

Europe against Google & Co.?

In brief

- Global IT companies collect data to provide personalised advertising.
- These business practices are contradicting European values and legislations.
- The European data protection reform aims at forcing companies such as Google to respect European fundamental rights.
- The implementation of this vision in form of political practices is characterised by friction and conflict.
- In addition to the regulation of global search engines, Europe should focus on law enforcement and privacy-friendly technologies.

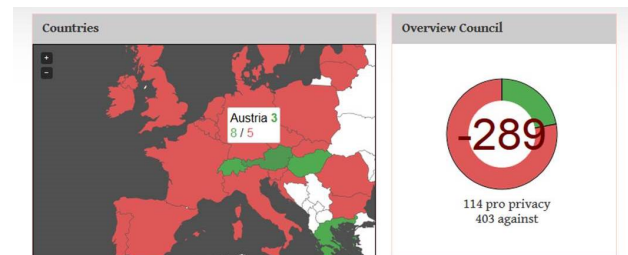
What is it about?

The search engine Google has a market share of more than 90 per cent in most European countries. It has been developed in Silicon Valley and has thus grown out of a very specific economic and innovative culture which has been coined 'Californian Ideology'. This label stands for the combination of the free-wheeling spirit of the hippies and the entrepreneurial zeal of the yuppies. The result of this combination is a search engine which conquered large parts of the world because of its state-of-the-art search algorithm, but also because of its clever business model.

Google transforms personal data into user profiles which are used to display personalised advertising. These profiles are fed with data from different Google services – ranging from simple web searches to map services, or social media to 'intelligent' artefacts such as Google Glass. Especially since Snowden's revelations, these business practices have been discussed critically. In Europe, Google is confronted with a number of accusations including the abuse of its quasi-

monopoly, data protection violations and collaborations with secret services.

In the course of this growing criticism, the European Union (EU) announced a comprehensive data protection reform. In January 2012, the first draft of the 'general data protection regulation' was presented. It is supposed to be directly binding for all member states. The main goal of the data protection reform is to force Google & Co. to respect European values and legislations – e.g. with regulations regarding the explicit consent to data transfer, penalties of up to 5 per cent of annual turnover in case of violations of the law, as well as common law enforcement with coordinated data protection authorities. At the same time, the European Court of Justice (ECJ) passed a remarkable judgement with the 'right to be forgotten': Based on the current EU Data Protection Directive, the ECJ is forcing Google to delete from its index illegitimate content relating to a person if requested by the individual. In contrast to the ECJ, however, not all member states equally support strict data protection standards. In fact, Austria, Hungary, Switzerland and Greece are the only countries, according to LobbyPlag.eu, which have submitted more amendments in favour of a strict data protection law than against it.



LobbyPlag.eu shows that the majority of European countries work against a strong data protection law in the EU Council of Ministers.

In view of these developments, the project 'Glocal Search' posed the following questions: What are the visions and values that guide European search engine policy and how are they translated into political practices? What challenges are involved in these processes and what alternatives can Europe offer? What is Austria's role in European search engine policy? To answer these questions, discourse analyses of European policy documents and Austrian media as well as qualitative interviews with experts were conducted.

Basic data

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Key results

The analysis of the policy documents clearly shows the emergence of a European discourse on values over the past years – a discourse in which fundamental rights such as the right to privacy, data protection and informational self-determination represent key aspects of European identity. At first, EU policy documents adopted the US-American rhetoric of Internet technologies as driver of economic growth. In view of recent developments, however, they now increasingly describe Google & Co. as an intruder of our privacy and as a threat to human rights. The data protection reform is being seen as a central tool to commit globally-operating IT companies to protecting European values.

A glance at Austrian media, however, shows how fragile European identity is when it comes to data protection. Following initial euphoria regarding the data protection reform, conflicts of interest soon came to the fore. The 'battle' (Falter 28/13) or 'fight' (Österreich 09/2012) is fought on multiple 'fronts' (Die Presse 10/2013). On the one hand, the media constructs a 'divide' (Die Presse 01/2011) between the USA and Europe – in this context Europe is described as consistently fundamental rights-friendly. On the other hand, the media discusses inner-European conflicts where practical negotiations of the data protection reform are concerned. Austria, as a data protection-friendly country, is being seen as differing from countries such as Ireland and Great Britain. The latter interpret a strong data protection law as a threat to their economic success. As a result, politics and the media deploy a rhetoric of empowerment when Europe addresses other countries (the USA). Nevertheless, this rhetoric disintegrates in a choir of very different voices when Europe is confronted with itself.

Interviews with experts finally showed that search engine policy has largely moved on from traditional policy-making. The majority of interview partners describe particularly US-American lobby organisations, but also civil society groups as central actors in the negotiations of the data protection reform. They all employ different strategies to inscribe their interests in the general data protection regulation, but their resources and possibilities are distributed very unequally. Moreover, companies such as Google 'actually set data protection standards', as one interviewee put it. This shows that European search engine policy not only reflects geopolitical power relations, but also hegemonic forces that go far beyond Europe's borders.

What to do?

European search engine policy primarily counts on regulation and differentiation from US-American Internet technologies. In addition, the development of an independent vision would be important. This vision should not only result in legal texts, but also in law enforcement and data protection-friendly technologies.

- With its 'right to be forgotten' judgement, the European Court of Justice has shown that law enforcement is possible on the basis of current EU data protection legislation. Austria ought to translate its fundamental rights-friendly position into political practice by better equipping its data protection authority, *the* central body of national law enforcement.
- Civil society groups are important actors in current search engine policy. Their work should be strengthened to balance out unequal power relations with industry – both at European and Austrian level.
- The European Privacy Seal (EuroPriSe), which certifies IT services to be compliant with data protection, may be seen as a first step towards implementing data protection in technology. National financial incentives as well as positive discrimination of privacy-friendly technologies in project tenders are further necessary steps.

Further reading

Mager, A. (2014) Is small really beautiful? Big search and its alternatives, in: König, R.; Rasch, M. (Hg.) *Society of the Query Reader. Reflections on Web Search*, Amsterdam: Institute of Network Cultures: 59-72
networkcultures.org/query/wp-content/uploads/sites/4/2014/06/5.Astrid_Mager.pdf

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