




EUROPEAN COMMISSION
DIRECTORATE-GENERAL HOME AFFAIRS

The Director General

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

Your Excellency, 

The Commission sent the attached letter to the Permanent Representations of Member States, by means of which, it seeks to obtain information about the concrete added value of retained data by law enforcement authorities within the next six weeks.


The statistics that the Commission obtained so far show that retained data are requested millions of times per year across the EU, but not whether these data have led to law enforcement results such as condemnations, acquittals, the closure or discontinuation of cases, or the prevention of crimes in particular.

The information about such concrete results, completed with the description of some concrete cases, is necessary to finalise the evaluation report.

The Commission would value receiving feedback from Member States as to whether the results they reported adequately represent the contribution that retained data make to law enforcement operations.

For that reason I kindly invite you to table the subject in the first meeting of an appropriate Council working group after the summer break during which the Commission could present the results of the information it received and have a debate with Member States on that basis.

Yours faithfully,


Stefano Manservigi

Annex





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Your Excellency,

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.

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) (e) (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