



Issues of Digital Preservation in the Legislation of the European Union

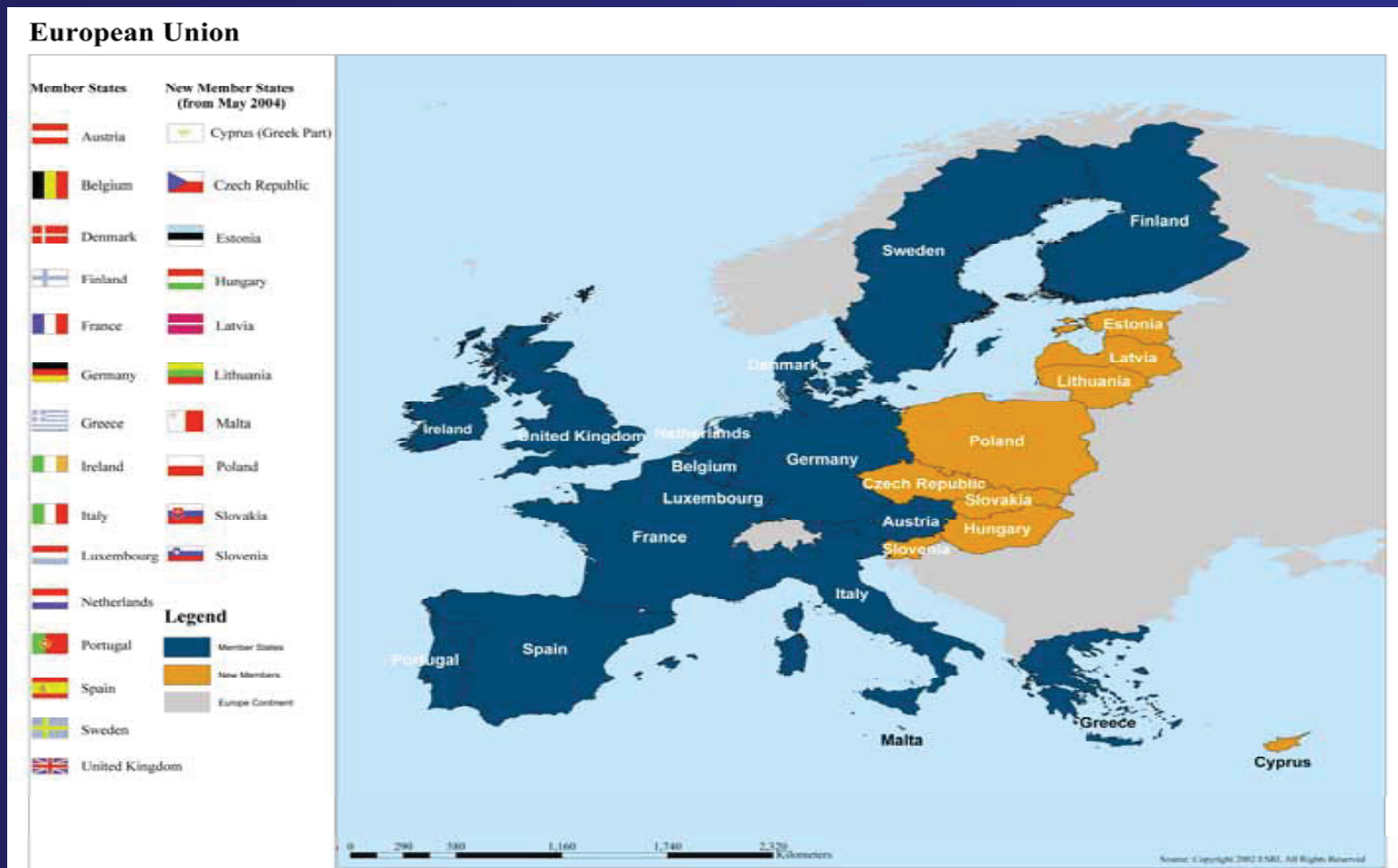
The findings of the InterPARES Project
Policy Cross-Domain

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An Analysis from Three Perspectives

1. Institutional level
2. International co-operation
3. Supra-National legislation

The European Union Today



The “European Archival Heritage...”

