

Brussels, 21 September 2005

Commission proposes rules on communication data retention which are both effective for law enforcement and respectful of rights and business interests

The European Commission has adopted today a proposal for a Directive on the retention of communications traffic data. The proposal provides for an EU-wide harmonisation of the obligations on providers of publicly available electronic communications, or a public telecommunications network, to retain data related to mobile and fixed telephony for a period of one year, and internet communication data, for six months. The proposed Directive would not be applicable to the actual content of the communications. It also includes a provision ensuring that the service or network providers will be reimbursed for the demonstrated additional costs they will have. For its adoption, the proposal requires the approval both of the European Parliament and the Council. The Council is currently discussing an alternative text, a Framework Decision which would allow for data retention of up to 3 years and could be adopted by the Council alone.

“This proposal is a very balanced and constructive one, which takes account of the fundamental rights to security, to a private life and protection of personal data, as well as different interests, in particular those of law enforcement authorities and communication providers”, said Vice President of the Commission Franco Frattini, responsible for Justice, Freedom and Security. As EU citizens expect the three EU institutions to work jointly on this sensitive but important issue and to form a united front in the fight against terrorism and organised crime, he added: “I am dedicated to working on a co-decision basis with the European Parliament and the Member States in the Council, and in particular its UK Presidency, to try to reach an agreement on this issue before the end of this year- counter terrorism effectively requires that we have no time to lose.”

The proposal was developed in full agreement with Commissioner Viviane Reding, responsible for Information Society and Media: “I am satisfied that the proposal adopted today is in line with the Commission’s new Lisbon strategy for which the Information and Communication industry is a key factor for Europe’s competitiveness. The Commission proposal now puts data retention rules on a sound legal basis, ensures the full co-decision of the European Parliament and limits the data retention periods to the extent absolutely necessary. In contrast to the text at present discussed in the Council, the Commission proposal in particular requires that all additional costs for the industry, which are proven to have been caused by data retention obligations under the new Directive, will have to be reimbursed.”

As the investigations following the tragic events of Madrid in March 2004 and London in July 2005 clearly demonstrated, communications traffic data are essential for law enforcement agencies when investigating serious crime and terrorism because such data can disclose associations between persons and events by time and location.

The retention of communications traffic data has therefore been identified by a number of different Council meetings as one of the most important instruments for preventing and combating (organised) crime and terrorism, most recently by the European Council of 16/17 June and, following the London attacks of 7 July, the extraordinary Council of Justice and Home Affairs Ministers of 13 July.

Fundamental rights aspects have been carefully weighed in the preparation of the proposal, and solid data protection rules will be applicable, given that the general and specific data protection provisions established under Directives 95/46/EC and 2002/58/EC will apply. The processing of such data will be under the full supervisory powers of the data protection authorities established in all Member States. The Directive is also fully in line with the European policy on consumer protection.

The proposal has taken into account to a significant extent the ongoing works on an initiative from Member States for a Framework Decision on the same topic, which has been in discussion within the Council since April 2004. However, the Commission proposal is founded on a different legal basis (EC Treaty instead of EU Treaty), which means that the European Parliament will be fully involved in the decision making process.