04/11/2005

# COMPARATIVE TABLE OF AMENDMENTS TABLED FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE RETENTION OF DATA PROCESSED IN CONNECTION WITH THE PROVISION OF PUBLIC ELECTRONIC COMMUNICATION SERVICES AND AMENDING DIRECTIVE 2002/58/EC

NOTE CONCERNING THIS DOCUMENT:
Due to the very large number of amendments put forward for this proposal, this table is being used to help identify similarities amongst the amendments.

This table lists only those Recitals or Articles for which an amendment has been put forward.

The first column lists the original Recital or Article.

The second column contains the amendments corresponding to the Recital or Article in the first column.

The third column contains a Synopsis of the amendments proposed for the given Recital or Article. This is thought of as being a quick indication of the main aspects of the amendment and is not exhaustive. The reader should at all times refer to the amendment itself to be sure of the content.

Underneath each section of amendments there is a shaded box that contains the main points contained in all the amendments in that section. The list may not be exhaustive, and is intended only as an aid to achieving an overview of the main points contained in the amendments.

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 3 | Jean-Marie Cavada Amendment 44 | |
| (3) Articles ***5,*** 6 and 9 of Directive 2002/58/EC define the rules applicable to the processing by network and service providers of traffic and location data generated by using electronic communications services. ***Such*** data must be erased or made anonymous when no longer needed for the purpose of the transmission of a communication, ***except for the data necessary for*** billing ***or*** interconnection payments; ***subject to consent, certain data may also be processed for marketing purposes and the provision of value added services.*** | (3) Articles 6 and 9 of Directive 2002/58/EC define the rules applicable to the processing by network and service providers of traffic and location data generated by using electronic communications services. ***In principle such*** data must be erased or made anonymous when no longer needed for the purpose of the transmission of a communication: ***For the purposes of subscriber*** billing ***and*** interconnection payments ***data may be processed, but only up to end of the period during which the bill may lawfully be challenged of payment may be pursued;*** | **44: Section allowing for data to be used for marketing purposes and value added services removed.** |
| Total number of amendments: **1**<br>Synopsis of proposed amendments: **Only one amendment** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 4 | Alexander Alvaro Amendment **1** | |
| (4) Article 15(1) of Directive 2002/58/EC sets out the conditions under which Member States may restrict the scope of the rights and obligations provided for in Article 5, Article 6, Article 8(1)(2)(3) and (4), and Article 9 of the Directive; any such derogations need to be necessary, appropriate and proportionate within a democratic society for specific public order purposes, i.e. to safeguard national security (i.e. State security) defence, public security or the ***prevention***, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communications systems. | (4) Article 15(1) of Directive 2002/58/EC sets out the conditions under which Member States may restrict the scope of the rights and obligations provided for in Article 5, Article 6, Article 8(1)(2)(3) and (4), and Article 9 of the Directive; any such derogations need to be necessary, appropriate and proportionate within a democratic society for specific public order purposes, i.e. to safeguard national security (i.e. State security) defence, public security or the investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communications systems.<br><br>*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout).* | **1: Removal of word "prevention"- all the way through the Directive.** |
| Recital 4 | Charlotte Cederschiöld Amendment **45** | |
| (4) Article 15(1) of Directive 2002/58/EC sets out the conditions under which Member States may restrict the scope of the rights and obligations provided for in Article 5, Article 6, Article 8(1)(2)(3) and (4), and Article 9 of the Directive; any such derogations need to be necessary, appropriate and proportionate within a democratic society for specific public order purposes, i.e. to safeguard national security (i.e. State security) defence, public security or the ***prevention,*** investigation, detection and prosecution of criminal offences ***or of unauthorised use of the electronic communications systems.*** | (4) Article 15(1) of Directive 2002/58/EC sets out the conditions under which Member States may restrict the scope of the rights and obligations provided for in Article 5, Article 6, Article 8(1)(2)(3) and (4), and Article 9 of the Directive; any such derogations need to be necessary, appropriate and proportionate within a democratic society for specific public order purposes, i.e. to safeguard national security (i.e. State security) defence, public security or the investigation, detection and prosecution of ***serious*** criminal offences.<br><br>*Justification*<br><br>*As hacking and other attacks on electronic* | **45: Purpose should be to tackle terrorism and serious crime only, not to prevent unauthorised downloading of music etc.** |

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| | *communications systems are included in serious criminal offences there is no need for this clarification. However, when downloading and file sharing of i.e. music becomes a criminal offence under the pending IPR enforcement directive it should not fall under the scope of this directive as this directive is meant to protect citizens against terrorism and serious crime.* | |
| Recital 4 | Jean-Marie Cavada Amendment **46** | |
| (4) Article 15(1) of Directive 2002/58/EC sets out the conditions under which Member States may restrict the scope of the rights and obligations provided for in ***Article 5,*** Article 6***, Article 8(1)(2)(3) and (4),*** and Article 9 of the Directive; any such derogations need to be necessary, appropriate and proportionate within a democratic society for specific public order purposes, i.e. to safeguard national security (i.e. State security) defence, public security or the prevention, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communications systems. | (4) Article 15 (1) of Directive 2002/58/EC sets out the conditions under which Member States may restrict the scope of the rights and obligations provided for ***in inter alia*** Article 6 and Article 9 of the Directive; any such derogations need to be necessary, appropriate and proportionate within a democratic society for specific public order purposes, i.e. to safeguard national security (i.e. State security) defence, public security or the prevention, investigation, detection and prosecution of criminal offences or of unauthorised use of the electronic communications systems; | **46: Addition of 'inter alia' enlarges scope for Member States to deorgate from other articles as well.** |
| 4 (a) NEW | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendement **47** | |
| | ***La Charte des Droits fondamentaux reconnaît explicitement le droit au respect de la vie privée en son article 7 et le droit à la protection des données à caractère personnel en son article 8.*** | **47: Addition of reference to right to privacy and right to data protection in Charter of Fundamental Rights** |

Total number of amendments: **4**
Synopsis of proposed amendments:
**The Rapporteur and one further amendment advocate the removal of the word "prevention" in this recital and everywhere throughout the Directive.**
**One amendment specifies that the purpose of the legislation is to tackle terrorism and serious crime only.**
**One amendment advocates the introduction of the words "inter alia" regarding the Articles that Member States can derogate from.**
**One amendment advocates the mentioning of the Charter of Fundamental Rights, and the right to privacy and data protection contained therein.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 5 | Alexander Alvaro Amendment **2** | |
| (5) ***Einige*** Mitgliedstaaten haben Rechtsvorschriften über eine Vorratsspeicherung von Daten zum Zwecke der Vorhütung, Untersuchung, Feststellung und Verfolgung von Straftaten erlassen, die jedoch untereinander stark variieren. | (5) ***Zehn der 25*** Mitgliedstaaten haben Rechtsvorschriften über eine Vorratsspeicherung von Daten zum Zwecke der Vorhütung, Untersuchung, Feststellung und Verfolgung von Straftaten erlassen, die jedoch untereinander stark variieren: ***Belgien, Frankreich, Italien, Irland, Lettland, Litauen, Niederlande, Polen, Spanien, Tschechische Republik.*** | **2: Precision that 10, as opposed to "several" (einige), Member States have legislation in this field, including a list of those Member States.** |
| Recital 5 | Sylvia-Yvonne Kaufmann Amendment **48** | |
| (5) ***Einige*** Mitgliedstaaten haben Rechtsvorschriften über eine Vorratsspeicherung von Daten zum Zwecke der Verhütung, Untersuchung, Feststellung und Verfolgung von Straftaten erlassen, die jedoch untereinander stark variieren. | (5) ***10 von 25*** Mitgliedstaaten haben Rechtsvorschriften über eine Vorratsspeicherung von Daten zum Zwecke der Verhütung, Untersuchung, Feststellung und Verfolgung von Straftaten erlassen, die ***zum Teil auch noch nicht umgesetzt sind,*** jedoch untereinander stark variieren.<br><br>*Justification*<br><br>*Die Änderung konkretisiert die Anzahl der Staaten, die überhaupt eine Regelung zur Vorratsdatenspeicherung erlassen haben.* | **48: Precision that 10, as opposed to "several" (einige), Member States have laws on data retetnion, and that these have in part not yet been implemented.** |
| Recital 5 | Jean-Marie Cavada Amendment 49 | |
| (5) ***Several*** Member States have adopted ***legislation*** providing for the retention of data by service providers for the prevention, investigation, detection, and prosecution of crime and criminal offences; ***the provisions of the various national legislations vary considerably.*** | (5) ***Some*** Member States have adopted ***national legislations*** providing for the retention of data by service providers for the prevention, investigation, detection, and prosecution of crime and criminal offences; | **49: Change from "several" to "some" Member States (meaning a lower number). Precision that they have adopted *national* legislation.** |
| Recital 5 | Edith Mastenbroek, Lilli Gruber and Stavros | |

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| | Lambrinidis Amendment 50 | |
| (5) ***Several*** Member States have adopted legislation providing for the retention of data by service providers for the prevention, investigation, detection, and prosecution of crime and criminal offences; the provisions of the various national legislations vary considerably. | (5) ***Some*** Member States have adopted legislation providing for the retention of data by service providers for the prevention, investigation, detection, and prosecution of crime and criminal offences;; the provisions of the various national legislations vary considerably. | **50: Change from "several" to "some" Member States (meaning a lower number).** |
| Recital 5 | Charlotte Cederschiöld Amendment 51 | |
| (5) ***Several*** Member States have adopted legislation providing for the retention of data by service providers for the ***prevention,*** investigation, detection, and prosecution of crime and criminal offences; the provisions of the various national legislations vary considerably. | (5) ***Only a few*** Member States have adopted legislation providing for the retention of data by service providers for the investigation, detection, and prosecution of crime and criminal offences; the provisions of the various national legislations vary considerably. | **51: Change from "some" Member States to "only a few". Removal of word "prevention" as a purpose of the legislation** |
| Recital 5 | Ioannis Varvitsiotis Amendment 52 | |
| (5) Several Member States have adopted legislation providing for the retention of data by service providers for the ***prevention,*** investigation, detection, and prosecution of crime and criminal offences; the provisions of the various national legislations vary considerably. | (5) Several Member States have adopted legislation providing for the retention of data by service providers for the investigation, detection, and prosecution of crime and criminal offences; the provisions of the various national legislations vary considerably. | **52: Removal of word "prevention" as a purpose of the legislation** |

Total number of amendments: **6**
Synopsis of proposed amendments:

**Two amendments (including the Rapporteur's) advocate stating the exact number of Member States with data retenion legislation (and that this is in part not yet implemented). The Rapporteur advocates including a list of those Member States.**

**One amendment advocates the specification that these Member States have implemented *national* legislation.**

**Two amendments advocate changing the phrase "several Member States" to "some Member States".**

**One amendment advocates changing the phrase "several Member States" to "only a few Member States".**

**Two amendments advocate the removal of the word "prevention" as a purpose of this legislation.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 6 | Jean-Marie Cavada Amendment 53 | |
| (6) The legal and technical differences ***between national provisions concerning the retention of data for the purpose of prevention, investigation, detection and prosecution of criminal offences present obstacles to the internal market for electronic communications; service providers are faced with different*** requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention. | (6) The ***provisions so far adopted present*** legal and technical differences ***and the*** requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention ***also differ;*** | **53: Simplification of recital. section stating the purpose of the national legislation adopted removed.** |
| Recital 6 | Edith Mastenbroek and Lilli Gruber Amendment 54 | |
| (6) The legal and technical differences between national provisions concerning the retention of data for the purpose of prevention, investigation, detection and prosecution of criminal offences ***present*** obstacles to the internal market for electronic communications; service providers are faced with different requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention. | (6) Legal and technical differences between national provisions concerning the retention of data for the purpose of prevention, investigation, detection and prosecution of criminal offences ***may become*** obstacles to the internal market for electronic communications; service providers are faced with different requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention. | **54: Assertion that different national regimes are not at present an obstacle to the internal market, but may become one.** |
| Recital 6 | Charlotte Cederschiöld Amendment 55 | |
| (6) The legal and technical differences between national provisions concerning the retention of data for the purpose of ***prevention,*** investigation, detection and prosecution of criminal offences present obstacles to the internal market for electronic communications; service providers are faced with different requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention. | (6) The legal and technical differences between national provisions concerning the retention of data for the purpose of investigation, detection and prosecution of ***serious*** criminal offences present obstacles to the internal market for electronic communications; service providers are faced with different requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention.<br><br>*Justification*<br><br>*The purpose of this Directive is said to be to combat* | **55: Removal of word "prevention", and specification that purpose of the legislation is for serious criminal offences and not just criminal offences.** |

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| | *serious criminal offences, such as terrorism and organised crime. The word serious should then be used in every case.* | |
| Recital 6 | Ioannis Varvitsiotis Amendment 56 | |
| (6) The legal and technical differences between national provisions concerning the retention of data for the purpose of ***prevention,*** investigation, detection and prosecution of criminal offences present obstacles to the internal market for electronic communications; service providers are faced with different requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention. | (6) The legal and technical differences between national provisions concerning the retention of data for the purpose of investigation, detection and prosecution of criminal offences present obstacles to the internal market for electronic communications; service providers are faced with different requirements regarding the types of traffic data to be retained as well as the conditions and the periods of retention. | **56: Removal of word "prevention"** |
| Recital 6 (a) NEW | Charlotte Cederschiöld Amendment 57 | |
| | ***(6) a The harmonisation of the internal market in the field of data retention highlights the need for a better and more equal access to justice and appeal for citizens, throughout the EU. Every citizen should have the same right to legal protection and compensation against misuse of information regardless if it originates from an authority or a provider.*** | **57: All EU citizens should have the same right ot legal protection in the case of misuse of this data.** |

Total number of amendments: **5**
Synopsis of proposed amendments:
**One amendment advocates the <u>removal of the section re-stating what the national legisaltion has been adopted for</u>.**

**One amendment advocates removing <u>the clause stating that national provisions are currently an obstacle to the internal market, with a preference for a saying taht thses measures "may become" an obtsacle</u>.**

**Two amendments advocate <u>removing the word "prevention"</u> from the purposes of the legislation**

**One amendment advocates the <u>insertion of the word "serious" regarding criminal offences</u>, so that normal criminal offences are not covered.**

**One amendment advocates the <u>insertion of a clause stating that all citizens should have the right to legal protection from the misuse of this data</u>.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 7 | Alexander Alvaro Amemndment 3 | |
| ***(7) The Conclusions of the Justice and Home Affairs Council of 20 September 2001 call for ensuring that law enforcement authorities are able to investigate criminal acts which involve the use of electronic communications and to take legal measures against perpetrators of these crimes, while striking a balance between the protection of personal data and the needs of law enforcement authorities to gain access to data for criminal investigation purposes.*** | ***deleted*** | **3: Deletion of whole recital** |
| Recital 7 | Edith Mastenbroek, Lilli Gruber and Stavros Lambrinidis Amendment 58 | |
| (7) The Conclusions of the Justice and Home Affairs Council of 20 September 2001 call for ensuring that law enforcement authorities are able to investigate criminal acts which involve the use of electronic communications and to take legal measures against perpetrators of these crimes, while striking a balance between the protection of personal data and the needs of law enforcement authorities to gain access to data for criminal investigation purposes. | (7) The Conclusions of the Justice and Home Affairs Council of 20 September 2001 call for ensuring that law enforcement authorities are able to investigate criminal acts which involve the use of electronic communications and to take legal measures against perpetrators of these crimes, while striking a balance between ***respect for fundamental rights and*** the protection of personal data***,*** and the needs of law enforcement authorities to gain access to data for criminal investigation purposes. | **58: insertion of fundamental rights into what must be taken into account.** |
| Recital 7 | Charlotte Cederschiöld Amendment 59 | |
| (7) The Conclusions of the Justice and Home Affairs Council of 20 September 2001 call for ensuring that law enforcement authorities are able to investigate criminal acts which involve the use of electronic communications and to take legal measures against perpetrators of these crimes, while striking a balance between the protection of personal data and the needs of law enforcement authorities to gain access to data for criminal investigation purposes. | (7) The Conclusions of the Justice and Home Affairs Council of 20 September 2001 call for ensuring that law enforcement authorities are able to investigate ***serious*** criminal acts which involve the use of electronic communications and to take legal measures against perpetrators of these crimes, while striking a balance between the protection of personal data and the needs of law enforcement authorities to gain access to data for criminal investigation purposes. | **59: "serious ciminal acts" instead of just "criminal acts"** |

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| | *Justification*<br><br>*The word "serious" should apply to criminal acts throughout the text.* | |

Total number of amendments: **3**
Synopsis of proposed amendments:

**The Rapporteur advocates the deletion of the recital**

**One amendment advocates the insertion of "fundamental rights " as something to be taken into account**

**One amendment advocates reserving the purpose of the Directive for combating "serious criminal acts" instead of just "criminal acts"**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 8 | Alexander Alvaro Amendment 4 | |
| ***(8) The Conclusions of the Justice and Home Affairs Council of 19 December 2002 underline that, because of the significant growth of the possibilities of electronic communications, data relating to the use of electronic communications is particularly important and therefore a valuable tool in the prevention, investigation, detection and prosecution of crime and criminal offences, in particular against organised crime.*** | ***deleted*** | **4: Deletion of whole recital** |
| Recital 8 | Charlotte Cederschiöld Amendment 60 | |
| ***(8) The Conclusions of the Justice and Home Affairs Council of 19 December 2002 underline that, because of the significant growth of the possibilities of electronic communications, data relating to the use of electronic communications is particularly important and therefore a valuable tool in the prevention, investigation, detection and prosecution of crime and criminal offences, in particular against organised crime.*** | ***deleted*** | **60: Deletion of whole recital** |
| Recital 8 | Edith Mastenbroek and Lilli Gruber Amendment 61 | |
| (8) The Conclusions of the Justice and Home Affairs Council of 19 December 2002 underline that, because of the significant growth of the possibilities of electronic communications, data relating to the use of electronic communications ***is particularly important and therefore*** a valuable tool in the prevention, investigation, detection and prosecution of crime and criminal offences, in particular against organised crime. | (8) The Conclusions of the Justice and Home Affairs Council of 19 December 2002 underline that, because of the significant growth of the possibilities of electronic communications, data relating to the use of electronic communications ***may be*** a valuable tool in the prevention, investigation, detection and prosecution of crime and criminal offences, in particular against organised crime. | **61: Removes statement asserting that data relating to electronic communications is "particularly important" and states instead that it "may be" a valuable tool.** |
| Recital 8 | Ioannis Varvitsiotis Amendment 62 | |

