Electronic communications: processing of personal data, protection of privacy

2000/0189(COD) - 12/07/2002 - Final act

PURPOSE : to harmonise the provisions of the Member States required to ensure an equivalent level of protection of fundamental rights and freedoms, and in particular the right to privacy, with respect to the processing of personal data in the electronic communication sector and to ensure the free movement of such data and of electronic communication equipment and services in the Community. COMMUNITY MEASURE : Directive 2002/58/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications). CONTENT : by a qualified majority, with the Luxembourg delegation voting against, the Council adopted the Directive concerning the processing of personal data and the protection of privacy in the electronic communications sector incorporating all the amendments approved by the European Parliament at second reading. This text is the last element for reforming telecommunications regulations, as the other elements (four Directives and one Decision) have been adopted and were published in the Official Journal on 24 April 2002. Dovetailing with this regulatory framework for electronic communications infrastructure and associated services, the Directive aims to create rules which are technologically neutral, while maintaining a high level of data protection and privacy for citizens. In adopting this directive, the Council came to a solution on the question of spamming, the directive states that an opt-in system for e-mail, faxes and automated calling systems is created. This means that users should give prior permission for receiving unsolicited electronic communications for marketing purposes has been specified. Member States may adopt legislative measures to restrict the scope of the rights and obligations when such restriction constitutes a necessary, appropriate and proportionate measure within a democratic society to safeguard national security (i.e. State security), defence, public security, and the prevention, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communication system, as referred to in Article 13(1) of Directive 95/46/EC. To this end, Member States may, inter alia, adopt legislative measures providing for the retention of data for a limited period justified on the grounds specified in this Directive. As regards "cookies", users should have the right to refuse them, specifying that users should be provided with clear and comprehensive information on their purposes. Before 31 October 2003 Member States shall bring into force the provisions necessary to comply with this Directive. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive and of any subsequent amendments to those provisions. ENTRY INTO FORCE : 31/07/2002. IMPLEMENTATION : 31/10/2003.