

Electronic communications: personal data protection rules and availability of traffic data for anti-terrorism purposes

2005/0182(COD) - 01/12/2005

The Council agreed to reach a "first reading deal" with the European Parliament on a Directive on data retention by the end of the year in spite of reservations made by Ireland, Slovakia and Slovenia.

Some of the elements agreed are as follows :

- serious criminal offences : a reference to serious crime is included in the text of the Directive, as defined by each Member State in its national law. Member States shall have due regard to the crimes listed in Article 2(2) of the Framework Decision on the European Arrest Warrant (2002/534/JHA) and crime involving telecommunications;
- retention periods : Member States should ensure that the categories of data referred to in the draft Directive are retained for periods of not less than 6 months and for a maximum of two years from the date of the communication.
- Internet data : the Council is in favour of an obligation to retain data on Internet access, Internet e-mail and Internet telephony;
- unsuccessful calls : the Council is in favour of including the retention of data in relation to unsuccessful call attempts where that data is generated or processed, and stored (as regards telephony data) or logged (as regards Internet data) by providers of publicly available electronic communications services or of a public communications network within their jurisdiction in the process of supplying the communication services concerned. This Directive shall not require the retention of data in relation to unconnected calls;
- flexibility : Article 15(1) of Directive 2002/58/EC would continue to apply in relation to data, including data related to unsuccessful calls, which are not specifically required to be retained under the present Directive and therefore fall outside the scope of this Directive, and for retention for purposes, including judicial purposes, other than that covered by this Directive.