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| (8) The Conclusions of the Justice and Home Affairs Council of 19 December 2002 underline that, because of the significant growth of the possibilities of electronic communications, data relating to the use of electronic communications is particularly important and therefore a valuable tool in the ***prevention,*** investigation, detection and prosecution of crime and criminal offences, in particular against organised crime. | (8) The Conclusions of the Justice and Home Affairs Council of 19 December 2002 underline that, because of the significant growth of the possibilities of electronic communications, data relating to the use of electronic communications is particularly important and therefore a valuable tool in the investigation, detection and prosecution of crime and criminal offences, in particular against organised crime. | **62: Removal of word "prevention"** |
| Total number of amendments: **4**<br>Synopsis of proposed amendments:<br><br>**Two amendments (including the Rapporteur's) advoate <u>deleting the whole recital</u>**<br><br>**One amendment advocates <u>removing the statement asserting that data relating to electronic communications is "particularly important" and states instead that it "may be" a valuable tool</u>.**<br><br>**One amendment advocates <u>removing the word "prevention"</u>** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 9 | Alexander Alvaro Amendment 5 | |
| ***(9) The Declaration on combating Terrorism adopted by the European Council on 25 March 2004 instructed the Council to examine measures for establishing rules on the retention of communications traffic data by service providers.*** | ***Deleted*** | **5: deletes whole recital** |
| Recital 9 | Charlotte Cederschiöld Amendment 63 | |
| ***(9) The Declaration on combating Terrorism adopted by the European Council on 25 March 2004 instructed the Council to examine measures for establishing rules on the retention of communications traffic data by service providers.*** | ***deleted*** | **63: deletes whole recital** |
| Total number of amendments: **2**<br>Synopsis of proposed amendments: **Two amendments (including Rapporteur's) advocate the deletion of the recital.** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 10 | Alexander Alvaro Amendment 6 | |
| ***(10) The declaration adopted by the special informal Council of 13 July 2005 reinforces the need to adopt measures related to the retention of electronic communications traffic data as soon as possible.*** | ***Deleted*** | **6: deletes whole recital** |
| Recital 10 | Charlotte Cederschiöld Amendment 64 | |
| ***(10) The declaration adopted by the special informal Council of 13 July 2005 reinforces the need to adopt measures related to the retention of electronic communications traffic data as soon as possible.*** | ***deleted*** | **64: deletes whole recital** |
| Recital 10 | Jean-Marie Cavada Amendment 65 | |
| (10) The declaration adopted by the special informal Council of 13 July 2005 reinforces the need to adopt measures related to the retention of electronic communications traffic data as soon as possible. | (10) The declaration adopted by the special informal Council of 13 July 2005 reinforces the need to adopt ***common*** measures related to the retention of electronic communications traffic data as soon as possible; | **65: measures adopted should be "common"** |
| Recital 10(a) NEW | Jean-Marie Cavada Amendment 66 | |
| | ***(10) a In accordance with the principle of proportionality, as set out in Article 5 of the Treaty, this Directive does not go beyond what is necessary in order to achieve those objectives;*** | **66: Insertion of statement on proportionality.** |
| Recital 10(a) NEW | Jean-Marie Cavada Amendment 67 | |
| | ***(10) a The Working Party on the protection of individuals with regard to processing of personal data established according to Article 29 of Directive 95/46/EC shall carry out the tasks laid down in Article 30 of the abovementioned Directive also with regard to the protection of fundamental rights and freedoms and of legitimate interests in the sector which is subject to this Directive,*** | **67: The Article 29 Working Party (95/46/EC) will carry out tasks laid down in Article 30 of this Directive.** |

Total number of amendments: **5**
Synopsis of proposed amendments:

**Two amendments (including the Rapporteur's) advocate the deletion of the whole recital**

**One amendment advocates that the measures adopted should be "common"**

**One amendment advcoates the insetion of a clause on proportionality**

**One amendment advcoates that the Article 29 Working Party (95/46/EC) will carry out tasks laid down in Article 30 of this Directive.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 11 | Alexander Alvaro Amendment 7 | |
| (11) ***Given the importance of traffic data for the prevention, investigation, detection, and prosecution of serious criminal offences, such as terrorism and organised crime, as demonstrated by research and the practical experience of several Member States,*** there is a need to ensure that data which are processed by electronic communication providers when offering public electronic communication services or public communication networks are retained for a ***certain*** period of time. | (11) ***The practical experience of some Member States has demonstrated that traffic data can be important for the investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. Consequently,*** there is a need to ensure that data which are processed by ***public*** electronic communication providers when offering public electronic communication services or public communication networks are retained for a ***harmonised*** period of time. | **7: Rewording of first part: removal of word "research"**<br><br>**Specification that legislation should apply to "public" electronic communidation providers**<br><br>**Specification that the length of data retention should be harmonised.** |
| Recital 11 | Charlotte Cederschiöld Amendment 68 | |
| (11) ***Given the importance of traffic data for the prevention, investigation, detection, and prosecution of serious criminal offences, such as terrorism and organised crime, as demonstrated by research and the practical experience of several Member States, there is a need to ensure that data which are*** processed by electronic communication providers when offering public electronic communication services or public communication networks are retained for a ***certain*** period of time. | (11) ***Data*** processed by ***public*** electronic communication providers when offering public electronic communication services or public communication networks are ***to be*** retained for a ***harmonised*** period of time. | **68: Removal of long section repeating the purpose of the legisaltion.**<br><br>**Specification that legislation should apply to "public" electronic communidation providers**<br><br>**Specification that the length of data retention should be harmonised.** |
| Recital 11 | Sylvia-Yvonne Kaufmann Amendment 69 | |

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| (11) ***Sowohl wissenschaftliche Untersuchungen als auch praktische*** Erfahrungen in mehreren Mitgliedstaaten haben gezeigt, dass Verkehrsdaten für die Verhütung, Ermittlung, Feststellung und Verfolgung von schweren Straftaten wie Terrorakten und organisierter Kriminalität von großer Bedeutung ***sind***. Aus diesem Grund muss sichergestellt werden, dass die Daten, die bei der Bereitstellung öffentlicher elektronischer Kommunikationsdienste von den Anbietern dieser Dienste verarbeitet werden, für einen ***bestimmten*** Zeitraum auf Vorrat gespeichert werden. | (11) ***Praktische*** Erfahrungen in mehreren Mitgliedstaaten haben gezeigt, dass Verkehrsdaten für die Ermittlung, Feststellung und Verfolgung von schweren Straftaten wie Terrorakten und organisierter Kriminalität von großer Bedeutung ***sein können***. Aus diesem Grund muss sichergestellt werden, dass die Daten, die bei der Bereitstellung öffentlicher ***zugänglicher*** elektronischer Kommunikationsdienste von den Anbietern dieser Dienste verarbeitet werden, für einen ***harmonisierten*** Zeitraum auf Vorrat gespeichert werden.<br><br>*Justification*<br><br>*Dem Parlament wurden keine wissenschaftlichen Studien vorgelegt, die sich mit der flächendeckenden Speicherung von Verkehrsdaten beschäftigt haben. Verkehrsdaten sind meistens nur ein Indiz unter vielen, die bei der Ermittlung von schweren Straftaten eine Rolle spielt.* | **69: removal of reference to research (wissenschaftliche Untersuchungen) .**<br><br>**Specification that traffic data is not necessarily, but "may/can be (sein können), of importance (große Bedeutung).**<br><br>**Specification that this legislation should appy to "publicly accessible" (öffentlich zugänglich)**<br><br>**Specification that the length of data retention should be harmonised.** |
| Recital 11 | Ioannis Varvitsiotis Amendment 70 | |

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| (11) Given the importance of traffic data for the ***prevention,*** investigation, detection, and prosecution of serious criminal offences, ***such as terrorism and organised crime,*** as demonstrated by research and the practical experience of several Member States, there is a need to ensure that data which are processed by electronic communication providers when offering public electronic communication services or public communication networks are retained for a certain period of time. | (11) Given the importance of traffic data for the investigation, detection, and prosecution of serious criminal offences, ***as those are defined by each Member State, and*** as demonstrated by research and the practical experience of several Member States, there is a need to ensure that data which are processed by electronic communication providers when offering public electronic communication services or public communication networks are retained for a certain period of time.<br><br>*Justification*<br><br>*It is not necessary at this stage to give examples of what is a serious criminal offence. Each Member State has the right to define the case of a serious criminal offence.* | **70: serious criminal offences should be defined by member state (removal of examples of terrorism and organised crime)** |
| Recital 11 | Edith Mastenbroek and Lilli Gruber Amendment 71 | |
| (11) Given the importance of traffic data for the prevention, investigation, detection, and prosecution of serious criminal offences, such as terrorism and organised crime, as demonstrated by research and the practical experience of several Member States, there ***is*** a need to ensure that data which are processed by electronic communication providers when offering public electronic communication services or public communication networks are retained for a certain period of time. | Given the importance of traffic data for the prevention, investigation, detection, and prosecution of serious criminal offences, such as terrorism and organised crime, as demonstrated by research and the practical experience of several Member States, there ***may be*** a need to ensure that data which are processed by electronic communication providers when offering public electronic communication services or public communication networks are retained for a certain period of time. | **71: Disagrees that there "is" a need to ensure data are retained, and suggests instead "there may" a need.** |
| | Alexander Alvaro Amendment 8 | |
| | *(11a) The drawing up of any lists of types of data to be retained should reflect a balance between the benefit to the investigation, detection and prosecution of serious criminal offences against the degree of invasion of privacy which will result.* | **8: Any lists drawn up should reflect a balance between the benefit to the investigation, detection and prosecution and the invasion of privacy it would cause** |
| Recital 11(a) NEW | Charlotte Cederschiöld Amendment 72 | |

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| | ***(11)a The drawing up of any lists of types of data to be retained must reflect a balance between the benefit to the investigation, detection and prosecution of serious criminal offences against the degree of invasion of privacy which will result. Any crime on such a list must meet up to the proportionality demand and pass a necessity test as stipulated in the Treaty.*** | **71: Any list of crimes that is drawn up must pass a necessity test as stipulated in the Treaty.** |
| Recital 11(a) NEW | Edith Mastenbroek and Lilli Gruber Amendment 73 | |
| | ***(11)a For the purpose of this Directive electronic communications and electronic communications traffic data mean: fixed network and mobile telephony.***<br><br>*Justification*<br><br>*The necessity of mandatory retention of internet traffic data has not been proven. Storing internet traffic data is much more difficult than phone data, internet traffic data is far less reliable than phone data, and internet traffic data is far less useful than phone data. Internet data retention is easy to avoid by abusing innocent people. On top of this, the open and decentralized character of the internet is threatened by data retention. And other, more targeted measures are available and waiting to be implemented.* | **72: Electronic Communications and electronic communications traffic data means only fixed network and telephony, to the exclusion of internet traffic** |

Total number of amendments: **8**
Synopsis of proposed amendments:

**One amendment advocates removing the section which states what the purpsoe of the legislation is.**

**Three amendments (including the Rapporteur's) state that this should apply only to public electronic networks.**

**Two amendments (including the Rapporteur's) advocate removal of the reference to "research", which was never presented to the Parliament.**

**One amendment advocates that traffic data "may be" important instead of it definitely being important.**

**One amendment states that there "may be" a need to store traffic data, instead of there definitely being a need.**

**Three amendments (including the Rapporteur's) specify that the length of data retention should be harmonised.**

**One amendment advocates that the definition of serious crime should be left to the Member States.**

**Two amendments (includung the Rapporteur's) advocate that any list of crimes must strike a balance between the benefit to the investigation, detection and prosecution and the invasion of privacy it would cause.**

**One amendment states that any list of crimes that can be used for this Directive should pass a necessity test as stipulated in the Treaty.**

**One amendment states that electronic communications and electronic communications traffic data means only fixed network and telephony, to the exclusion of intenet traffic**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 12 | Alexander Alvaro Amendment 9 | |
| (12) ***Die Kategorien der auf Vorrat zu speichernden Daten wurden so gewählt, dass ein angemessenes Verhältnis zwischen dem Nutzen für die Verhütung, Ermittlung, Feststellung und Verfolgung von schweren Straftaten und dem Grad des dadurch verursachten Eingriffs in die Privatsphäre besteht. Die geltende Speicherungsfrist von einem Jahr bzw. sechs Monaten bei Daten im Zusammenhang mit elektronischen Nachrichtenübermittlungen unter ausschließlicher Verwendung des Internetprotokolls stellt ebenfalls einen vernünftigen Kompromiss unter Berücksichtigung aller Interessen dar.*** | (12) ***Die Speicherungsfrist von drei Monaten ist unter Berücksichtigung der gegenwärtigen Praxis innerhalb der Europäischen Union und der Tatsache, dass nach einer Evaluierung eine Ausdehnung der Frist bedarfsgerecht möglich ist, ein vernünftiger Harmonisierungsansatz.*** | **9: Section on balance removed (included instead in amendment 8).**<br><br>**Section putting forward one year retention period for phone traffic and a six month retention period for internet traffic is removed. It is replaced by a period of three months.** |
| Recital 12 | Sylvia-Yvonne Kaufmann Amendment 74 | |
| (12) ***Die Kategorien der auf Vorrat zu speichernden Daten wurden so gewählt, dass ein angemessenes Verhältnis zwischen dem Nutzen für die Verhütung, Ermittlung, Feststellung und Verfolgung von schweren Straftaten und dem Grad des dadurch verursachten Eingriffs in die Privatsphäre besteht. Die geltende Speicherungsfrist von einem Jahr bzw. sechs Monaten bei Daten im Zusammenhang mit elektronischen Nachrichtenübermittlungen unter ausschließlicher Verwendung des Internetprotokolls stellt ebenfalls einen vernünftigen Kompromiss unter Berücksichtigung aller Interessen dar*** | (12) ***Eine generelle Speicherfrist von drei Monaten ist unter Berücksichtigung der gegenwärtigen Praxis innerhalb der Europäischen Union und der Tatsache, dass bei hinreichendem Tatverdacht eine Ausdehnung der Frist bedarfsgerecht möglich ist, ein vernünftiger Harmonisierungsansatz.***<br><br>*Justification*<br><br>*Da die flächendeckende Vorratsdatenspeicherung zu einem erheblichen Eingriff in die Grundrechte der europäischen Bürgerinnen und Bürger führt, sollte die Harmonisierung lediglich auf einem niedrigen Niveau erfolgen, um diesen Eingriff wenigstens etwas zu limitieren.* | **74: Section on balance removed (included instead in amendment 8).**<br><br>**Section putting forward one year retention period for phone traffic and a six month retention period for internet traffic is removed. It is replaced by a general retention period of three months for all data, because storing this data is a real invasion of privacy.** |
| Recital 12 | Charlotte Cederschiöld Amendment 75 | |

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| ***(12) The categories of information to be retained reflect an appropriate balance between the benefits for the prevention, investigation, detection, and prosecution of the serious offences involved and the level of invasion of privacy they will cause;*** the applicable retention period ***of one year, respectively six months where data relate to electronic communications taking place using solely the Internet Protocol, also strikes a reasonable balance between all the interests involved.*** | ***(12) Due to the uncertainty of the efficiency of this method*** the applicable retention period ***should be harmonised three months as a clear majority of all requests on data retained refers to data not older than the above stated period.*** | **Section putting forward one year retention period for phone traffic and a six month retention period for internet traffic is removed. The limit should be three months for all data as a majority of data requests fall in this period.** |
| Recital 12 | Jean-Marie Cavada Amendment 76 | |
| (12) The categories of information to be retained reflect an appropriate balance between the benefits for the prevention, investigation, detection, and prosecution of the serious offences involved and the level of invasion of privacy they will cause***; the applicable retention period of one year, respectively six months where data relate to electronic communications taking place using solely the Internet Protocol, also strikes a reasonable balance between all the interests involved.*** | (12) The categories of information to be retained ***and the retention period of one year, respectively six months where data relate to electronic communications taking place using soley the Internet Protocol,*** reflect an appropriate balance between the benefits for the prevention, investigation, detection, and prosecution of the serious offences involved and the level of invasion of privacy they will cause***.*** | **76: Rewording but no change on retention periods.** |
| Recital 12 | Ioannis Varvitsiotis Amendment 77 | |
| (12) The categories of information to be retained reflect an appropriate balance between the benefits for the ***prevention,*** investigation, detection, and prosecution of the serious offences involved and the level of invasion of privacy they will cause; the applicable retention period of ***one year***, respectively ***six months*** where data relate to electronic communications taking place using solely the Internet Protocol, also strikes a reasonable balance between all the interests involved. | (12) The categories of information to be retained reflect an appropriate balance between the benefits for the investigation, detection, and prosecution of the serious offences involved and the level of invasion of privacy they will cause; the applicable retention period of ***six months***, respectively ***three months*** where data relate to electronic communications taking place using solely the Internet Protocol, also strikes a reasonable balance between all the interests involved.<br><br>*Justification*<br><br>*In view of the cost and the use of the data, we support a shorter period of data retention.* | **77: "Prevention" removed as an objective.**<br><br>**Retention periods of one year and six months reduced to six months and three months respectively.** |

| Recital 12 | Edith Mastenbroek and Lilli Gruber Amendment 78 | |
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| (12) The categories of information to be retained reflect an appropriate balance between the benefits for the prevention, investigation, detection, and prosecution of the serious offences involved and the level of invasion of privacy they will cause; the applicable retention period ***of one year, respectively six months where data relate to electronic communications taking place using solely the Internet Protocol,*** also strikes ***a reasonable*** balance between all the interests involved. | (12) The categories of information to be retained ***must*** reflect an appropriate balance between the benefits for the prevention, investigation, detection, and prosecution of the serious offences involved and the level of invasion of privacy they will cause; the applicable retention period ***must*** also strike ***an appropriate*** balance between all the interests involved. | **78: The exact retention periods are removed. Instead of saying that one year and six months *are* an appropriate balance between all interests, the amendment states that whichever period is used it *must* strike an appropriate balance** |
| Recital 12 | Herbert Reul Amendment 79 | |
| (12) ***Die Kategorien der auf Vorrat zu speichernden Daten wurden so gewählt, dass ein angemessenes Verhältnis zwischen dem Nutzen für die Verhütung, Ermittlung, Feststellung und Verfolgung von schweren Straftaten und dem Grad des dadurch verursachten Eingriffs in die Privatsphäre besteht.*** Die geltende Speicherungsfrist von ***einem Jahr bzw. sechs Monaten bei Daten im Zusammenhang mit elektronischen Nachrichtenübermittlungen unter ausschließlicher Verwendung des Internetprotokolls*** stellt ebenfalls einen vernünftigen Kompromiss unter Berücksichtigung aller Interessen dar. | (12) Die geltenden Speicherfristen von ***6 Monaten*** stellt ebenfalls einen vernünftigen Kompromiss unter Berücksichtigung aller Interessen dar.<br><br>*Justification*<br><br>*Die Erfahrungen in den Mitgliedsstaaten zeigen, dass eine Speicherfrist von 6 Monaten bereits den größten Bedarf der Behörden deckt. Vor diesem Hintergrund erscheint insbesondere mit Blick auf den Eingriff in die Grundrechte der betroffenen Bürger eine Speicherdauer von 6 Monaten für alle Datentypen als ausreichend und verhältnismäßig.* | **79: Section putting forward one year retention period for phone traffic and a six month retention period for internet traffic is removed. A blanket six month period is put in place instead, since experience shows that this is adequate.** |
| Recital 12(a) NEW | Stavros Lambrinidis, Edith Mastenbroek Amendment 80 | |

