

Combating crime: prevention of crime, criminal offences and terrorism, retention of data processed on public communications networks. Framework Decision. Initiative France, Ireland, Sweden and United Kingdom

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The Council held an exchange of views on the basis of a paper from the Presidency.

A large number of delegations could accept the elements set out by the Presidency paper as the basis for further work, subject to maintaining the derogation in Article 15(1) of the 2002 telecommunications Directive and clarifying its future scope.

In the next stage, the Framework Decision will remain on the table, as an option favoured by a large number of delegations. However, a majority of delegations were also open to the idea of adopting a Directive.

There was wide agreement that any measure must reflect the elements referred to in the Presidency paper, notably in respect of the provisions on retention periods, scope and costs.

The Council agreed that work should be taken forward urgently. It instructed Coreper to finalise agreement on all outstanding issues as soon as possible, and agreed that informal contacts with the European Parliament should continue in order to maximise common ground between the Council and the EP on issues of substance, while respecting the Council's position as set out above. The Council agreed to revert to this issue at its next meeting with a view to a final decision before the end of the year.

It should be noted that a proposal on data retention was made in April 2004 by France, Ireland, Sweden and the UK, on the basis of Articles 31 and 34 of the Treaty of the European Union, under the so-called "Third Pillar". For it to be adopted, such a proposal needs unanimity at Council level.

However, the Commission has taken the view that the categories of data to be retained and the period for retaining such data fall within EC competence ("First Pillar") and should be adopted by the Council in codecision with the European Parliament, on the basis of a Commission proposal for a Directive. On 21 September 2005 the Commission adopted such a proposal for a Directive on retention of communication data.