



EUROPEAN COMMISSION
DIRECTORATE-GENERAL HOME AFFAIRS

The Director General

Brussels, 27 JUL. 2010
HOME/A3/JV/cn D (2010) 11574

Sir,

At the Informal JHA Council of 15 July, Commissioner Malmström informed Member States that it is necessary to receive additional input from them to finalise its evaluation report on the Data Retention Directive.

Without this additional information it will be difficult for the Commission to adequately demonstrate that the Directive is useful and gives a clear security added value and that it strikes the right balance between real law enforcement interests, the costs that the market has to incur to provide the data and the sizeable impact that the retention of data has on the privacy of citizens.

The Commission wishes to be in a position to show citizens how retained data are used in practice and what their concrete impact was on law enforcement operations. This information can only be provided by the national police and justice authorities.

The statistics that Member States have provided so far show that retained data are requested millions of times per year across the EU, but not whether and if so how these data have led to law enforcement results.

Hence, the Commission would kindly ask Member States to give information, both quantitative as well as qualitative since the beginning of this year on

- (1) convictions,
- (2) acquittals,
- (3) cases closed/discontinued, or
- (4) crimes prevented

in as far as data retained under the Data Retention Directive played a determining role, with an indication of the number and type¹ of retained data accessed and used.

His Excellency Sir Kim Darroch KCMG
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¹ See Data Retention Directive Article 5 'categories of data to be retained', first paragraph, i.e. *source of communication* Article 5(1) (a) (1) and (a) (2); *destination of communication* 5(1) (b) (1) and (2); *data, time, and duration of the communication* 5(1) (c) (1) and (2); *type of communication* 5(1) (d) (1) and (2); *communication equipment* 5(1) (b) (1), (2) and (3); *location of equipment* 5(1) (f) (1) and (2)

Member States are also kindly asked to describe some important cases amongst those that are reported and explain the role that retained data have played.

The Commission has suggested to the Presidency to discuss this issue directly after the summer holidays in the appropriate Council Working group and would therefore appreciate to have answers until the first week of September.

Yours faithfully,



Stefano Manservigi