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| | ***12 A. Whereas in the Paper by the UK Presidency of the Council entitled "Liberty and Security: Striking the Right Balance," the Presidency notes that, "in the future some criminals and terrorists will adapt their use of technology to make the retention of this data a less important tool for investigations," thus underlying the need for the thorough future review of the necessity, proportionality, and effectiveness of the present Directive, as well as the need for the collection of appropriate statistical data on the implementation of this Directive, in order to facilitate such a review.*** | **80: Review of the Directive necessary, and approriate statistical data on its implementation.** |

Total number of amendments: **8**
Synopsis of proposed amendments:

**Three amendments (including the Rapporteur's) advocate a blanket retention period of three months for both internet and telephone data.**

**One amendment advocates a retention period of 6 months for telephone data, and three months for internet data**

**One amendment advocates a period of 6 months for telephone and internet data.**

**One amendment rewords the recital but does not change the retention periods.**

**One amendment removes the exact lengths of retention from the recital, but says that whichever period is chosen it must strike an appropriate balance with all interests.**

**One amendment removes the word "prevention" as an objective of the legislation**

**One amendment states that a review of the Directive is necessary and that appropriate statistical information must be collected on its implementation.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 13 | Alexander Alvaro Amendment 10 | |
| (13) Given the fact that retention of data generates significant additional costs for electronic communication providers, whilst the benefits in terms of public security impact on society in general, it is appropriate ***to foresee*** that Member States reimburse demonstrated additional costs incurred in order to comply with the obligations imposed on them as a consequence of this Directive. | (13) Given the fact that retention of data generates significant additional costs for ***public*** electronic communication providers, whilst the benefits in terms of public security impact on society in general, it is appropriate that Member States ***fully*** reimburse demonstrated additional costs incurred in order to comply with the obligations imposed on them as a consequence of this Directive. | **10: Only for "public" electronic communication providers**<br><br>**Idea that Member States "fully" reimburse demonstrated additional costs.** |
| Recital 13 | Edith Mastenbroek and Lilli Gruber Amendment 81 | |
| (13) Given the fact that retention of data generates significant additional costs for electronic communication providers***, whilst the benefits in terms of public security impact on society in general,*** it is appropriate to foresee that Member States reimburse demonstrated additional costs incurred in order to comply with the obligations imposed on them as a consequence of this Directive. | (13) Given the fact that retention of data generates significant additional costs for ***public*** electronic communication providers ***which can not be avoided to be paid by consumers of telecom services*** it is appropriate to foresee that Member States reimburse demonstrated additional costs incurred in order to comply with the obligations imposed on them as a consequence of this Directive. | **81: Only for "public" electronic communication providers**<br><br>**Removal of phrase stating that the benefits would impact in society in general.**<br><br>**Addition of phrase stating that costs would fall on consumers of telecoms services, so Member States should reimburse additional costs.** |
| Recital 13 | Edith Mastenbroek and Lilli Gruber Amendment 82 | |
| (13) Given the fact that retention of data generates significant additional costs for electronic communication providers, whilst the benefits in terms of public security impact on society in general, it is appropriate to foresee that Member States reimburse demonstrated additional costs incurred in order to comply with the obligations imposed on them as a consequence of this Directive. | (13) Given the fact that retention of data generates significant additional costs for electronic communication providers, whilst the ***expected*** benefits in terms of public security impact on society in general, it is appropriate to foresee that Member States reimburse demonstrated additional costs incurred in order to comply with the obligations imposed on them as a consequence of this Directive. | **82: specification that it is not the benefits but the "expected" benefits that will impact on society in general** |

Total number of amendments: **3**
Synopsis of proposed amendments:
**Two amendments (including the Rapporteur's) specify that it is not electronic communication providers but "public" electronic communication providers.**

**The Rapporteur advocates that public electronic communication providers are "fully" reimbursed for demonsrated additional costs.**

**One amendment removes section stating that the benefits of the Directive would impact society generally.**

**One amendment specifies that the costs would unavoidably fall on consumers of telecoms companies, so Member States should reimburse the companies.**

**One amendment places specification that it is not the benefits but the "expected" benefits that will impact on society in general**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 14 | Alexander Alvaro Amendment 14 | |
| (14) Technologies relating to electronic communications are changing rapidly and the legitimate requirements of the competent authorities may evolve; to advise on these matters the Commission envisages to create a platform composed of representatives of the law enforcement authorities, associations of the electronic communications industry and data protection authorities. | (14) Technologies relating to electronic communications are changing rapidly and the legitimate requirements of the competent authorities may evolve; to advise on these matters the Commission envisages to create a platform composed of representatives of the ***European Parliament***, law enforcement authorities, associations of the electronic communications industry ***and European and national data protection authorities.*** | **14: Platform should also include representatives of the EP, as well as European and national Data Protection Authorities.** |
| Recital 14 | Jean-Marie Cavada Amendment 83 | |
| (14) Technologies relating to electronic communications are changing rapidly and the legitimate requirements of the competent authorities may evolve; to advise on these matters the Commission envisages ***to create a*** platform composed of representatives of the law enforcement authorities, associations of the electronic communications industry and data protection authorities. | (14) Technologies relating to electronic communications are changing rapidly and the legitimate requirements of the competent authorities may evolve; to advise on these matters the Commission envisages ***a periodic review of the strict necessity of such provisions and the evaluation of the types of data that are needed. A*** platform composed of representatives of the ***European Parliament,*** law enforcement authorities, associations of the electronic communications industry and ***European and national*** data protection authorities ***may assist the Commission;*** | **83: A periodic review is needed to evaluate the types of data that are needed.**<br><br>**Platform should also include representatives of the EP, as well as European and national Data Protection Authorities.** |
| Recital 14 | Charlotte Cederschiöld Amendment 84 | |
| (14) Technologies relating to electronic communications are changing rapidly and the legitimate requirements of the competent authorities may evolve; to advise on these matters the Commission envisages to create a platform composed of representatives of the law enforcement authorities, ***associations of*** the electronic communications industry and data protection authorities. | (14) Technologies relating to electronic communications are changing rapidly and ***would*** the legitimate requirements of the competent authorities ***as well as those of the providers*** evolve; ***no decision should be taken within the comitology procedure or within*** a platform ***but must include the European Parliament,*** law enforcement authorities, the electronic communications industry and ***European and national*** data protection authorities. | **84: No procedures should be taken within the comitology procedure or within the platform.**<br><br>**Decisions must include the EP and European and national data protection authorities as well.** |

| Recital 14 | Edith Mastenbroek and Lilli Gruber Amendment 85 | |
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| (14) Technologies relating to electronic communications are changing rapidly and the legitimate requirements of the competent authorities may evolve; to advise on these matters the Commission ***envisages to*** create a platform composed of representatives of the law enforcement authorities, associations of the electronic communications industry and data protection authorities. | (14) Technologies relating to electronic communications are changing rapidly and the legitimate requirements of the competent authorities may evolve; to advise on these matters the Commission ***will*** create a ***consultative*** platform composed of representatives of the law enforcement authorities, associations of the electronic communications industry***, civil rights and user organisations, the European Parliament*** and data protection authorities***, including the European Data Protection Supervisor***. | **85: The platform will also include civil rights and user organisations, the EP and the European Data Protection Supervisor** |
| Total number of amendments: **4**<br>Synopsis of proposed amendments:<br><br>**One amendment states that <u>a periodic review is necessary to evaluate the types of data that are needed</u>.**<br><br>**Three amendments (including the Rapporteur's) advocate that the <u>platform also includes the EP, as well as national end European Data Protection Authorities</u>.**<br><br>**One amendment states that <u>no decisions should be taken in the comitology procedure or within a platform</u>, but that any decisions should include the EP, law enforcement authorities, the electronic communications industry and European and national data protection authorities.** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 15 | Jean-Marie Cavada Amendment 86 | |
| (15) It should be recalled that Directive 95/46/EC and Directive 2002/58/EC are fully applicable to the data retained in accordance with this Directive; ***Article 30(1)(c) of Directive 95/46/EC requires the consultation of the 'Article 29 Working Party'.*** | (15) It should be recalled that Directive 95/46/EC [1] and Directive 2002/58/EC [2] are fully applicable to the data retained in accordance with this Directive, ***in particular mention must be made of Article 15, second and third paragraph of Directive 95/46/EC.*** | **86: Removal of reference to Article 29 Working Party. Replaced by mention of Article 15 of 95/46/EC:**<br><br>Article 15<br><br>Automated individual decisions<br><br>1. Member States shall grant the right to every person not to be subject to a decision which produces legal effects concerning him or significantly affects him and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc.<br><br>2. Subject to the other Articles of this Directive, Member States shall provide that a person may be subjected to a decision of the kind referred to in paragraph 1 if that decision: |

[1] OJ L 281, 23.11.1995, p.31

[2] OJ L 201, 30.7.2002, p.37.

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| | | (a) is taken in the course of the entering into or performance of a contract, provided the request for the entering into or the performance of the contract, lodged by the data subject, has been satisfied or that there are suitable measures to safeguard his legitimate interests, such as arrangements allowing him to put his point of view; or<br><br>(b) is authorized by a law which also lays down measures to safeguard the data subject's legitimate interests. |
| Total number of amendments: **1**<br>Synopsis of proposed amendments:<br>**Removal of reference to Article 29 Working Party. Repalced by reference of Article 15 of 95/46/EC** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 16 | Stavros Lambrinidis, Edith Mastenbroek Amendment 87 | |
| (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation in full respect of the fundamental rights of the persons concerned; such measures include in particular appropriate conditions, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms. | (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation in full respect of the fundamental rights of the persons concerned; such measures include in particular appropriate conditions, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms.<br><br>***Such measures must necessarily include strict technical requirements and obligations on the part of both, providers and authorities to safeguard the data from unauthorized or other inappropriate or unlawful storage, access, processing, disclosure, sharing, or use, as well as effective and enforceable penal sanctions with a sufficient deterrent effect in the event of the intentional or negligent failure of providers, relevant authorities, or their employees to safeguard such data fully.*** | **87: Measures to safeguard data must also include technical requirements and effective and enforceable penal sanctions.** |

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| | *Justification*<br><br>*The protection of the fundamental rights of citizens in the present case must necessarily involve protection of the retained data from any unauthorized or unlawful access, use, or other interference, both from the outside (e.g., hackers, trojan horses, etc.) and from the inside (abuse by companies storing the data or by the authorities accessing them, and their employees). Furthermore, unless the intergity of the data can be guarranteed, their evidentiary value in any investigation would be open to challenge. Strict penal sanctions on providers and Authorities who fail to ensure, whether intentionally or negligently, the integrity and confidentiality of the data is a necessary component of assuring citizens that their fundamental rights in this instance will be protected.* | |
| Recital 16 | Charlotte Cederschiöld Amendment 88 | |
| (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation in full respect of the fundamental rights of the persons concerned; such measures include in particular appropriate conditions, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms. | (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation in full respect of the fundamental rights of the persons concerned; such measures include in particular appropriate conditions ***such as the requirement of suspicion in relation of a specific serious criminal offence***, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms. | **88: There must be a suspicion in the case of specific serious criminal offences.** |
| Recital 16 | Ioannis Varvitsiotis Amendment 89 | |

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| (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation in full respect of the fundamental rights of the persons concerned; such measures include in particular appropriate conditions, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms. | (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation ***and within the provisions of the national judicial system, and following the approval of the judicial authorities,*** in full respect of the fundamental rights of the persons concerned; such measures include in particular appropriate conditions, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms.<br><br>*Justification*<br><br>*There must be a control when the data are provided.* | **89: legislative measures to ensure that data are only provided to the competetent authorities must be within the provisions of national judicial systems and be approved by the national judicial authorities.** |
| Recital 16 | Jean-Marie Cavada Amendment 90 | |
| (16) Il est fondamental que les États membres prennent des mesures législatives pour faire en sorte que les données conservées en vertu de la présente directive ne soient transmises qu'aux autorités nationales compétentes conformément à la législation nationale, les droits fondamentaux des personnes concernées étant pleinement respectés; de telles mesures portent notamment sur les conditions, limites et garanties requises pour assurer la conformité de cette transmission avec les droits fondamentaux tels qu'ils sont consacrés en particulier dans la convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales | (16) Il est fondamental que les États membres prennent des mesures législatives pour faire en sorte que les données conservées en vertu de la présente directive ne soient transmises qu'aux autorités nationales compétentes conformément à la législation nationale, les droits fondamentaux des personnes concernées étant pleinement respectés; de telles mesures portent notamment sur les conditions, limites et garanties requises pour assurer la conformité de cette transmission avec les droits fondamentaux tels qu'ils sont consacrés en particulier dans la convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales ***et la Charte des Droits fondamentaux de l'Union Européenne.*** | **90 : Anyone should be allowed to engage with their national Data Protection Authorities if they suspect that their data is being used for a reason not mentioned in this Directive.**<br><br>**Member States shall grant national authorites with means to take action.** |

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| | ***A cet effet, il est nécessaire que les Etats membres veillent à ce que les autorités nationales de protection des données puissent être saisies par toute personne suspectant l'utilisation de données personnelles à des fins autres que celles mentionnées dans la présente directive. Le Parlement européen insiste pour que les Etats membres dotent ces autorités nationales de moyens de contrôle en phase avec le développement des communications.***<br><br>Des commissions nationales de protection des données ont été instituées dans tous les Etats membres pour garantir la protection et le respect de la vie privée des citoyens européens et il leur revient de s'assurer que tel est bien le cas. | |
| Recital 16 | Edith Mastenbroek and Lilli Gruber Amendment 91 | |
| (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation in full respect of the fundamental rights of the persons concerned; such measures include in particular appropriate conditions, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms. | (16) It is essential that Member States provide legislative measures to ensure that data retained under this Directive are only provided to the competent national authorities in accordance with national legislation in full respect of the fundamental rights of the persons concerned, ***while respecting data protection principles***; such measures include in particular appropriate conditions, limits and safeguards in order to ensure the conformity of the provision of the data retained with fundamental rights as guaranteed in particular in the European Convention for the Protection of Human Rights and Fundamental freedoms. | **91: Measures must respect data protection principles.** |

Total number of amendments: **5**
Synopsis of proposed amendments:

**One amendment states that measures to ensure data is only given to the competent authorities must also include technical requirements and effective and enforceable penal sanctions.**

**One amendment states that there must be suspicion in the case of a serious criminal offence.**

**One amendment states that legislative measures to ensure that data are only provided to the competetent authorities must be within the provisions of national judicial systems and be approved by the national judicial authorities.**

**One amendment statest that anyone should be allowed to engage with their national Data Protection Authorities if they suspect that their data is being used for a reason not mentioned in this Directive and that Member States shall grant national authorites with means to take action.**

**One amendment states that measures must respect data protection principles.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Recital 17 | Alexander Alvaro Amendment 12 | |
| ***(17) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[1].*** | ***deleted*** | **12: deletes whole recital** |
| Recital 17 | Jean-Marie Cavada Amendment 92 | |
| ***(17) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[2].*** | ***deleted*** | **92: deletes whole recital** |
| Recital 17 | Edith Mastenbroek and Lilli Gruber Amendment 93 | |
| ***(17) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[3].*** | ***Deleted***<br><br>*Justification*<br><br>*This recital refers to comitology* | **93: deletes whole recital** |
| | Charlotte Cederschiöld Amendment 94 | |
| ***(17) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[4].*** | ***deleted*** | **94: deletes whole recital** |

