Electronic communications: processing of personal data, protection of privacy

2000/0189(COD) - 28/01/2002 - Council position

The Council welcomed the proposal, fully endorsing its objectives and approving most of the provisions. The Council's amendments to the text of the Commission proposal were motivated by the following major concerns: - the need to upgrade the level of protection for subscribers and users; - consideration of the technical requirements involved in providing new communications services; - a wording better reflecting the balance between protection of privacy requirements and the needs of Member State authorities responsible for ensuring security in a democratic society; - the need to clarify the scope of the Directive's provisions in accordance with the guidelines on the editorial quality of Community legislation. In many instances identical or similar changes are adopted in the European Parliament's amendments. On two important questions, directories of subscribers and unsolicited communications, the Council followed the Commission's opt-in approach but introduced technical and other adjustments to the latter's proposal. It was therefore unable to endorse certain European Parliament amendments which marked a departure from the Commission proposal. The Council agreed in particular to make it possible for directories of voice telephony subscribers to derogate from the obligation to obtain the consent of the persons concerned to the continuing inclusion of their information in these directories. The Council also thought it useful to clarify certain areas of the text of the Commission proposal in the light of the serious threat posed by the events of 11 September 2001. Article 15(1) was extended to include the retention of data for a limited period in accordance with the general principles of Community law among the legislative measures which Member States may adopt to safeguard certain major public security interests. Recital 11 was adapted, accordingly, in a balanced way. Finally, a reference to Article 15(1) was added to Article 6(1) as a reminder that limitations on the principle of the erasure of traffic data are possible not only for network or service providers but also for Member States' authorities responsible for defending the aforementioned public interests. In this context, the Council was unable to agree to certain European Parliament amendments.