

European Commission evaluation of data retention shows it has significant costs but no benefits

Brussels, 17 April 2011 - The European Commission will publish its long overdue evaluation report on the Data Retention Directive tomorrow. This Directive currently requires long-term indiscriminate storage of records of every electronic communication of every person in the European Union. European Digital Rights (EDRi), the European digital civil rights organisation, concludes in a parallel 'shadow report' that European citizens have gained nothing from the Data Retention Directive, but lost their privacy. EDRi urges the Commission to respect the Charter on Fundamental Rights and reject data retention in Europe.

Nothing won

In its evaluation report, the Commission fails to prove that data retention is a necessary instrument to fight serious crime. The statistics provided by Member States indicate that the vast majority of data used by law enforcement authorities would also have been available without obligatory data retention. The absence of data retention legislation in countries such as Germany and the Czech Republic (where national Constitutional Courts rejected transposition laws of the Data Retention Directive as an unjustified restriction on fundamental rights) has not led to an increase in crime or a decrease in the ability to fight crime.

Privacy lost

Meanwhile, 500 million European citizens have been confronted with an unprecedented and unnecessary infringement of their fundamental rights. In 2010, the average European had their traffic and location data logged in a telecommunications database once every six minutes. According to the European Data Protection Supervisor, the Directive constitutes 'the most privacy invasive instrument ever adopted by the European Union'.

In addition, several Member States fail to fully respect the data security obligations of the Directive. Some do not even have a process for deleting the data after the retention periods, nor of overseeing this deletion. The Commission has accused unspecified Member States of breaches of legal process by exploiting domestic telecoms companies to obtain data from other EU Member States, thereby circumventing agreed legal procedures.

Joe McNamee of EDRi explains: "European citizens, and Europe's hard won credibility for defending fundamental rights, have paid dearly for this Directive, both in terms of a reduction in the right to privacy and also in the chaotic and lawless treatment of personal data. The Commission report and our shadow report show that the Directive has failed on every level – it has failed to respect the fundamental rights of European citizens, it has failed to harmonise the European single market and it has failed as a necessary instrument to fight crime."

What next?

The Commission's evaluation report will serve as the basis for an impact assessment of policy options to annul or amend the Directive. EDRi will send its shadow report to the European Parliament, calling on its members to stand for the fundamental rights of 500 million EU citizens and repeal the Data Retention Directive.

* * *

Not for publication:

Contact: Joe McNamee: Joe@McNamee.eu, [+32 2 550 4112 or (mobile +32 497 046114)
EDRi's shadow report: http://www.edri.org/files/shadow_drd_report_110417.pdf
Commission report: <http://www.alexander-alvaro.de/archives/1904/test-2>