1 OJ L 184, 17.7.1999, p. 23.
2 OJ L 184, 17.7.1999, p. 23.
3 OJ L 184, 17.7.1999, p. 23.
4 OJ L 184, 17.7.1999, p. 23.

Total number of amendments: **4**
Synopsis of proposed amendments:
**All four amendments (including the Rapporteur's) delete the whole recital**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 18 | Charlotte Cederschiöld Amendment 95 | |
| (18) The objectives of the action to be taken, namely to harmonise the obligations on providers to retain certain data and to ensure that these data are available for the purpose of the ***prevention,*** investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime, cannot be sufficiently achieved by the Member States and can, by reason of the scale and effects of the action, be better achieved at Community level. Therefore the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives. | (18) The objectives of the action to be taken, namely to harmonise the obligations on providers to retain certain data and to ensure that these data are available for the purpose of the investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime, cannot be sufficiently achieved by the Member States and can, by reason of the scale and effects of the action, be better achieved at Community level. Therefore the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, ***it is unclear whether*** this Directive does not go beyond what is necessary ***and proportionate*** in order to achieve those objectives, ***as also pointed out by the European Data Protection Supervisor.*** | **95: Removal of word "prevention"**<br><br>**Assertion that it is unclear whether this Directive is necessary and proportionate, as pointed out by the European Data Protection Supervisor.** |
| Recital 18 | Ioannis Varvitsiotis Amendment 96 | |

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| (18) The objectives of the action to be taken, namely to harmonise the obligations on providers to retain certain data and to ensure that these data are available for the purpose of the ***prevention,*** investigation, detection and prosecution of serious criminal offences***, such as terrorism and organised crime,*** cannot be sufficiently achieved by the Member States and can, by reason of the scale and effects of the action, be better achieved at Community level. Therefore the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives. | (18) The objectives of the action to be taken, namely to harmonise the obligations on providers to retain certain data and to ensure that these data are available for the purpose of the investigation, detection and prosecution of serious criminal offences cannot be sufficiently achieved by the Member States and can, by reason of the scale and effects of the action, be better achieved at Community level. Therefore the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives. | **96: Removal of word "prevention"**<br><br>**Removal of explicit reference to "terrorism and organised crime"** |
| Recital 18 | Sylvia-Yvonne Kaufmann Amendment 97 | |
| (18) Das Ziel der in Betracht gezogenen Maßnahme, nämlich Harmonisierung der Pflichten für Diensteanbieter bzw. Netzbetreiber im Zusammenhang mit der Vorratsspeicherung bestimmter Daten, die der ***Verhütung***, Ermittlung, Feststellung und Verfolgung von schweren Straftaten ***wie Terrorismus und organisierter Kriminalität*** dienen, kann von den Mitgliedstaaten nicht ausreichend erreicht und wegen des Umfangs und der Wirkungen der Maßnahme daher besser auf Gemeinschaftsebene erreicht werden. Die Gemeinschaft darf daher gemäß dem in gemäß Artikel 5 EG-Vertrag verankerten Subsidiaritätsprinzip tätig werden. Entsprechend dem in demselben Artikel genannten Verhältnismäßigkeitsprinzip geht diese Richtlinie nicht über das für die Erreichung dieser Ziele erforderliche Maß hinaus. | (18) Das Ziel der in Betracht gezogenen Maßnahme, nämlich Harmonisierung der Pflichten für Diensteanbieter bzw. Netzbetreiber im Zusammenhang mit der Vorratsspeicherung bestimmter Daten, die der Ermittlung, Feststellung und Verfolgung von ***bestimmten*** schweren Straftaten dienen, kann von den Mitgliedstaaten nicht ausreichend erreicht und wegen des Umfangs und der Wirkungen der Maßnahme daher besser auf Gemeinschaftsebene erreicht werden. Die Gemeinschaft darf daher gemäß dem in gemäß Artikel 5 EG-Vertrag verankerten Subsidiaritätsprinzip tätig werden. Entsprechend dem in demselben Artikel genannten Verhältnismäßigkeitsprinzip geht diese Richtlinie nicht über das für die Erreichung dieser Ziele erforderliche Maß hinaus. | **97: Removal of word "prevention" (Verhütung)**<br><br>**Removal of "Terrorism and organised crime" in favour of a reference to "certain" (bestimmte) crimes** |

Total number of amendments: **3**
Synopsis of proposed amendments:

**All three amendments remove the word "prevention"**

**One amendment asserts that it is not clear that the Directive is necessary and proportionate.**

**Two amendments remove explicit reference to "terrorism and organised crime", one of these replaces it with "certain (bestimmte) crimes"**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Recital 19 | Alexander Alvaro Amendment 13 | |
| (19) This Directive respects the fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union; in particular, this Directive together with Directive 2002/58/EC, seeks to ensure full ***respect of the fundamental*** rights ***to respect the private life and communications of citizens and the protection of personal data (Articles 7 and 8 of the Charter),*** | (19) This Directive respects the fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union; in particular, this Directive together with Directive 2002/58/EC, seeks to ensure full ***compliance with the rights to respect for private life and to the protection of personal data in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.*** | **13: "compliance" instead of "respect" with regard to the Charter of Fundamental Rights** |
| Recital 19 | Amendment by Charlotte Cederschiöld Amendment 98 | |
| (19) This Directive respects the fundamental rights and ***observes*** the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union; in particular, this Directive together with Directive 2002/58/EC, seeks to ensure full respect of the fundamental rights to respect the private life and communications of citizens and the protection of personal data (Articles 7 and 8 of the Charter), | (19) This Directive ***could better*** respect the fundamental rights and the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union; in particular, this Directive together with Directive 2002/58/EC, ***and*** seek to ensure full respect of the fundamental rights to respect the private life and communications of citizens and the protection of personal data (Articles 7 and 8 of the Charter) ***as well as the ECHR judgements. In particular the case Amann (16 Feb 2000) where the storing of information about an individual was considered to be an interference with private life, even though it contained no sensitive data and the case Malone (2 August 1984) where the same applied to the practice of 'metering' of telephone calls, which involves the use of a device that registers automatically the numbers dialled on a telephone and the time and duration of each call.*** | **98: Removal of assertion that this Directive respects the Charter etc, and insertion that this Directive "could better" respect those provisions.**<br><br>**Specific mention of two ECHR judgements where storing info and metering of telephone calls was considered an interference in one's private life.** |

Total number of amendments: **2**
Synopsis of proposed amendments:
**The Rapporteur's amendment advcoates the use of the word "compliance" instead of respect**

**One amendment removes assertion that this Directive respects the Charter etc, and inserts that this Directive "could better" respect those provisions.**

**One amendment mentions two ECHR judgements where storing info and metering of telephone calls was considered an interference in one's private life**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| ARTICLE 1, PARAGRAPH 1 | Alexander Alvaro Amendment 14 | |
| 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a ***public*** communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the ***prevention,*** investigation, detection and prosecution of ***serious*** criminal offences***, such as terrorism and organised crime*** | 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a ***publicly accessible electronic*** communications network with respect to the processing and retention of certain data, ***and to ensure that the rights to respect for private life and to the protection of personal data in the access of these data are fully respected,*** in order to ensure that the data is available for the purpose of the investigation, detection and prosecution of criminal offences ***referred to in paragraph 2a.*** | **14: "publicly accessible electronic" communictions networks**<br><br>**Removal of word "prevention"**<br><br>**Addition of clause stating that private life and protection of personal data are to be fully respected.**<br><br>**Removal of reference to "serious" crime and "terrorism and organised crime". Replaced with list under paragraph 2.** |
| Article 1, paragraph 1 | Charlotte Cederschiöld Amendment 99 | |

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| 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the ***prevention,*** investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, ***whilst ensuring proportionality and necessity and the rights to respect for private life and to protection of personal data in the access of these data are fully respected,*** in order to ensure that the data is available for the purpose of the investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime ***referred to in paragraph 2a.***<br>*Justification*<br>*Excluding prevention and location data limits the possibility of mapping and profiling 457 million European citizens.* | **99:Removal of word "prevention"**<br><br>**Addition of paragraph stating that proportionality and necessity and private life and protection of personal data are fully respected.**<br><br>**Insertion of list under paragraph 2a.** |
| Article 1, paragraph 1 | Jean-Marie Cavada Amendment 100 | |
| 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of ***the prevention,*** investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, ***access and use of the retained data,*** in order to ensure that the data is available for the purpose of the investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | **100: removal of the word "prevention"**<br><br>**Addition of phrase which ensures that access and use of the retained data is also harmonised.** |
| Article 1, paragraph 1 | Edith Mastenbroek and Lilli Gruber Amendment 101 | |

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| 1. This Directive aims to harmonise the provisions of ***the*** Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | 1. This Directive aims to harmonise the provisions of ***some*** Member States ***laws*** concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | **101: "some" instead of "the" Member States** |
| Article 1, paragraph 1 | Bill Newton Dunn Amendment 102 | |
| 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the prevention, investigation, detection and prosecution of ***serious*** criminal offences***, such as terrorism and organised crime.*** | 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the prevention, investigation, detection and prosecution of criminal offences**.**<br><br>*Justification*<br><br>*Data retention requirements are of primary importance to allow law enforcement measures and judicial proceedings to be taken against all forms of online crimes. Without a requirement to retain data, authorities face significant obstacles in tracking illegal activities and identifying suspected infringers, and in talking actions to enforce offences and legal rights. This Directive should therefore cover all forms of criminal offences.* | **102: Amendment allows access to data for all criminal offences, not just serious ones.** |
| Article 1, paragraph 1 | Ioannis Varvitsiotis Amendment 103 | |

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| 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the ***prevention,*** investigation, detection and prosecution of serious criminal offences, such as terrorism ***and organised crime***. | 1. This Directive aims to harmonise the provisions of the Member States concerning obligations on the providers of publicly available electronic communications services or of a public communications network with respect to the processing and retention of certain data, in order to ensure that the data is available for the purpose of the investigation, detection and prosecution of serious criminal offences. | **103: "Prevention" removed**<br><br>**"organised crime" removed** |
| Article 1, paragraph 1 | Sylvia-Yvonne Kaufmann Amendment 104 | |
| 1. Mit dieser Richtlinie sollen die Vorschriften der Mitgliedstaaten über die Pflichten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen Kommunikationsnetzes im Zusammenhang mit der Verarbeitung und Vorratsspeicherung bestimmter Daten harmonisiert werden, um sicherzustellen, dass die Daten zum Zwecke der ***Verhütung***, Ermittlung, Feststellung und Verfolgung von ***schweren*** Straftaten ***wie Terrorismus und organisierter Kriminalität*** zur Verfügung stehen. | 1. Mit dieser Richtlinie sollen die Vorschriften der Mitgliedstaaten über die Pflichten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen ***zugänglichen elektronischen*** Kommunikationsnetzes im Zusammenhang mit der Verarbeitung und Vorratsspeicherung bestimmter Daten harmonisiert werden, um sicherzustellen, dass die Daten zum Zwecke der Ermittlung, Feststellung und Verfolgung von ***den in Artikel 2 a genannten*** Straftaten zur Verfügung stehen.<br><br>*Justification*<br><br>*Die Bezeichung „schweren Straftaten wie Terrorismus und organisierte Kriminalität" lässt den einzelnen Mitgliedstaaten eine weite Interpretationsmöglichkeit. Dies wird zu Schwierigkeiten führen, wenn Daten nach dem Grundsatz der Verfügbarkeit ausgetauscht werden sollen, und eine Straftat nicht in beiden Mitgliedsstaaten als schwere Straftat eingeordent ist. Ein Katalog schwerer Straftaten ist daher vorzugswürdig.* | **104: Insertion of „publicly accessible electronic" communication network.**<br><br>**Removal of "Prevention" and "serious" crime, as well as "terrorism and organised crime". This to be replaced with reference to a list of crimes.** |

| Article 1, paragraph 1 | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 105 | |
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| La présente directive a pour objectif d'harmoniser les dispositions des États membres relatives aux obligations des fournisseurs de services de communications électroniques accessibles au public ou d'un réseau public de communications en matière de traitement et de conservation de certaines données, en vue de garantir la disponibilité de ces données à des fins de prévention, de recherche, de détection et de poursuite d'infractions pénales graves, comme les actes terroristes et la criminalité organisée. | La présente directive a pour objectif d'harmoniser les dispositions des États membres relatives aux obligations des fournisseurs de services de communications électroniques accessibles au public ou d'un réseau public de communications en matière de traitement et de conservation de certaines données, ***l'accès et l'utilisation des données conservées***, en vue de garantir la disponibilité de ces données à des fins de prévention, de recherche, de détection et de poursuite d'infractions pénales graves, comme les actes terroristes et la criminalité organisées ***et leur protection adéquate.*** | **105 : Addition of phrase which ensures that access and use of the retained data is also harmonised.** |

Total number of amendments: **8**
Synopsis of proposed amendments:

**Two amendments (including the Rapporteur's) advocate "publicly accessible electronic" communictions networks instead of "public communications networks"**

**Five amendments remove the word "prevention" from the objectives.**

**Two amendments advocate a clause which states that private life and data protection should be fully respected.**

**One amendment advocates that all criminal offences (not just serious ones) are covered by the Directive.**
**Three amendments remove explicit reference to "serious" crimes and "terrorism and organised crime" and replace this with a list of crimes.**
**One amendment removes mention of "organised crime" but keeps "serious criminal offences, such as terrorism".**

**Two amendments advcoate that access to and use of the stored data should also be harmonised by the Directive.**

**One amendment makes clear that the Directive is not harmonising existing measures in all Member states, but the existing measures in some Member States.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Article 1, paragraph 2 | Alexander Alvaro Amendment 15 | |
| 2. This Directive shall apply to traffic ***and location*** data of both private and legal persons, as well as the ***related*** data necessary to identify the subscriber or registered user. It shall not apply to the content of electronic communications, including information consulted using an electronic communications network. | 2. This Directive shall apply to traffic data of both private and legal persons, as well as the data necessary to identify the subscriber or registered user. It shall not apply to the content of electronic communications, including information consulted using an electronic communications network.<br><br>*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout).* | **15: Removal of "location" data and "related" data. To be applied throught the Directive.** |
| Article 1, paragraph 2 | Edith Mastenbroek and Lilli Gruber Amendment 106 | |
| 2. This Directive shall apply to traffic and location data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. It shall not apply to the content of ***electronic*** communications***, including information consulted using an electronic communications network.*** | 2. This Directive shall apply to traffic and location data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. It shall not apply to the content of communications. | **106: Directive shall not cover the content of any communications, not just electronic communications.** |
| Article 1, paragraph 2 | Charlotte Cederschiöld Amendment 107 | |
| 2. This Directive shall apply to traffic ***and location*** data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. It shall not apply to the content of electronic communications, including information consulted using an electronic communications network. | 2. This Directive shall apply to traffic data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. It shall not apply to the content of electronic communications, including information consulted using an electronic communications network. | **Removal of "location data"** |

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| | *Justification*<br><br>*Excluding prevention and location data limits the possibility of mapping and profiling 457 million European citizens.* | |
| Article 1, paragraph 2 | Jean-Marie Cavada Amendment 108 | |
| 2. This Directive shall apply to traffic and location data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. ***It shall not apply to the content of electronic communications, including information consulted using an electronic communications network.*** | 2. This Directive shall apply to traffic and location data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. | **108: Phrase stating that Directive will not apply to the content of the data is removed (but added as Article 1.2 (a))** |
| Article 1, paragraph 2 | Sarah Ludford Amendment 109 | |
| 2. This Directive shall apply to traffic and location data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. It shall not apply to the content of electronic communications, including information consulted using an electronic communications network. | This Directive shall apply to ***records of*** traffic and location data of both private and legal persons, as well as the related data necessary to identify the subscriber or registered user. It shall not apply to the content of electronic communications, including information consulted using an electronic communications network. ***It shall not apply to data which is processed only as required for transmission through the network where no non-transient record is made.***<br><br>*Justification*<br>*It is not possible to store all the communications data that passes through a network. The appropriate place to make such records is at the network edge.* | **109: The Directive should apply to "records" of traffic and location data, and not the data itself.**<br><br>**It excludes from the scope of the Directive data which is processed only for transmission through the network.** |
| Article 1, paragraph 2 | Sylvia-Yvonne Kaufmann Amendment 110 | |

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| 2. Die Richtlinie gilt für ***Verkehrs- und Standortdaten*** sowohl von natürlichen als auch von juristischen Personen sowie für ***alle damit in Zusammenhang stehende*** Daten, die zur Feststellung des Teilnehmers oder registrierten Nutzers erforderlich sind. Sie gilt nicht für den Inhalt elektronischer Nachrichtenübermittlungen einschließlich solcher Informationen, die mit Hilfe eines elektronischen Kommunikationsnetzes abgerufen werden. | 2. Die Richtlinie gilt für ***Verkehrsdaten*** sowohl von natürlichen als auch von juristischen Personen sowie für ***diejenigen*** Daten, die zur Feststellung des Teilnehmers oder registrierten Nutzers erforderlich sind. Sie gilt nicht für den Inhalt elektronischer Nachrichtenübermittlungen einschließlich solcher Informationen, die mit Hilfe eines elektronischen Kommunikationsnetzes abgerufen werden.<br><br>*Justification*<br><br>*Streichung der Standortdaten soll verhindern, dass vollständige Bewegungsprofile von den europäischen Bürgerinnen und Bürgern erstellt und gespeichert werden. Der Begriff „alle damit im Zusammenhang stehenden Daten" ist zu weit gefasst. Gespeichert werden dürfen nur solche Daten, die unmittelbar zur Feststellung des Teilnehmers oder Nutzers zwingend erforderlich sind.* | **110: Removal of „location data" (Standortdaten) to prevent movement profiles.**<br><br>**Removal of "alle damit in Zusammenhang stehende" Daten or „related data".** |
| ARTICLE 1, PARAGRAPH 2 A (new) | Alexander Alvaro Amendment 16 | |
| | ***2a. Straftaten im Sinne des Absatzes 1 sind:***<br><br>***- Beteiligung an einer kriminellen Vereinigung,***<br>***- Terrorismus,***<br>***- Waffenhandel,***<br>***- Menschenhandel,***<br>***- sexuelle Ausbeutung von Kindern und Kinderpornographie,***<br>***- illegaler Handel mit Drogen und psychotropen Stoffen,***<br>***- Wäsche von Erträgen aus Straftaten,***<br>***- Geldfälschung, einschließlich der Euro-Fälschung,*** | **16: List of crimes** |