“... provides an indispensable resource for writing the history of Europe or of an individual nation”

- Well-kept and accessible archives contribute greatly to the democratic functioning of our societies
- An adequate archives policy and efficient archives management create the conditions for the accessibility needed

Resolution of the Council and the Ministers of Culture Meeting with the Council of
14 November 1991 on Arrangements Concerning Archives

Document and Archives: Definitions

- **Document** shall mean any content whatever its medium (...) concerning a matter relating to the policies, activities and decisions falling within the Institution's sphere of responsibility
- **Archives** of the Institutions of the EU means all those documents of whatever type and in whatever medium which have originated in or been received by one of the Institutions (...) in the performance of their duties, which relate to the activities of the EU

Regulation No. 1049/2001

Regulation No. 1700/2003

Records Lifecycle

- Public access to EU archives: “30-year rule”
- Transfer to historical archives: no later than 15 years after record creation
- Appraisal: no later than 25 years after record creation

Regulation No. 1049/2001

Regulation No. 1700/2003

InterPARES Policy Framework (I)



PRINCIPLE: Preservation considerations must be embedded in the entire lifecycle of a record

Co-ordination of Archives in the Member States

Priorities of the EU Group of Experts:

1. Preservation and damage prevention
2. European interdisciplinary co-operation on electronic documents and archives
3. Internet gateway to documents and archives in Europe
4. EU and national legislation
5. Theft of documents

Council Resolution of 6 May 2003 on Archives in the Member States –
Commission Report on Archives in the Enlarged EU, Brussels, 18 February 2005

The EU and the Information Society

- Model Requirements for the Management of Electronic Records (MoReq)
- DLM Network and Forum
- ERPANET

Harmonization – Standardization
Interoperability

e-Signature Directive

“Light” vs. “Strong” Electronic Signature

ADVANCED ELECTRONIC SIGNATURE must be:

1. Uniquely linked to the signatory
2. Capable of identifying the signatory
3. Created using means that the signatory can maintain under his sole control
4. Linked to the data to which it relates in such a manner that any subsequent change is detectable

Directive 1999/93/EC of 13 December 1999 on a Community Framework for Electronic Signatures

InterPARES Policy Framework (II)



CONSIDERATION: Records policies must clarify how to manage different lifecycles of digital components of electronic records

e-Signature Directive (cont.)

Certification-Service Providers must use “trustworthy systems to store certificates in a verifiable form” so that:

- only authorized persons can make entries and changes
- information can be checked for authenticity
- certificates are publicly available for retrieval in only those cases for which the certificate-holder’s consent has been obtained
- any changes compromising these security requirements are apparent to the operator

e-Commerce Directive

- Use of advanced electronic signature
- Exclusion of certain categories of contracts
- Service providers not liable for the information transmitted beyond the period of transmittal

Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market

Privacy Directive

- “Traffic data (...) must be **erased** or made **anonymous** when it is no longer needed for the purpose of the transmission of a communication”
- “Every reasonable step must be taken to ensure that data which are inaccurate or incomplete are **erased** or **rectified**”
- “Personal data which are to be stored for longer periods for historical, statistical, or scientific use should be kept either in **anonymous** form only or with the identity of the data subjects **encrypted**”

Directive 2002/58/EC on the processing of personal data and the protection of privacy in the electronic communication sector

InterPARES Policy Framework (III)



PRINCIPLE: Protection of privacy rights and obligations must be accommodated in records system

e-Invoicing Directive

- “Authenticity of the origin and integrity of the content of invoices”: guaranteed by means of either advanced electronic signature or EDI
- Transmission and storage of invoices: “using electronic equipment (...), including digital compression, and employing wires, radio transmission, optical technologies, or other electromagnetic means”

Directive 2001/115/EC with a view to simplifying, modernizing and harmonizing the conditions laid down for invoicing of value added tax

InterPARES Policy Framework (IV)



PRINCIPLE: References to specific technologies must not be included in records policies

Thank you for your attention

