blank levy schemes suggests blank levies on integrated storage devices such as smartphones, TVs, laptops, etc*

On 1 September 2017, a recommendation on the revision of the Danish copyright blank levy scheme was published by the Blank Media Committee ("Committee"), which was established in March 2017 by the Danish Ministry of Culture.

The mandate of the Committee was to consider a revision of the Danish copyright blank levy scheme in the light of technological developments and changed consumption patterns, and to provide a recommendation to the Danish Ministry of Culture, on which storage media should be comprised by a new blank levy scheme, and what compensation the rights holders should receive.

Currently the Danish copyright blank levy scheme only requires blank media levies as compensation to the rights holders on separate storage media such as CDs, DVDs, USB sticks and tapes. Hardware, with integrated storage such as laptops, smartphones, computer hard disks and TVs, are not subject to copyright blank levies.

The Committee recommends a generic categorisation of comprised storage media in a new Danish copyright blank levy scheme. In connection with this, a blank media levy of DKK 1.49 is suggested for the category "separate storage media" (CDs, DVDs, Blu-ray and flash storage, including USB and memory cards), and DKK 15.42 is suggested for the other category, "integrated storage media" (e.g. smartphones, tablets, computers, external hard drives, devices with built in storage and devices with recording function).

The further process on the revision of the Danish copyright blank levy scheme is now political, and it is expected that

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a bill will be introduced based on the recommendation from the Committee.

3. France

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No contribution for this issue

4. Germany

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No contribution for this issue

5. Italy

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5.1. *Right to be forgotten – passage of time is not sufficient for delisting*

On 15 June 2017, the Italian Data Protection Authority (the "**IDPA**") ruled on a claim by a high ranking Italian public official to remove certain URLs from the results obtained on the "Google" search engine through his name search key, on the grounds that the relevant articles caused him prejudice.

In particular, the URLs referred to certain articles concerning a legal proceeding (which occurred 16 years ago) involving the public official, for which the claimant was handed a criminal conviction and in relation to which he benefited from rehabilitation back in 2013. One of these articles had been published at the time of the facts (in 2001), while the others - which were published between the years 2012 and 2016 - had taken up the original news in connection with a recent important assignment given to the claimant.

Google argued, inter alia, that the URLs at issue were obtained on the search engine only by using the claimant's name together with other words (e.g. "convict") as search keys.

In a nutshell, the IDPA, in line with the Google Spain CJEU Ruling and the Article 29 Working Party Guidelines of 26 November 2014, ruled that: (i) the right to be forgotten affects all the results obtained on searches made using the individual's name; and (ii) while the length of time that elapsed since the facts occurred is a significant criteria to take into account, there are also other criteria that apply, such as the accuracy of the information and the public interest (e.g. the role played by the data subject in public life). As a consequence, the IDPA (a) ordered Google to remove the URL referring to the article published in 2001, which was directly related to the old news concerning the claimant's conviction, on the basis of the time that had elapsed and the fact that the claimant benefited in turn from rehabilitation (therefore that old news was able to create a misleading impression of the claimant); and (b) declared the claim ungrounded with respect to the URLs that referred to articles published during the period between years 2012 and 2016, based on the public interest criteria, also in view of the current public role played by the claimant.

6. The Netherlands

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No contribution for this issue

7. Norway

Dr. Rolf Riisnæs, *Partner,* rri@wr.no, **Dr. Emily M. Weitzenboeck**, *Senior Associate,* emw@wr.no*, Wikborg Rein Advokatfirma AS (as from 1.1.2017), Norway (Tel. +47 22 82 75 00).*

7.1. *Bill to incorporate the GDPR into Norwegian law*

On 6th July, the Ministry of Justice and Public Security published a consultation paper on the implementation of the General Data Protection Regulation ("**GDPR**") in Norwegian law. As Norway is not an EU member state, EU regulations do not have direct applicability or direct effect, and a different procedure applies for their implementation. The approach proposed by the Ministry is to incorporate the GDPR via a reference clause in the main text of a new and shorter Personal Data Act, with the GDPR text being then reproduced as an appendix to such law. Though the current Personal Data Act and the Data Protection Regulations shall be replaced by the new Personal Data Act, the current rules on video surveillance at the workplace as well as the restrictions regarding the employer's right to access employee e-mail and workspace shall be carried forward into the new Personal Data Act.

The Ministry has called for comments on a number of issues, including the following:

- the consequences of the fact that the provisions on legitimate basis for processing pursuant to Article 6(1)(c)-(e), Article 9(2)(b)(h)-(j), as well as Article 10 of the GDPR also require a supplementary legal basis in national law;
- the extent to which there is need for an exception to the data subject's right to rectification and erasure of personal data, restriction of processing, right to data portability, right to object and right to not be subject to automated individual decision-making;
- the need for an exception to the data subject's rights where there is processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes;
- whether the conditions for the use of biometric identification tools ought to be laid down in special national

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