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| | ***- Umweltkriminalität, einschließlich des illegalen Handels mit bedrohten Tierarten oder mit bedrohten Pflanzen- und Baumarten,***<br>***- vorsätzliche Tötung, schwere Körperverletzung,***<br>***- illegaler Handel mit Organen und menschlichem Gewebe,***<br>***- Entführung, Freiheitsberaubung und Geiselnahme,***<br>***- Fälschung von amtlichen Dokumenten und Handel damit,***<br>***- Fälschung von Zahlungsmitteln,***<br>***- illegaler Handel mit nuklearen und radioaktiven Substanzen,***<br>***- Vergewaltigung,***<br>***- Brandstiftung,***<br>***- Verbrechen, die in die Zuständigkeit des Internationalen Strafgerichtshofs fallen,***<br>***- Flugzeug- und Schiffsentführung,***<br>***- Sabotage,***<br>***- Stalking.*** | |
| Article 1, paragraph 2 | Sylvia-Yvonne Kaufmann Amendment 111 | |

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| ***Beteiligung an einer kriminellen*** | ***2a. Straftaten im Sinne des Absatzes 1 sind:***<br><br>***- Beteiligung an einer kriminellen Vereinigung,***<br>***- Terrorismus,***<br>***- Waffenhandel,***<br>***- Menschenhandel,***<br>***- sexuelle Ausbeutung von Kindern und Kinderpornographie,***<br>***- illegaler Handel mit Drogen und psychotropen Stoffen,***<br>***- Wäsche von Erträgen aus Straftaten,***<br>***- Geldfälschung, einschließlich der Euro-Fälschung,***<br>***.***<br><br>***- Umweltkriminalität, einschließlich des illegalen Handels mit bedrohten Tierarten oder mit bedrohten Pflanzen- und Baumarten,***<br>***- vorsätzliche Tötung, schwere Körperverletzung,***<br>***- illegaler Handel mit Organen und menschlichem Gewebe,***<br>***- Entführung, Freiheitsberaubung und Geiselnahme,***<br>***- Fälschung von amtlichen Dokumenten und Handel damit,***<br>***- Fälschung von Zahlungsmitteln,*** | **111: Identical to Amendment 16** |

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| | ***- illegaler Handel mit nuklearen und radioaktiven Substanzen,***<br>***- Vergewaltigung,***<br>***- Brandstiftung,***<br>***- Verbrechen, die in die Zuständigkeit des Internationalen Strafgerichtshofs fallen,***<br>***- Flugzeug- und Schiffsentführung,***<br>***- Sabotage,***<br>***- Stalking***<br><br>*Justification*<br><br>*Die Bezeichung „schweren Straftaten wie Terrorismus und organisierte Kriminalität" lässt den einzelnen Mitgliedstaaten eine weite Interpretationsmöglichkeit. Dies wird zu Schwierigkeiten führen, wenn Daten nach dem Grundsatz der Verfügbarkeit ausgetauscht werden sollen, und eine Straftat nicht in beiden Mitgliedsstaaten als schwere Straftat eingeordent ist. Ein Katalog schwerer Straftaten ist daher vorzugswürdig.* | |
| Article 1, paragraph 2 a (new) | Jean-Marie Cavada Amendment 112 | |
| | ***The Directive shall not apply to the content of electronic communications, including information consulted using an electronic communications network.*** | **112: New paragraph to state that the Directive will not apply to the content of data.** |
| Article 1, paragraph 2 a (new) | Sarah Ludford Amendment 113 | |

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| | ***"Internet communications" means all communications transmitted through a public electronic communications network using the Internet protocol other than those whose destination is primarily identified to the relevant electronic communications network provider by a telephone number that is part of a National Numbering Plan***<br><br>*Justification*<br><br>The words "to the electronic communications network provider" are crucial to resolve the problem of calls between the Internet and the telephone networks, which are Internet communications while on the Internet but telephony while on the telephone networks. | **113: Definition of "Internet communications" to exclude data whose destination is the telephone networks as part of a national numbering plan.** |

Total number of amendments: **10**
Synopsis of proposed amendments:

**Three amendments (including the Rapporteur's) remove reference to "location data"**

**Two amendmets (including the Rapporteur's) lessen the scope of "related data"**

**One amendment makes it clear that the Directive will not cover the content of the data at all, and not just the data of electronic communications**

**One amendment makes reference to the content of the data a new sub-paragraph of the Article**

**One amendment states that the Directive will apply to "records", and that this will not apply to data which is processed only for transmission through the network.**

**Two amendments put forward identical lists of crimes which the data can be used to detect, prosecute etc.**

**One amendment gives a definition of "internet communications" to exclude data whose destination is the telephone networks as part of a national numbering plan.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ARTICLE 2, PARAGRAPH 2, POINT (A) | Alexander Alvaro Amendment 17 | |
| a) ‚Daten' Verkehrsdaten ***und Standortdaten sowie alle damit in Zusammenhang stehende Daten***, die zur Feststellung des Teilnehmers oder Nutzers erforderlich sind, | a) ‚Daten' Verkehrsdaten ***sowie diejenigen Daten***, die zur Feststellung des Teilnehmers oder Nutzers erforderlich sind, | **17: Removal of „location data" and „alle damit in Zusammenhang stehende Daten". The latter is replaced by a less all-encompassing „that data" which is needed.** |
| ARTICLE 2, PARAGRAPH 2, POINT (A) | Jean-Marie Cavada Amendment 114 | |
| ***a) 'data' means traffic data and location data, as well as the related data necessary to identify the subscriber or user;*** | ***deleted*** | **114: deletes wbole sub-paragraph** |
| ARTICLE 2, PARAGRAPH 2, POINT (A) | Sarah Ludford Amendment 115 | |
| a) 'data' means traffic data and location data, as well as the related data necessary to identify the subscriber or user; | a) 'data' means ***records that have been made of*** traffic data and location data, as well as the related data necessary to identify the subscriber or user;<br><br>*Justification*<br><br>*To ensure consistency with the amendment on Article 1.2* | **115: specification that data applies to "records" only** |
| ARTICLE 2, PARAGRAPH 2, POINT (A) | Charlotte Cederschiöld Amendment 116 | |
| a) 'data' means traffic data ***and location data***, as well as the ***related*** data necessary to identify the subscriber or user; | a) 'data' means traffic data, as well as the data necessary to identify the subscriber or user; | **116: removal of "location" data and "related" data** |
| ARTICLE 2, PARAGRAPH 2, POINT (A) | Sylvia-Yvonne Kaufmann Amendment 117 | |

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| a) ‚Daten' Verkehrsdaten ***und Standortdaten sowie alle damit in Zusammenhang stehende*** Daten, die zur Feststellung des Teilnehmers oder Nutzers erforderlich sind, | a) ‚Daten' Verkehrsdaten ***sowie diejenigen*** Daten, die zur Feststellung des Teilnehmers oder Nutzers erforderlich sind,<br><br>*Justification*<br><br>*Die Streichung der Standortdaten soll verhindern, dass vollständige Bewegungsprofile von den europäischen Bürgerinnen und Bürgern erstellt und gespeichert werden. Der Begriff „alle damit im Zusammenhang stehenden Daten" ist zu weit gefasst. Gespeichert werden dürfen nur solche Daten, die unmittelbar zur Festtellung des Teilnehmers oder Nutzers zwingend erforderlich sind.* | **117: removal of „location" data and „related" data** |
| ARTICLE 2, PARAGRAPH 2, POINTs (A) (B) | Edith Mastenbroek and Lilli Gruber Amendment 118 | |
| 2. For the purpose of this Directive:<br><br>a) 'data' means traffic data ***and location data,*** as well as the related data necessary to identify the subscriber or user;<br><br>b) 'user' means any legal entity or natural person using a publicly available electronic communications service, for private or business purposes***, without necessarily having subscribed to this service***. | 2. For the purpose of this Directive:<br><br>***- ( new) electronic communications and electronic communications traffic data mean: fixed network and mobile telephony.***<br><br>b) 'data' means traffic data, as well as the related data necessary to identify the subscriber or user;<br><br>c) 'user' means any legal entity or natural person using a publicly available electronic communications service, for private or business purposes. | **118: definition of electronic communications and electronic communications traffic.**<br><br>**Removes "location data"**<br><br>**Changes definition so that a "user" cannot be someone who has not subscribed to a service.** |
| ARTICLE 2, PARAGRAPH 2, POINT (B A) (new) | Alexander Alvaro Amendment 18 | |

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| | ***ba) "serious criminal offences" means the offences referred to in Article 1 paragraph 2a.*** | **18: "serious criminal offences" as refererred to in Art 1, para 2a** |
| Article 2, paragraph 2, point b) a new | Jean-Marie Cavada Amendment 119 | |
| | ***b) 'serious criminal offences' shall mean pursuant to Article 2, paragraph 2, of the Council Framework Decision, 2002/584/JHA*** | **119: "serious criminal offences" acccording to definition in Framework Decision 2002/585/JHA** |
| Article 2, paragraph 2, point b) a new | Charlotte Cederschiöld Amendment 120 | |
| | ***b)"competent law enforcement authorities" means exclusively the National Board of Police in each Member State.***<br><br>*Justification*<br><br>It is important to control number of institutions with access to the data retained in order to limit the risks for citizens. The definition of the authorities in "other authorities responsible for the detection, investigation and prosecution of serious criminal offences" is neither clear nor harmonised. As exchange of retained data is foreseen the number of individuals with access to the data will be undefined and numerous in a union of 25 Member States. | **120: competent law enforcement authority to be only the national Board of Police.** |
| Article 2, paragraph 2, point b) d new | Jean-Marie Cavada Amendment 121 | |
| | ***b) d new 'unsuccessful call attempt' shall mean a communication in which a telephone call has been successfully connected but is unanswered or there has been a network management intervention*** | **121: Definition of "unsuccessful call attempt"** |
| ARTICLE 2, PARAGRAPH 2, POINT (B B) (new) | Alexander Alvaro Amendment 19 | |

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| | ***bb)"competent law enforcement authorities" means the judicial authorities and the other authorities responsible for the detection, investigation and prosecution of serious criminal offences.*** | **19: "Competent Authorities" are judicial authorities and those authorities that are responsible for the detection, etc of serious crime** |
| Artikel 2, Absatz 2 lit c (neu) | Sylvia-Yvonne Kaufmann Amendment 122 | |
| | ***c) „zuständige Behörden" können nur Justizbehörden und solche Behörden sein, die für die Aufklärung, Ermittlung und Bestrafung schwerer krimmineller Straftaten zuständig sind. Geheimdienste sind keine „zuständigen Behörden"***<br><br>*Justification*<br><br>*Klarstellung und Beschränkung des Zugangs zu den Daten.* | **122: "Competent Authorities" can only be judicial authorities and those authorities that are responsible for the detection, etc of serious crime.**<br><br>**Secret Services are not competent authorities.** |
| Article 2, paragraphe 2, point d) (nouveau) | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 123 | |
| | ***d) "autorités nationales compétentes" les autorités judiciaires et les autorités nationales compétentes pour la recherche, la détection et la poursuite d'infractions pénales graves.*** | **123 : "national competent authorites" are judicial authorities and those authorities that are responsible for the detection, etc of serious crime.** |

Total number of amendments: **13**
Synopsis of proposed amendments:

**One amendment deletes paragraph (a)**

**One amendment states that data means "records"**

**Four amendments remove reference to "location data" and three amendments remove reference to "related" data.**

**One amendment changes definition of "user" so that this does not include someone who has not subscribed to a service.**

**One amendment states that the competent law enforcement authority is only the natioanl Board of Police.**

**One amendment (the Rapporteur's) states that the definition of "serious criminal offences" shall be according to the list in Art 1, para 2 (a)**
**One amendment states that the definition of "serious criminal offences" shall be acccording to definition in Framework Decision 2002/585/JHA**

**One amendment defines "unsuccessful call attempts"**

**Three amendments (including the Rapporteur's) state that "Competent Authorities" can only be judicial authorities and those authorities that are responsible for the detection, etc of serious crime**

**One amendment states that the Secret Service is not a competent national authority.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Article 3, paragraph 1 | Alexander Alvaro Amendment 20 | |
| 1. ***Abweichend von den Artikeln 5, 6 und 9 der Richtlinie 2002/58/EG tragen die Mitgliedstaaten*** durch entsprechende Maßnahmen dafür Sorge, dass Daten, die in ihrem Rechtsraum im Zuge der Bereitstellung von Kommunikationsdiensten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines ***öffentlichen*** Kommunikationsnetzes ***erzeugt oder*** verarbeitet werden, gemäß den Bestimmungen dieser Richtlinie auf Vorrat gespeichert werden. | 1. ***Die Mitgliedstaaten tragen*** durch entsprechende Maßnahmen dafür Sorge, dass Daten, die in ihrem Rechtsraum im Zuge der Bereitstellung von Kommunikationsdiensten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines ***öffentlich zugänglichen elektronischen*** Kommunikationsnetzes ***bei der Kommunikation*** verarbeitet werden, gemäß den Bestimmungen dieser Richtlinie auf Vorrat gespeichert werden. | **20: Reference to derogations from certain articles of Directive 2002/58/EC removed.**<br><br>**Addition of reference to "publicly accessible electronic" communication network**<br><br>**Unsuccessful calls not included in data to be stored** |
| Article 3, paragraph 1 | Herbert Reul Amendment 124 | |
| 1. Abweichend von den Artikeln 5, 6 und 9 der Richtlinie 2002/58/EG tragen die Mitgliedstaaten durch entsprechende Maßnahmen dafür Sorge, dass ***Daten, die in ihrem Rechtsraum im Zuge der Bereitstellung von Kommunikationsdiensten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen Kommunikationsnetzes erzeugt oder verarbeitet werden, gemäß den Bestimmungen dieser Richtlinie auf Vorrat gespeichert werden.*** | Abweichend von den Artikeln 5, 6 und 9 der Richtlinie 2002/58/EG tragen die Mitgliedstaaten durch entsprechende Maßnahmen dafür Sorge, dass ***die Anbieter öffentlich zugänglicher elektronischer Kommunikationsdienste oder die Betreiber eines öffentlichen Kommunikationsnetzes, die den jeweiligen Dienst anbieten, Daten, die im Zuge der Bereitstellung von Kommunikationsdiensten erzeugt oder verarbeitet werden, im Falle einer erfolgreich hergestellten Verbindung gemäß den Bestimmungen dieser Richtlinie auf Vorrat speichern und bereitstellen. Unberührt bleibt das Recht der Mitgliedstaaten, ihre nationalen Verfassungs- und sonstigen Rechtsgrundsätze im Zusammenhang mit dem Geheimnisschutz für grundrechtlich besonders geschützte Kommunikationsbereiche wie Kommunikation von und mit Journalisten und Verteidigern sowie sonstigen Berufsgeheimnisträgern anzuwenden.*** | **124: This amendment removes unanswered calls from the data to be stored because of the disproportionate cost involved in storing them.**<br><br>**The Rights of Member States to use constitutional or other powers in the fields of particularly sensitive communications areas such as journalist to journalist communications remains untouched.** |

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| | *Justification*<br><br>*Allein das Unternehmen, das den jeweiligen Dienst anbietet, muss für die Datenspeicherung verpflichtet sein, denn nur dieses Unternehmen ist alleiniger Herr über die relevanten Daten. Außerdem müssen die nicht erfolgreich hergestellten Verbindungsversuche aus der Speicherungspflicht ausgenommen werden, da dies hohe Investitionskosten zur Folge hätte, die in einem unangemessenen Verhältnis zu dem erwarteten Ermittlungsmehrwert für die Strafverfolgungsbehörden stehen.* | |
| Artikel 3, Absatz 1 | Sylvia-Yvonne Kaufmann Amendment 125 | |
| 1. ***Abweichend von den Artikeln 5, 6 und 9 der Richtlinie 2002/58/EG tragen die*** Mitgliedstaaten durch entsprechende Maßnahmen dafür Sorge, dass Daten, die in ihrem Rechtsraum im Zuge der Bereitstellung von Kommunikationsdiensten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen Kommunikationsnetzes ***erzeugt oder*** verarbeitet werden, gemäß den Bestimmungen dieser Richtlinie auf Vorrat gespeichert werden. | 1. ***Die*** Mitgliedstaaten ***tragen*** durch entsprechende Maßnahmen dafür Sorge, dass Daten, die in ihrem Rechtsraum im Zuge der Bereitstellung von Kommunikationsdiensten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen ***zugänglichen elektronischen*** Kommunikationsnetzes ***bei der Kommunikation*** verarbeitet werden, gemäß den Bestimmungen dieser Richtlinie auf Vorrat gespeichert werden.<br><br>*Justification*<br><br>*Streichung limitiert die Zahl der zu speichernden Daten und stellt klar, dass erfolglose Anrufversuche nicht erfasst werden sollen.* | **125: Identical to amendment 20** |
| | Jean-Marie Cavada AMendment 126 | |

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| 1. By way of derogation to Articles ***5,*** 6 and 9 of Directive 2002/58/EC, Member States shall adopt measures to ensure that ***data which are generated or processed by*** providers of publicly available electronic communications services or of a public communications network within their jurisdiction ***in the process*** of supplying communication services ***are retained*** in accordance with the provisions of this Directive. | 1. By way of derogation to Articles 6 and 9 of Directive 2002/58/EC, Member States shall adopt measures to ensure that providers of publicly available electronic communications services or of a public communications network within their jurisdiction ***retain data which they control for the purpose*** of supplying ***their*** communication services in accordance with the provisions of this Directive.<br>***This Directive does not require providers of electronic communications services or networks to generate or process additional data beyond that required for the provision of their services, nor to verify the accuracy of the data not generated by them.*** | **126: Distinction between data that is generated or processed is removed. Instead, data which the providers "control for the purpose of supplying their communications services" is to be stored.**<br><br>**No need for service providers to provide extra data than what is required to provide their service.** |
| Article 3, paragraphe 1 | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 127 | |
| Par dérogation aux articles ***5,*** 6 et 9 de la directive 2002/58/CE, les États membres prennent les mesures nécessaires pour assurer la conservation, conformément aux dispositions de la présente directive, de données générées ou traitées dans le cadre de la fourniture de services de communication par des fournisseurs de services de communications électroniques accessibles au public ou d'un réseau public de communications, lorsque ces fournisseurs relèvent de leur juridiction. | Par dérogation aux articles 6 et 9 de la directive 2002/58/CE, les États membres prennent les mesures nécessaires pour assurer la conservation, conformément aux dispositions de la présente directive, de données générées ou traitées dans le cadre de la fourniture de services de communication par des fournisseurs de services de communications électroniques accessibles au public ou d'un réseau public de communications, lorsque ces fournisseurs relèvent de leur juridiction. | **127: Removal of possible derogation from article 5 of Directive 2002/58/EC** |
| Article 3, paragraph 1 | Sarah Ludford Amendment 128 | |

