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# Commission should investigate all options as regards Data Retention



Currently the Commission is assessing whether to revise or abandon the Data Retention Directive 2006/24/EC. The Directive was adopted in 2006 as a reaction to, amongst others, the London Bombings in 2005. It makes blanket retention of all citizens' communications data mandatory. Several EU member states have not implemented the directive due to constitutional concerns, in particular with regards to the right to private life. Civil society groups are warning that the Commission is excluding analysis of policy options which could replace the current blanket communications data retention regime. The Commission would thereby violate its own impact assessment guidelines. Greens/EFA MEPs therefore insist alternative proposals such as expedited preservation and targeted collection of traffic data should also be analysed. The Commission must not exclude legislative solutions which are in line with the Charter of Fundamental Rights. Only then can the Parliament properly exercise its legislative responsibility with regards to the Data Retention Directive. To alert the Commission and safeguard a full investigation, six members of the Greens/EFA group have taken coordinated action to this end (1). **Jan Albrecht**, speaking on behalf of the group, said: *"It is essential that the Commission's legislative proposals are based on unbiased and complete research. The exclusion of policy options which address fundamental shortcomings of blanket data retention is not meeting that standard. We are therefore reminding the Commission of its responsibility to prepare properly the proposals which will underpin the upcoming debate in Parliament and insist that the Commission follows its own rules for conducting impact assessments."*

## (1) Priority questions on Data Retention Directive

**Eva Lichtenberger:**

Following the recent leak of a Commission document showing that the Commission has not been provided with the data to show that data retention is necessary: Will the Commission undertake to investigate - in the context of its current evaluation and impact assessment of the Data Retention Directive 2006/24/EC - the policy option to repeal the directive if compelling evidence is not forthcoming from the Member States?

**Judith Sargentini:**

Does the Commission believe that the simple assertion from some Member States that data retention is needed is enough to satisfy it that the Data Retention Directive 2006/24/EC is in line with the EU Charter of Fundamental Rights? If yes, how is that compliant with the Commission's Fundamental Rights check list COM(2010)573? And is this belief expressed in any of the policy options the Commission is considering in the context of its current evaluation and impact assessment of the directive?

**Jan Albrecht:**

The Commission is currently preparing a revision of Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks, also known as the data retention directive. Some member states have difficulties, for constitutional, legal and political reasons, to transpose this directive into national law.
There are various examples of EU law harmonising national legislation interfering with fundamental rights only where it is in place (e.g. Art. 1 2003/641/EC, Art. 25 2011/92/EU, Art. 9 pp. 2006/123/EC, Art. 5 2001/29/EG, Art. 15 ex-2002/58/EC).

1. In the Commission's opinion, is it legally possible to amend the Data Retention Directive 2006/24/EC to no longer make blanket communications data retention mandatory throughout the EU, and to regulate and restrict national retention schemes where such exist?
2. Is the Commission examining this option in the context of its current evaluation and impact assessment of the directive? If not, why not?

**Carl Schlyter:**

In the context of the current evaluation and impact assessment on the future options with regard to the Data Retention Directive 2006/24/EC, is is true the the Commission is not assessing the option of an EU-wide ban on blanket communications data retention in favour of a system of expedited preservation and targeted collection of traffic data as agreed on in the Council of Europe's cybercrime convention? If so, why?

**Christian Engström:**

The European Commission has declared protection and implementation of fundamental rights an important goal and has issued a fundamental rights check-list COM(2010)573. Has the Data Retention Directive 2006/24/EC been evaluated against this check-list? If not, why not? Is the check-list used in the context of the Commission's current evaluation and impact assessment on the future options with regard to the Data Retention Directive? If yes, how? If not, why not?

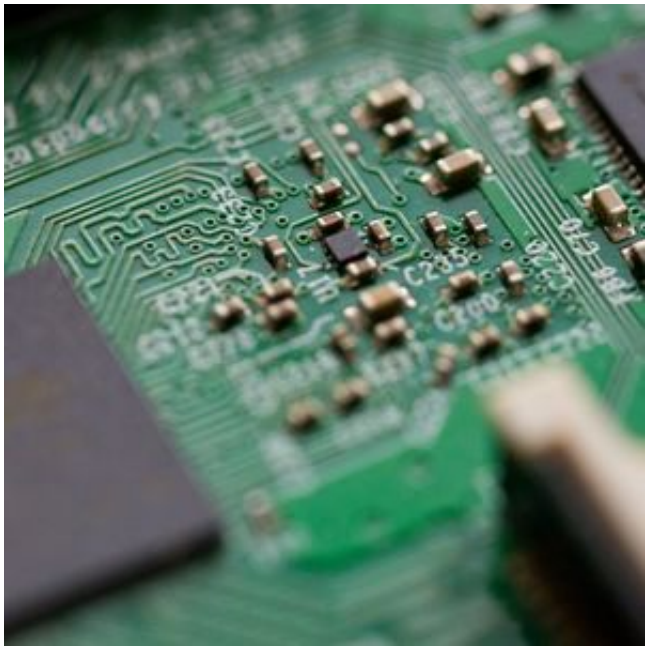
**Amelia Andersdotter:**

In the Commission's current evaluation and impact assessment on the future options with regard to the Data Retention Directive 2006/24/EC, how does the Commission take into account the Romanian Constitutional Court's finding that blanket communications data retention violates the right to privacy under Article 8 ECHR? Is the Commission considering the policy option of following the Court's decision and ban blanket communications data retention? If not, why not?

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Jan Philipp Albrecht

Member



Judith Sargentini

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