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| 1. By way of derogation to Articles 5, 6 and 9 of Directive 2002/58/EC, Member States shall adopt measures to ensure that data which are generated or processed by providers of publicly available electronic communications services or of a public communications network within their jurisdiction in the process of supplying communication services are retained in accordance with the provisions of this Directive. | 1. By way of derogation to Articles 5, 6 and 9 of Directive 2002/58/EC, Member States shall adopt measures to ensure that ***records that are generated of*** data which are generated or processed by providers of publicly available electronic communications services or of a public communications network within their jurisdiction in the process of supplying communication services are retained in accordance with the provisions of this Directive.<br><br>*Justification*<br><br>*Consequent to amendment on Article 1.2.* | **128: "records" and not "data"** |
| Article 3, paragraph 1 | by Charlotte Cederschiöld Amendment 129 | |
| 1. ***By way of derogation to Articles 5, 6 and 9 of Directive 2002/58/EC,*** Member States shall adopt measures to ensure that data which are generated or processed by providers of publicly available electronic communications services or of a public communications network within their jurisdiction in the process of supplying communication services are retained in accordance with the provisions of this Directive. | 1. Member States shall adopt measures to ensure that data which are generated or processed by providers of publicly available electronic communications services or of a public communications network within their jurisdiction in the process of supplying communication services are retained in accordance with the provisions of this Directive, ***for a specific serious criminal offence.*** | **129: Explicit derogations to asticles in 2002/58/EC removed.**<br><br>**Derogations should only be allowed for specific and serious crimes- not things like unauthorised downloading, which will shortly become a criminal offence.** |

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| | *Justification*<br><br>*Derogating from Articles 5, 6 and 9 in Directive 2002/58/EC is regulated in Article 15 (1) of the same Directive. Derogations are allowed for "criminal offences" and "for unauthorised use of the electronic communications systems".*<br><br>*When the pending Intellectual Property Rights (IPR) Enforcement Directive COM (2005)276 is adopted, unauthorised downloading and file sharing will become a criminal offence and thus fall under the scope of this Directive.*<br><br>*If this is the intention of the Directive, it should be clearly stated to the legislator and the public.* | |
| Article 3, paragraph 1 | Edith Mastenbroek and Lilli Gruber Amendment 130 | |
| 1. By way of derogation to Articles 5, 6 and 9 of Directive 2002/58/EC, Member States shall adopt measures to ensure that data which are ***generated or processed*** by providers of publicly available ***electronic*** communications services or of a public communications network within their jurisdiction in the process of supplying communication services are retained in accordance with the provisions of this Directive. | 1. By way of derogation to Articles 5, 6 and 9 of Directive 2002/58/EC, Member States shall adopt measures to ensure that data which are ***processed and logged*** by providers of publicly available communications services or of a public communications network within their jurisdiction in the process of supplying communication services are retained in accordance with the provisions of this Directive. | **130: "processed and logged" instead of "generated or processed" (excludes unsuccessful calls)** |
| Article 3, paragraph 1 | Wolfgang Kreissl-Dörfler Amendment 131 | |

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| 1. Abweichend von den Artikeln 5, 6 und 9 der Richtlinie 2002/58/EG tragen die Mitgliedstaaten durch entsprechende Maßnahmen dafür Sorge, dass Daten, die in ihrem Rechtsraum im Zuge der Bereitstellung von Kommunikationsdiensten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen Kommunikationsnetzes erzeugt oder verarbeitet werden, gemäß den Bestimmungen dieser Richtlinie auf Vorrat gespeichert werden. | 1. Abweichend von den Artikeln 5, 6 und 9 der Richtlinie 2002/58/EG tragen die Mitgliedstaaten durch entsprechende Maßnahmen dafür Sorge, dass Daten, die in ihrem Rechtsraum im Zuge der Bereitstellung von Kommunikationsdiensten von Anbietern öffentlich zugänglicher elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen Kommunikationsnetzes ***im Falle einer erfolgreich hergestellten Verbindung / bei der Kommunikation*** *er*zeugt oder verarbeitet werden, gemäß den Bestimmungen dieser Richtlinie auf Vorrat gespeichert werden.<br><br>*Justification*<br><br>*Die Speicherung erfolgloser Anrufe muss deutlich ausgeschlossen werden. Bisher konnte von Seiten der Strafverfolgungsbehörden kein dringender Bedarf, auf diesen Datentyp zurückgreifen zu können, nachgewiesen werden. Vielmehr steht zu erwarten, dass eine Unmenge an Datenmassen gesammelt werden müssten, für die enorme Investitionskosten zu ihrer Speicherung notwendig sind. Die gebotene Verhältnismäßigkeit einer solchen Maßnahme ist damit nicht mehr erkennbar.* | **131: excludes unsuccessful calls** |

Total number of amendments: **9**
Synopsis of proposed amendments:

**Three amendments (including the Rapporteur's) remove reference to derogations from Directive 2002/58/EC.**

**One amendment states that derogations should only be allowed for specific and serious crimes- not things like unauthorised downloading, which will shortly become a criminal offence.**

**Five amendments (including the Rapporteur's) remove unsuccessful calls from the data to be stored.**
**One amendment states "processed and logged" instead of "generated or processed" (excludes unsuccessful calls)**

**One amendment limits the data to be stored to data which the providers "control for the purpose of supplying their communications services".**

**One amendment replaces "data" with "records"**

**One amendment reserves the rights of Member States to use constitutional or other powers in the fields of particularly sensitive communications areas such as journalist to journalist communications.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Article 3, paragraph 2 | Alexander Alvaro Amendment 21 | |
| 2. Die Mitgliedstaaten tragen durch entsprechende Maßnahmen dafür Sorge, dass die gemäß dieser Richtlinie zum Zwecke der Verhütung, Ermittlung, Feststellung und Verfolgung von ***schweren*** Straftaten ***wie Terrorismus und organisierter Kriminalität*** auf Vorrat gespeicherten Daten nur in ganz bestimmten Fällen und in Übereinstimmung mit den innerstaatlichen Rechtsvorschriften an die zuständigen ***nationalen Behörden*** weitergegeben werden. | 2. Die Mitgliedstaaten tragen durch entsprechende Maßnahmen dafür Sorge, dass die gemäß dieser Richtlinie zum Zwecke der Ermittlung, Feststellung und Verfolgung von ***den in Artikel 1 Absatz 2a genannten*** Straftaten auf Vorrat gespeicherten Daten nur in ganz bestimmten Fällen und in Übereinstimmung mit den innerstaatlichen Rechtsvorschriften an die zuständigen ***Strafverfolgungsbehörden*** weitergegeben werden. ***Die Mitgliedstaaten tragen dafür Sorge, dass die innerhalb ihres Staatsgebiets betroffenen Unternehmen eine Stelle einrichten, die den zuständigen Strafverfolgungsbehörden im Falle der Datenabfrage als Ansprechpartner dient.*** | **21: Reference to serious crime, terrorism and organised crime replaced with reference to list of crimes.**<br><br>**National authorities replaced with "law enforcement authorities"**<br><br>**Insertion of clause that would create a single point of contact for companies to turn ro if data is requested.** |
| Article 3, paragraph 2 | Kathalijne Maria Buitenweg Amendment 132 | |
| 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national authorities, in specific cases and in accordance with national legislation, for the purpose of the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national authorities ***through a push system***, in specific cases and in accordance with national legislation, for the purpose of the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime ***and only when the person whose data are requested is reasonably suspected of having committed or of planning to commit a criminal offence.*** | **132: Data to be transferred through a "push system"**<br><br>**Data only to be transferred if there is a reasonable suspicion that person has commited or is planning to commit a criminal offence.** |
| Article 3, paragraph 2 | Sarah Ludford Amendment 133 | |

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| 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national authorities, in specific cases and in accordance with national legislation, for the purpose of the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | 2. Member States shall adopt measures to ensure that data ***related to the services provided and*** retained in accordance with this Directive are only provided to the competent national authorities ***by the provider offering the e-communication service to the end user***, in specific cases and in accordance with national legislation, for the purpose of the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime.<br><br>*Justification*<br><br>*To ensure legal certainty, this article needs to be further clarified in order to identify the service providers falling under the scope of the proposed Directive, in other words which are the service providers obliged to retain and provide what data for LEAs purposes?*<br><br>*Any obligation to retain specific data referring relating to the destination of a communication (e.g. name and address of the subscriber or registered recipient, connection label or user ID of the intended recipients, IMSI, IMEI of the called party) is virtually impossible whenever it involves different service providers, as it is often the case within a liberalized environment with multiple actors in the marketplace.* | **133: Only the direct service provider to the end user is obliged to store data. Mere data carriers cannot know who the user is.** |

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| | *Only the party offering the respective service can be subject to the data retention obligation. This party is the only one to have a direct relationship with the customer and with sovereignty over the data ("data controller" based on the definition of the Framework Data Protection Directive, Dir. 95/46/EC).*<br><br>*As an example, those companies which act only as mere carriers can't identify the final subscriber of an email service, only the service provider with a direct relationship with the end user is able to provide this information.* | |
| Article 3, paragraph 2 | Jean-Marie Cavada Amendment 134 | |
| 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national authorities, in specific cases and in accordance with ***national legislation,*** for the purpose of the prevention, investigation, detection and prosecution of ***serious criminal offences, such as*** terrorism and organised crime. | 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national authorities and in specific cases in accordance ***with the provisions of this Directive*** for the purpose of the prevention, investigation, detection and prosecution of terrorism and organised crime. | **134: Data must be transferred in accordance with the Directive and not with national legislation** |
| Article 3, paragraph 2 | Ioannis Varvitsiotis Amendment 135 | |

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| 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national authorities, in specific cases and in accordance with national legislation, for the purpose of the ***prevention,*** investigation, detection and prosecution of serious criminal offences***, such as terrorism and organised crime***. | 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national authorities, ***following the approval of the judicial authorities,*** in specific cases and in accordance with national legislation ***and within the provisions of the national judicial system***, for the purpose of the investigation, detection and prosecution of serious criminal offences.<br><br>*Justification*<br><br>*We have to ensure that individuals other than the competent authorities do not have access to that data.* | **135: Data must only be transferred following approval of judicial authorities.** |
| Article 3, paragraph 2 | Sylvia-Yvonne Kaufmann Amendment 136 | |
| 2. Die Mitgliedstaaten tragen durch entsprechende Maßnahmen dafür Sorge, dass die gemäß dieser Richtlinie zum Zwecke der ***Verhütung***, Ermittlung, Feststellung und Verfolgung von ***schweren*** Straftaten ***wie Terrorismus und organisierter Kriminalität*** auf Vorrat gespeicherten Daten nur in ganz bestimmten Fällen und in Übereinstimmung mit den innerstaatlichen Rechtsvorschriften an die zuständigen nationalen Behörden weitergegeben werden. | 2. Die Mitgliedstaaten tragen durch entsprechende Maßnahmen dafür Sorge, dass die gemäß dieser Richtlinie zum Zwecke der Ermittlung, Feststellung und Verfolgung von ***den in Artikel 2 Absatz 2a genannten*** Straftaten auf Vorrat gespeicherten Daten nur in ganz bestimmten Fällen und in Übereinstimmung mit den innerstaatlichen Rechtsvorschriften an die zuständigen nationalen Behörden weitergegeben werden. | **136: Removal of "prevention"**<br><br>**Reference to serious crime, terrorism and organised crime replaced with reference to list of crimes.** |

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| | *Justification*<br><br>Die Bezeichung „schweren Straftaten wie Terrorismus und organisierte Kriminalität“ lässt den einzelnen Mitgliedstaaten eine weite Interpretationsmöglichkeit. Dies wird zu Schwierigkeiten führen, wenn Daten nach dem Grundsatz der Verfügbarkeit ausgetauscht werden sollen, und eine Straftat nicht in beiden Mitgliedsstaaten als schwere Straftat eingeordent ist. Ein Katalog schwerer Straftaten ist daher vorzugswürdig. Der Einsatz von Verkehrsdaten zur Verhütung von Straftaten ist nur durch eine Filterung aller vorhanden Daten vorstellbar. Eine Suche in allen Daten ohne Tatverdacht muss jedoch wegen der Intensität dieses Eingiffs in Grundrechte ausgeschlossen werden. | |
| Article 3, paragraph 2 | Bill Newton Dunn Amendment 137 | |
| 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are ***only*** provided to the competent national authorities, in specific cases and in accordance with national legislation, for the purpose of the prevention, investigation, detection and prosecution of ***serious*** criminal offences***, such as terrorism and organised crime.*** | 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are provided to the competent national authorities, in specific cases and in accordance with national legislation, for the purpose of the prevention, investigation, detection and prosecution of criminal offences***.*** | **137: Data must only be provided to competent national authorities**<br><br>**Directive should not be limited to only serious criminal offences, but any criminal offences** |

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| | *Justification*<br><br>Data retention requirements are of primary importance to allow law enforcement measures and judicial proceedings to be taken against all forms of online crimes. Without a requirement to retain data, authorities face significant obstacles in tracking illegal activities and identifying suspected infringers, and in talking actions to enforce offences and legal rights. This Directive should therefore cover all forms of criminal offences | |
| Article 3, paragraph 2 | Charlotte Cederschiöld Amendment 138 | |
| 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national ***authorities***, in specific cases and in accordance with national legislation, for the purpose of the ***prevention,*** investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime. | 2. Member States shall adopt measures to ensure that data retained in accordance with this Directive are only provided to the competent national ***authority***, in specific cases and in accordance with national legislation, for the purpose of the investigation, detection and prosecution of serious criminal offences, ***as stated in Article1, paragraph 2a.***<br><br>***This Directive shall comply with the principles laid down in the Council Framework Decision on (data protection)***<br><br>*Justification*<br><br>*As long as the scope of this Directive is not entirely clear and transparent no further Directives laying down detailed rules should be initialized.* | **138: Only one natioanl authority, and not many authorities, should have access to the data**<br><br>**"prevention" removed.**<br><br>**Reference that this Directive will comply with Council Framework Decision on Data Protection.** |

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| Article 3, paragraph 2 | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 140 | |
| Les États membres prennent les mesures nécessaires pour veiller à ce que les données conservées conformément à la présente directive ne soient transmises qu'aux autorités nationales compétentes**,** dans des cas précis conformément à la législation nationale, et à des fins de prévention, de recherche, de détection et de poursuite des infractions pénales graves, comme les actes terroristes et la criminalité organisée. | Les États membres prennent les mesures nécessaires pour veiller à ce que les données conservées conformément à la présente directive ne soient transmises qu'aux autorités nationales compétentes ***(supprimé)*** dans des cas précis et à des fins de prévention, de recherche, de détection et de poursuite des infractions pénales graves, comme les actes terroristes et la criminalité organisée. | **140: removal of reference to national legislation** |

Total number of amendments: **7**
Synopsis of proposed amendments:

**Two amendments replace reference to serious crime, terrorism and organised crime with a reference to the list of crimes to be contained in the Directive.**

**One amendment proposes a "push system"**

**One amendment creates a single point of contact for companies to turn to**
**One amendment proposes that only one authority per Member State should have access to the data**

**One amendment states that data should only be transferred if there is a reasonable suspicion that a person has commmitted or is about to commit a crime.**

**One amendment sets out that only the direct service provider to the end user is obliged to store the data.**

**Two amendments remove reference to national legislation**

**One amendment advocates that data may only be transferred following the approval of a judicial authority.**

**One amendment advocates that the Directive is not limited to just serious crimes, but to any crimes.**

**Two amendments remove the word "prevention"**

**One amendment advocates that the Directive makes reference that it complies with the Framework Decision on Data Protection**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Article 3 a (new) | Martine Roure,Wolfgang Kreissl-Dörfler, Giovanni Claudio Fava Amendment 141 | |
| | ***Accès aux données conservées***<br><br>***Member States shall adopt measures to ensure that the competent law enforcement authorities can only obtain access to data retained following the decision of a judicial authority and in accordance with this Directive, under the following conditions:***<br><br>***a) access shall be granted when necessary, proportionate and appropriate for specified, explicit and legitimate purposes on a case by case basis and in accordance with national law for the prevention, investigation, detection and prosecution of serious criminal offences;***<br><br>***b) the data requested shall be necessary, proportionate and appropriate to the purpose and in the context of a specific investigation, and shall not include large scale data-mining or other similar requests;***<br><br>***c) data shall not be processed or used in a way incompatible with the purposes for which it was requested; any further use or processing by law enforcement authorities for other related proceedings or purposes or any access by other government bodies to the same data shall require the filing of a new access application;*** | **141:**<br><br>**Data can only be transferred after decision of a judicial authority.**<br><br>**must be necessary, proportionate and appropriate on a case by case basis**<br><br>**No data mining**<br><br>**Data must not be used for purpose different to the purpose for which it was collected.**<br><br>**Any further processing of the data (e.g. other gov bodies) will require a new application.** |

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| | ***d) the process to be followed in order to get access to retained data and to preserve accessed data shall be defined by each Member State in national law; providers of publicly available electronic communications services or networks shall effectively guarantee that access is only granted to the competent authorities, providers shall be strictly prohibited from accessing, processing, using, sharing, or otherwise utilizing data retained under this Directive for purposes other than those explicitly stated in this Directive or in Directive 2002/58/EC. regarding their normal business purposes;*** | **Providers shall be forbidden from accessing the data** |
| | ***e) tout accès aux données conservées est enregistré dans un registre des traitements qui permette d'identifier le requérant, les responsables du traitement, le personnel autorisé à l'accès et au traitement des données, l'autorisation judiciaire concernée, les données consultées, et la finalité pour laquelle elles sont consultées*** | **Every time the data is accessed a log will show who accessed the data, the personnel authorised to access it, the judicial authority concerned, and the reason the data was consulted.** |
| | ***f) data accessed by the competent law enforcement authorities shall be kept in a form which permits identification of the data subjects for no longer than necessary for the purpose for which the date were collected or for which they are further processed:*** | **Data to be kept in form which identifies data subject for no longer than necessary.** |
| | ***g) the confidentiality and integrity of the data shall be ensured*** | **confidentiality of data and data integrity to be ensured** |
| | ***h) the data can be transmitted to third countries, or other third party under special circumstances*** | **Transfers to third countries allowed under certain conditions.** |
| Artikel 3 a (neu) | Sylvia-Yvonne Kaufmann Amendment 142 | |

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| | ***Zugang zu Daten***<br>***Die Mitgliedstaaten tragen dafür Sorge, dass die zuständigen Behörden in Übereinstimmung mit den innerstaatlichen Rechtsvorschriften Zugang zu den nach dieser Richtlinie gespeicherten Daten erhalten, soweit:***<br>***a) der Zugang zum Zwecke der Ermittlung, Feststellung oder Verfolgung von Straftaten nach Artikel 1 Absatz 2a erfolgen soll und dies durch eine gerichtliche Verfügung bestätigt wird,***<br>***b) die zuständigen Behörden bewahren Daten, die aufgrund dieser Richtlinie gespeichert und an sie weitergegeben worden sind, nur so lange auf, wie es die Ermittlung, Feststellung oder Verfolgung von Straftaten nach Artikel 1 Absatz 2a erfordert,***<br>***c) die zuständigen Behörden haben geeignete Maßnahmen zu treffen, um die Vertraulichkeit der sich in ihrem Besitz befindlichen Daten, die aufgrund dieser Richtlinie gespeichert worden sind, sicherzustellen,***<br>***d) unter keinen Umständen dürfen die zuständigen Behörden diese Daten an Drittstaaten weitergeben.***<br><br>*Justification*<br><br>*Der Europäische Datenschutzbeauftragte hat empfohlen, zur Vermeidung von Mißbrauch der gespeicherten Daten, Regelungen über den Zugang und den Schutz der Daten in diese Richtlinie zu integrieren.* | **142:**<br><br>**Data must only be accessed in connection with the crimes listed in the Directive, and after judicial approval of this.**<br><br>**The authorities must delete the data once they are no longer detecting, investigating or prosecuting the crimes in question.**<br><br>**Confidentiality must be ensured by authorities**<br><br>**data must not under any circumstances be transferred to third countries.** |
| Article 3 a (new) | Jean-Marie Cavada Amendment 143 | |

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| | *Access to the retained data*<br><br>*1. a new Each Member State shall ensure that access to data retained under this Directive shall be subject, as a minimum, to the following rules and shall establish judicial remedies in line with the provisions of Chapter III on 'Judicial remedies, liability and sanctions' of Directive 95/46/EC:*<br><br>*(a) data shall be accessed for specified, explicit and legitimate purposes by competent law enforcement authorities duly authorised and on a case by case basis in accordance with national law;*<br><br>*(b) data shall not further processed in a way incompatible with those purposes; any further processing of retained data by competent law enforcement authorities for other related proceedings should be limited on the basis of stringent safeguards;*<br><br>*(c) any access to the data by other government bodies should be prevented;*<br>*(d) access to retained data by any other third parties is illegitimate;*<br>*(e) the process to be followed in order to get access to retained data and to preserve accessed data shall be defined by each Member State in national law; providers should not be allowed to process for their own purposes data retained under this Directive;*<br>. | **143:**<br><br>**Each Member State shall put in place judicial remedies**<br><br>**data shall be accessed for legitimate purposes in accordance with national law.**<br><br>**Data should not be processed in a way incompatible with these purposes.**<br><br>**Data should not be accessed by other governemnt bodies.**<br><br>**No other third party should have access to the data**<br><br>**The process of accessing the data shall be dealt with at national level.**<br><br>**Providers should not be able to process the data for their own purposes.** |

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| | ***(f) the data shall be adequate, relevant and not excessive in relation to the purposes for which they are accessed. Data shall be processed fairly and lawfully: in any case access must be restricted to those data that are necessary in the context of a specific investigation and not include large-scale data-mining in respect of travel and communications patterns of people unsuspected by the competent law enforcement authorities;*** | **Data must be adequate, relevant and not excessive.**<br><br>**No data mining** |
| | ***(g) data accessed by competent law enforcement authorities shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the data were collected or for which they are further processed;*** | **Data must be held in form that permits identification of person no longer than necessary** |
| | ***(h) the confidentiality and integrity of the data shall be ensured; any retrieval of the data should be recorded and records made available to the Data protection authorities;***<br>***(i) data accessed shall be accurate and, every necessary step must be taken to ensure that personal data which are inaccurate, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified*** | **Any retrieval of data should be recorded and records should be made available to the data protection authorities**<br><br>**Incorrect data must be erased or rectified.** |
| Article 3 a (new) | Stavros Lambrinidis, Edith Mastenbroek Amendment 144 | |

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| | ***Member States shall adopt measures to ensure that the competent law enforcement authorities can only obtain access to data retained following the decision of a judicial authority and in accordance with this Directive, under the following conditions:***<br><br>***access shall be granted when necessary, proportionate and appropriate for specified, explicit and legitimate purposes on a case by case basis and in accordance with national law for the prevention, investigation, detection and prosecution of serious criminal offences;*** | **144:**<br><br>**Access to data only after decision of a judicial authority.**<br><br>**access must be necessary, proportionate and appropriate** |
| | ***a. the data requested shall be necessary, proportionate and appropriate to the purpose and in the context of a specific investigation, and shall not include large scale data-mining or other similar requests; request for data, especially when for the purpose of preventing a serious crime, shall be*** | **No data mining** |
| | ***b. data shall not be processed or used in a way incompatible with the purposes for which it was requested; any further use or processing by law enforcement authorities for other proceedings or purposes or any access by other government bodies to the same data shall require the filing of a new access application;*** | **Any further processing requires a further application** |

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| | ***c. the process to be followed in order to get access to retained data and to preserve accessed data shall be defined by each Member State in national law; providers shall effectively guarantee that access is only granted to the competent authorities, providers shall be strictly prohibited from accessing, processing, using, sharing, or otherwise utilizing data retained under this Directive for purposes other than those explicitly stated in this Directive or in Directive 2002/58/EC. regarding their normal business purposes;*** | **Process of access to be defined at national level.** |
| | ***d. every access to retained data is registered to a special register that allows the identification of (a) the employee or employees accessing, processing and/or transferring the data, (b) the requesting authority, (c) the relevant judicial authorization, (d) the accessed data, and (e) the purpose for which the data is being accessed.*** | **Each time data is accessed a record is made that shows which employees accessed and transferred the data, the requesting authority, the judicial authority, the data accessed, and the purpose of the request.** |
| | ***e. data accessed by the competent law enforcement authorities shall be kept in a form which permits identification of the data subjects for no longer than necessary for the purpose for which the data were collected or for which they are further processed;***<br>***f. the confidentiality and integrity of the data shall be ensured;***<br>g. ***the data cannot be transmitted to third countries, or any other third party.*** | **Must be kept in a form that permits identification no longer than is necessary.**<br><br>**Data not be transferred to any third country, or third party.** |

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| | *Justification*<br><br>*European law, including Article 15 of Directive 2002/58/EC, requires that access to data be necessary, proportionate, and appropriate within a democratic society before it is granted. Furthermore, for purposes of the evaluation of the application of the Directive by the Institutions, it is important that all data regarding individual cases be retained in a special register.* | |
| Artikel 3b (neu) | ?????????????????? Amendment 145 | |
| | ***Rechtsschutzbeauftragter***<br>***(1) Jeder Mitgliedstaat bestellt, nach Anhörung des nationalen Datenschutzbeauftragten sowie der Präsidenten des Verfassungs- und Verwaltungsgerichtshofes des Mitgliedsstaates einen Rechtsschutzbeauftragten zur Prüfung der Rechtmäßigkeit von Maßnahmen nach dieser Richtlinie sowie zwei Stellvertreter für die Dauer von zwei Jahren. Wiederbestellungen sind zulässig.***<br><br>***(2) Der Rechtsschutzbeauftragte und seine Stellvertreter müssen besondere Kenntnisse und Erfahrungen auf den Gebieten der Grund- und Freiheitsrechte sowie der Strafverfolgung aufweisen. Sie müssen über ausreichende Berufserfahrung verfügen in einem Beruf, in dem der Abschluss des Studiums der Rechtswissenschafte Berufsvoraussetzung ist. Die Mitgliedstaaten tragen dafür Sorge, dass Personen, die aktuell in einer Behörde gemäß Art. 1 Absatz 2c tätig sind, nicht als Rechtsschutzbeauftragter bestellt werden .*** | **145:**<br><br>**Each Member State shall appoint, after hearings with the national Data Protection Commissioner, and constitutional court, a legal Commissioner/Czar/Official to ensure the legality of measures taken pursuant to this Directive.**<br><br>**The legal Commisisoner must have experience ine the areas of fundamental rights**<br><br>**People working currently in authorities in accordance with Article 1, 2c, are not eligible to become Commissioners.** |

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| | *(3) Der Rechtsschutzbeauftragte ist in Ausübung seines Amtes unabhängig und an keine Weisungen gebunden. Er unterliegt der Amtsverschwiegenheit. Seine Stellvertreter haben gleiche Rechte und Pflichten. Die Mitgliedstaaten haben durch entsprechende Maßnahmen dafür Soge zu tragen, dass dem Rechtsschutzbeauftragten das zur Bewältigung seiner administrativen Tätigkeit notwendige Personal zur Verfügung zu stellen und für seine Sacherfordernisse aufzukommen.* | **The Commisisoner is independent**<br><br>**The Commissioner shall have enough personnel and resources to carry out his tasks** |
| | *(4) Der Rechtsschutzbeauftragte ist zur rechtlichen Kontrolle aller Maßnahmen von Behörden und sonstigen Personen im Zusammenhang mit dieser Richtlinie befugt. Hiefür ist ihm Einsicht in alle erforderlichen Unterlagen zu gewähren und die erforderlichen Auskünfte zu erteilen. Dies gilt jedoch nicht für Auskünfte deren Bekanntwerden die nationale Sicherheit oder die Sicherheit von Menschen gefährden würde. Amtsverschwiegenheit kann ihm gegenüber nicht geltend gemacht werden.* | **The Commisioner is endowed with powers to inspect and control all measures in this Directive.** |
| | *(5) Der Rechtsschutzbeauftragte hat der Eurpoäischen Kommission jährlich einen Bericht über Maßnahmen nach dieser Richtlinie zu erstatten. Diesen Bericht hat die Europäische Kommission dem Europäischen Parlament und dem Rat auf Anfrage zugänglich zu machen.* | **The Commissioner must make an annual report to the European Commission, which must make this report available to the EP.** |
| | *(6) Nimmt der Rechtsschutzbeauftragte wahr, dass durch das Verwenden von Daten Rechte eines Betroffenen verletzt worden sind, der von dieser Datenverwendung keine Kenntnis hat, so ist er befugt,* | **The commissioner is entitled to inform someone if their rights are being infringed , or to make a complaint to the Data Protection Commissioner.** |

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| | ***1. den Betroffenen zu informieren oder***<br>***2. eine Beschwerde an den zuständigen Datenschutzbeauftragten zu erheben. Eine Beschwerde nach Ziffer 2 ist nur zulässig, wenn das Wissen des Betroffenen um die den Inhalt des Datensatzes die strafrechtliche Ermittlung oder Verfolgung gefährden oder erheblich behindern würde und eine Information nach Ziffer 1 daher nicht erfolgen kann.***<br><br>*Justification*<br><br>Das Konzept des Rechtsschutzbeauftragten ist dem österreichischen Recht entlehnt. Dort ist er, neben der Datenschutzkommission, in allen Bereichen etabliert, in denen Behörden Umgang mit sensiblen persönlichen Daten haben. Die Etablierung des Rechtschutzbeauftragten hat die Zahl der Anfragen nach diesen Daten durch die Behörden verringert. | **This concept comes from Austria, where it has decreased access requests bythe authorities.** |
| Article 3 b (new) | Jean-Marie Cavada Amendment 146 | |
| | ***Data Protection and Data security***<br><br>***Providers of publicly available electronic communications services or networks shall ensure that the systems for storage of data for public order purposes should be logically separated from system that are used for their business purposes.*** | **146: Data that is stored must be logically seperated from ordinary business data** |
| Artikel 3c (neu) | Sylvia-Yvonne Kaufmann AMendment 147 | |

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| | ***Datenschutz und Datensicherheit***<br>***1) Jeder Mitgliedstaat trägt dafür Sorge, dass die Daten, die aufgrund dieser Richtlinie gespeichert werden, mindestens die in Artikel 17 der Richtlinie 95/46/EC festgelegten Sicherheitsstandards Anwendung finden und, dass der Austausch dieser Daten den Bestimmungen des Art. 4 der Richtlinie 2000/58/EC entspricht.***<br>***2.) Unter keinen Umständen dürfen diese Daten an Drittstaaten weitergegeben werden.***<br>***3.) Die Anbieter öffentlich zugänglicher elektronischer Kommunikationsdienste verpflichten sich die in Absatz 1 niedergelegten Sicherheitsstandards zu beachten.***<br>***4.) Unter keinen Umständen dürfen diese Daten zu kommerziellen Zwecken genutzt werden. Die Anbieter öffentlich zugänglicher elektronischer Kommunikationsdienste geben eine entsprechende Selbstverpflichtung ab***<br><br>*Justification*<br><br>*Der Europäische Datenschutzbeauftragte hat empfohlen, zur Vermeidung von Mißbrauch der gespeicherten Daten, Regelungen über den Zugang und den Schutz der Daten in diese Richtlinie zu integrieren.* | **147:**<br><br>**Minimum security standards must be in place according to Article 17 of 95/46/EC**<br><br>**This data must not be forwarded to third countries under any circumstances**<br><br>**Service Providers must act in accordance with the security standards.**<br><br>**Under no circumstances may this data be used for commercial purposes.** |

Total number of amendments: **11**
Synopsis of proposed amendments:

**Two amendments states that data must be deleted by the competent authority when no longer needed for the purpose for which it was collected.**

**At least two amendment states that authorities may only keep data in a form which permits identification of the data subject only for as long as necessary for the purpose of the data collection**

**At least two amendments mention that competent authorites must ensure integrity of data and confidentiality**

**Three amendments state that data must not under any circumstances be transferred to a third country**
**One amendment states that the data should not be accessed by other governemnt bodies**
**One amendment states that no other third party should have access to the data.**

**One amendment states that a list of competent law enforcement authorities must be publicly available**

**Three amendments state that data can only be transferred after a decision of a judicial authority**
**One amendment states that the data can only be accessed in accordance with the list of crimes in the Directive.**

**At least two amendments state that access must be necessary, proportionate and appropriate on a case by case basis**

**At least two amendments state that that there must be no data mining of the data.**

**Two amendments state that any further processing of the data will require a further application**
**One amendment states that data may not be processed for a purpose different to the purpose for which it was collected.**

**Three amendments make clear that providers are forbidden from accessing the data for their own purposes, and one makes clear that the data cannot be used for commercial purposes.**

**One amendment proposes the creation of a national official/Commissioner/Czar (Beauftragte) to make sure that the Directive is implemented properly, and sets out his powers (based on Austrian example)**

**One amendment states that the data to be stored must be logically separated from the ordinary business data.**

**One amendment sets out minimun security standards with reference to Article 17 of 95/46/EC**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ARTICLE 4, TITLE | Alexander Alvaro Amendment 23 | |
| Categories of data to be retained | Categories ***and types*** of data to be retained | **23: addition of "types" of data** |
| ARTICLE 4, TITLE | Michael Cashman Amendment 148 | |
| Categories of data to be retained | Categories ***and types*** of data to be retained | **148: addition of "types" of data** |
| ARTICLE 4, TITLE | Sylvia-Yvonne Kaufmann Amendment 149 | |
| Für die Vorratsspeicherung in Frage kommende Datenkategorien | Für die Vorratsspeicherung in Frage kommende Datenkategorien und ***Datentypen*** | **149: addition of "types" of data** |
| ARTICLE 4, PARAGRAPH 1 A (new) | Alexander Alvaro Amendment 25 | |
| | ***Gemäß den in Absatz 1 genannten Datenkategorien sind folgende Datentypen auf Vorrat zu speichern:***<br>***a) zur Rückverfolgung und Identifizierung der Quelle einer Nachricht benötigte Daten:***<br>***(1) Festnetz:***<br>***(a) Rufnummer des anrufenden Anschlusses,***<br>***(b) Name und Anschrift des Teilnehmers bzw. registrierten Nutzers.***<br>***(2) Mobilfunk:***<br>***(a) Rufnummer des anrufenden Anschlusses,***<br>***(b) Name und Anschrift des Teilnehmers bzw. registrierten Nutzers.*** | **25: Annex put into main text** |

***b) zur Rückverfolgung und Identifizierung des Adressaten einer Nachricht benötigte Daten:***

***(1) Festnetz:***

***(a) die angerufene(n) Rufnummer(n),***

***(b) Name und Anschrift des bzw. der Teilnehmer bzw. registrierten Nutzer.***

***(2) Mobilfunk:***

***(a) die angerufene(n) Rufnummer(n),***

***(b) Name und Anschrift des bzw. der Teilnehmer bzw. registrierten Nutzer.***

***c) zur Bestimmung von Datum, Uhrzeit und Dauer einer Nachrichtenübermittlung benötigte Daten:***

***(1) Fest- und Mobilfunknetz:***

***(a) Datum sowie der genaue Beginn und das genaue Ende der Nachrichtenübermittlung.***

***d) zur Bestimmung der Art einer Nachrichtenübermittlung benötigte Daten:***

***.***

***(1) Festnetz:***

***(a) der in Anspruch genommene Telefondienst, z.B. Sprachtelefonie, Telefonkonferenz, Telefax, Nachrichtenübermittlungsdienste***

***(2) Mobilfunk:***

***(a) der in Anspruch genommene Mobilfunkdienst, z.B. Sprachtelefonie, Telefonkonferenz, Kurznachrichtendienste (SMS, EMS oder MMS).***

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| | ***e) zur Bestimmung der (mutmaßlichen) Endeinrichtung benötigte Daten:***<br>***(1) Mobilfunk:***<br>***(a) internationale Mobilfunkteilnehmerkennung (IMSI) des anrufenden und angerufenen Anschlusses,***<br>***(b) internationale Mobilfunkgerätekennung (IMEI) des anrufenden und des angerufenen Anschlusses.*** | |
| Article 4 | Kathalijne Maria Buitenweg Amendment 150 | |
| Member States shall ensure that the following categories of data are retained under this Directive:<br>(a) data necessary to trace and identify the source of a communication;<br>(b) data necessary to trace and identify the destination of a communication;<br>(c) data necessary to identify the date, time and duration of a communication;<br>(d) data necessary to identify the type of communication;<br>(e) data necessary to identify the communication device or what purports to be the communication device;<br>(f) data necessary to identify the location of mobile communication equipment.<br>The types of data to be retained under the abovementioned categories of data are specified ***in the Annex.*** | Member States shall ensure that the following categories of data are retained under this Directive:<br>(a) data necessary to trace and identify the source of a communication;<br>(b) data necessary to trace and identify the destination of a communication;<br>(c) data necessary to identify the date, time and duration of a communication;<br>(d) data necessary to identify the type of communication;<br>(e) data necessary to identify the communication device or what purports to be the communication device;<br>(f) data necessary to identify the location of mobile communication equipment.<br>The types of data to be retained under the abovementioned categories of data are specified ***as follows:*** | **150: Annex put into main text** |

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| | ***a) Data necessary to trace and identify the source of a communication:***<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The calling telephone number;***<br>***(b) Name and address of the subscriber or registered user;***<br>***(2) Concerning Mobile Telephony:***<br>***(a) The calling telephone number;***<br>***(b) Name and Address of the subscriber or registered user;***<br>***b) Data necessary to trace and identify the destination of a communication:***<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The called telephone number or numbers;***<br>***(2) Concerning Mobile Telephony:***<br>***(a) The called telephone number or numbers;***<br>***c) Data necessary to identify the date, time and duration of a communication:***<br>***(1) Concerning Fixed Network Telephony and Mobile Telephony:***<br>***(a) The date and time of the start and end of the communication***<br>. | |

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| | ***d) Data necessary to identify the type of communication:***<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, fax and messaging services.***<br>***(2) Concerning Mobile Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, Short Message Service, Enhanced Media Service or Multi-Media Service.***<br>***e) Data necessary to identify the communication device or what purports to be the communication device:***<br>***(1) Concerning Mobile Telephony:***<br>***(a)The International Mobile Subscriber Identity (IMSI) of the calling and called party;***<br>***(b) The International Mobile Equipment Identity (IMEI) of the calling and called party.*** | | |

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| | ***f) Data necessary to identify the location of mobile communication equipment:***<br>***(1) The location label (Cell ID) at the start and end of the communication;***<br>***(2) Data mapping between Cell IDs and their geographical location at the start and end of the communication***<br>*Justification*<br>Inclusion in article 4 of the parts of the annex relating to telephone communications and excluding any reference to internet data | |
| Article 4 | Edith Mastenbroek and Lilli Gruber Amendment 151 | |

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| Categories of data to be retained<br><br>Member States shall ensure that ***the following categories of data are retained under this Directive:***<br><br>(a) data necessary to trace and identify the source of a communication;<br>(b) data necessary to trace and identify the destination of a communication;<br>(c) data necessary to identify the date, time and duration of a communication;<br>(d) data necessary to identify the type of communication;<br>(e) data necessary to identify the communication device or what purports to be the communication device;<br>(f) data necessary to identify the location of mobile communication equipment.<br>***The types of data to be retained under the abovementioned categories of data are specified in the Annex.*** | Categories ***and types*** **of** data to be retained<br><br>Member States shall ensure that ***only those categories and types of data are retained which are processed and logged by providers of publicly available communications services or of a public communications network.***<br><br>***1.This Directive refers to the following categories of data:***<br><br>(a) data necessary to trace and identify the source of a communication;<br>(b) data necessary to trace and identify the destination of a communication;<br>(c) data necessary to identify the date, time and duration of a communication;<br>(d) data necessary to identify the type of communication;<br>(e) data necessary to identify the communication device or what purports to be the communication device;<br>(f) data necessary to identify the location of mobile communication equipment.<br><br>***2. This Directive refers to the following types of data***:<br><br>***a) Data necessary to trace and identify the source of a communication:***<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The calling telephone number;***<br>***(b) Name and address of the subscriber or registered user;*** | **151: addition of "types" of data**<br><br>**data must be "processed and logged"**<br><br>**Internet data not included** |

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| | ***(2) Concerning Mobile Telephony:***<br>***(a) The calling telephone number;***<br>***(b) Name and Address of the subscriber or registered user;***<br><br>***b) Data necessary to trace and identify the destination of a communication:***<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The called telephone number or numbers;***<br>***(b) Name(s) and Address(es) of the subscriber(s) or registered user(s);***<br>***(2) Concerning Mobile Telephony:***<br>***(a) The called telephone number or numbers;***<br>***(b) Name(s) and Address(es) of the subscriber(s) or registered user(s);***<br><br>***c) Data necessary to identify the date, time and duration of a communication:***<br>***(1) Concerning Fixed Network Telephony and Mobile Telephony:***<br>***(a) The date and time of the start and end of the communication*** | | |

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| | ***d) Data necessary to identify the type of communication:***<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, fax and messaging services.***<br>***(2) Concerning Mobile Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, Short Message Service, Enhanced Media Service or Multi-Media Service.***<br>***e) Data necessary to identify the location of mobile communication equipment:***<br>***(1) The location label (Cell ID) at the start and end of the communication;***<br>***(2) Data mapping between Cell IDs and their geographical location at the start and end of the communication.***<br>***Data that reveals the content of a communication may not be included.*** | | |

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| | *Justification*<br><br>*The proposal for retention of phone and internet traffic data appears to be based on the idea that telecom and internet networks are comparable. This is not the case. The internet should not be included in the directive. Reasons are the lack of balance between risks and benefits, and the negative impact on innovation.* | |
| | The necessity of mandatory retention of internet traffic data has not been proven. Storing internet traffic data is much more difficult than phone data, internet traffic data is far less reliable than phone data, and internet traffic data is far less useful than phone data. Internet data retention is easy to avoid by abusing innocent people. On top of this, the open and decentralized character of the internet is threatened by data retention. And other, more targeted measures are available and waiting to be implemented. | |
| Article 4 | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis et Giovanni Claudio Fava Amendment 152 | |
| Catégories de données à conserver<br><br>Les États membres veillent à ce que soient conservées en application de la présente directive les catégories de données suivantes:<br><br>***(a)***les données nécessaires pour retrouver et identifier la source d'une communication;<br><br>***(b)***les données nécessaires pour retrouver et identifier la destination d'une communication; | Catégories ***et types*** de données à conserver<br><br>***1.*** Les États membres veillent à ce que soient conservées en application de la présente directive les catégories de données suivantes:<br><br>***(g)***les données nécessaires pour retrouver et identifier la source d'une communication;<br><br>***(h)***les données nécessaires pour retrouver et identifier la destination d'une communication;<br><br>(a) | **152: removal of mention of annex**<br><br>**Insertion that content will not be included** |

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| ***(c)***les données nécessaires pour déterminer la date, l'heure et la durée d'une communication;<br><br>***(d)***les données nécessaires pour déterminer le type de communication;<br><br>***en annexe.***<br><br>***(e)***les données nécessaires pour déterminer le dispositif de communication utilisé ou ce qui est censé avoir été utilisé comme dispositif de communication;<br><br>***(f)***les données nécessaires pour localiser le matériel de communication mobile.<br><br>***Les types de données à conserver pour chacune des catégories de données susmentionnées sont précisés*** | ***(i)***les données nécessaires pour déterminer la date, l'heure et la durée d'une communication;<br><br>***(j)***les données nécessaires pour déterminer le type de communication;<br><br>***(k)***les données nécessaires pour déterminer le dispositif de communication utilisé ou ce qui est censé avoir été utilisé comme dispositif de communication;<br><br>***(l)***les données nécessaires pour localiser le matériel de communication mobile.<br><br>***Supprimé***<br><br>***No data revealing the content of the communication can be retained*** | |
| Article 4, paragraphe 2 bis (nouveau) | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 155 | |

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| | ***2. Les types de données à conserver sont les suivantes:***<br><br>***a) Données nécessaires pour retrouver et identifier la source d'une communication:***<br><br>***(1) En ce qui concerne la téléphonie fixe en réseau:***<br><br>***(a) le numéro de téléphone de l'appelant;***<br><br>***(b) les nom et adresse de l'abonné ou de l'utilisateur enregistré;***<br><br>***(2) En ce qui concerne la téléphonie mobile:***<br><br>***(a) le numéro de téléphone de l'appelant;***<br><br>***(b) les nom et adresse de l'abonné ou de l'utilisateur enregistré;*** | **155: Annex moved into main body of text** |

***(3)*** ***En ce qui concerne les services d'accès à Internet, de courrier électronique par Internet et de téléphonie par Internet:***

***(a)*** ***l'adresse du protocole Internet (adresse IP), qu'elle soit dynamique ou statique, attribuée à une communication par le fournisseur d'accès Internet;***

***(b)*** ***le code d'identification personnel de la source d'une communication;***

***(c)*** ***l'identité de connexion ou numéro de téléphone attribué à toute communication entrant dans le réseau téléphonique public;***

***(d)*** ***les nom et adresse de l'abonné ou de l'utilisateur enregistré à qui l'adresse IP, l'identité de connexion ou le code d'identification personnel ont été attribués au moment de la communication.***

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| | ***b)*** | ***Données nécessaires pour retrouver et identifier la destination d'une communication:***<br><br>***En ce qui concerne la téléphonie fixe en réseau:***<br><br>***(e)*** ***le ou les numéros de téléphone appelés;***<br><br>***(f)*** ***les nom et adresse du ou des abonnés ou utilisateurs enregistrés;***<br><br>***(4)*** ***En ce qui concerne la téléphonie mobile:***<br><br>***(a)*** ***le ou les numéros de téléphone appelés;***<br><br>***(b)*** ***les nom et adresse du ou des abonnés ou utilisateurs enregistrés;***<br><br>***(5)*** ***En ce qui concerne les services d'accès à Internet, de courrier électronique par Internet et de téléphonie par Internet:*** | |

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| | | ***(a) l'identité de connexion ou le code d'identification personnel du ou des destinataires visés d'une communication;*** | |
| | | ***(b) les nom et adresse du ou des abonnés ou utilisateurs enregistrés qui est/sont le ou les destinataires visés d'une communication;*** | |
| | ***c)*** | ***Données nécessaires pour déterminer la date, l'heure et la durée d'une communication:*** | |
| | | ***En ce qui concerne la téléphonie fixe en réseau et la téléphonie mobile:*** | |
| | | ***(c) la date et l'heure de début et de fin de la communication;*** | |
| | | ***(6) En ce qui concerne les services d'accès à Internet, de courrier électronique par Internet et de téléphonie par Internet:*** | |
| | | ***(a) la date et l'heure d'ouverture et de fermeture des sessions Internet dans un fuseau horaire déterminé*** | |

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| | ***d)*** | ***Données nécessaires pour déterminer le type de communication:***<br><br>***En ce qui concerne la téléphonie fixe en réseau:***<br><br>***(a) le service téléphonique utilisé, par exemple, voix, conférence téléphonique, télécopie et services de messagerie.***<br><br>***(7) En ce qui concerne la téléphonie mobile:***<br><br>***(a) le service téléphonique utilisé, par exemple, voix, conférence téléphonique, service de mini-messages (SMS), service de messagerie amélioré (EMS) ou service de messagerie multimédia (MMS).***<br><br>***(b) .*** | |
| | ***e)*** | ***Données nécessaires pour déterminer le dispositif de communication utilisé ou ce qui est censé avoir été utilisé comme dispositif de communication:*** | |

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| | ***En ce qui concerne la téléphonie mobile:***<br><br>***(c) l'identité internationale d'abonné mobile (IMSI) de l'appelant et de l'appelé;***<br><br>***l'identité internationale d'équipement mobile (IMEI) de l'appelant et de l'appelé***<br><br>***En ce qui concerne les services d'accès à Internet, de courrier électronique par Internet et de téléphonie par Internet***<br><br>***(d) Le numéro de téléphone de l'appelant pour l'accès commuté;***<br><br>***(e) la ligne d'abonné numérique (DSL) ou tout autre identifiant terminal de l'auteur de la communication;***<br><br>***(f) l'adresse de contrôle d'accès au média (MAC) ou tout autre identifiant machine de l'auteur de la communication.***<br><br>***f) Données nécessaires pour localiser le matériel de communication mobile:***<br><br>***l'identité de localisation (identifiant cellulaire) au début (supprimé) de la communication;*** | |
| Article 4, section 1 | Sylvia-Yvonne Kaufmann Amendment 153 | |

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| Die Mitgliedstaaten stellen sicher, dass gemäß dieser Richtlinie folgende Datenkategorien auf Vorrat gespeichert werden: | ***1.*** Die Mitgliedstaaten stellen sicher, dass gemäß dieser Richtlinie folgende Datenkategorien auf Vorrat gespeichert werden: | **153: Change of number** |
| Article 4, paragraph 1, point a) | Herbert Reul Amendment 154 | |
| a) zur Rückverfolgung und Identifizierung der Quelle einer Nachricht benötigte Daten | (a) zur Rückverfolgung und Identifizierung der Quelle einer Nachricht benötigte Daten:<br><br>***(1) Festnetz:***<br><br>***(a) Rufnummer des anrufenden Anschlusses***<br><br>***(b) Name und Anschrift des Teilnehmers, bzw. registrierten Nutzers***<br><br>***(2) Mobilfunk:***<br><br>***(a) Rufnummer des anrufenden Anschlusses***<br><br>***(b) Name und Anschrift des Teilnehmers, bzw. registrierten Nutzers***<br><br>***(3) Internetzugang, E-Mail per Internet und Sprachübermittlung per Internet:***<br><br>***(a) Die vom Internet-Provider für eine Nachrichtenübermittlung zugewiesenen dynamische oder statische Internet-Protokoll-Adresse***<br><br>***war*** | **154: Annex put into main text, but fields of data reduced.** |

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| | ***(b) Die Benutzerkennung der Quelle einer Nachricht***<br><br>***(c) Die Anschlusskennung oder Rufnummer, die jeder Nachrichtenübermittlung über das öffentliche Telefonnetz zugewiesen wird***<br><br>***(d) Name und Anschrift des Teilnehmers, bzw. regristierten Nutzers, dem die IP-Adresse, Anschlusskennung oder Benutzerkennung zum Zeitpunkt der Nachrichtenübermittlung zugewiesen***<br><br>*Justification*<br><br>*Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden.* | |
| Article 4, paragraph 2 a (new) | Michael Cashman Amendment 156 | |
| | ***Types of data to be retained under the categories identified in Article 4 of this Directive:***<br><br>***a) Data necessary to trace and identify the source of a communication:***<br><br>***(1) Concerning Fixed Network Telephony:***<br><br>***(a) The calling telephone number;***<br><br>***(b) Name and address of the subscriber or registered user;*** | **156: Annex put into main text.** |

***(2) Concerning Mobile Telephony:***

***(a) The calling telephone number;***

***(b) Name and Address of the subscriber or registered user;***

***.***

***(3) Concerning Internet Access, Internet e-mail and Internet telephony:***

***(a) The Internet Protocol (IP) address, whether dynamic or static, allocated by the Internet access provider to a communication;***

***(b) The User ID of the source of a communication;***

***(c) The Connection Label or telephone number allocated to any communication entering the public telephone network;***

***(d) Name and address of the subscriber or registered user to whom the IP address, Connection Label or User ID was allocated at the time of the communication***

***b) Data necessary to trace and identify the destination of a communication:***

***(1) Concerning Fixed Network Telephony:***

***(a) The called telephone number or numbers;***

***(b) Name(s) and address(es) of the subscriber(s) or registered user(s);***

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| | ***(2) Concerning Mobile Telephony:***<br><br>***(a) The called telephone number or numbers;***<br><br>***(b) Name(s) and address(es) of the subscriber(s) or registered user(s);***<br><br>***(3) Concerning Internet Access , Internet e-mail and Internet telephony:***<br><br>***(a) The Connection Label or User ID of the intended recipient(s) of a communication;***<br><br>***(b) Name(s) and address(es) of the subscriber(s) or registered user(s) who are the intended recipient(s) of the communication.***<br><br>***c) Data necessary to identify the date, time and duration of a communication:***<br><br>***(1) Concerning Fixed Network Telephony and Mobile Telephony:***<br><br>***(a) The date and time of the start and end of the communication.***<br><br>***(2) Concerning Internet Access, Internet e-mail and Internet telephony:***<br><br>***(a) The date and time of the log-in and log-off of the Internet sessions based on a certain time zone.*** | | |

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| | ***d) Data necessary to identify the type of communication:***<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, fax and messaging services.***<br>***(2) Concerning Mobile Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, Short Message Service, Enhanced Media Service or Multi-Media Service.***<br><br>***e) Data necessary to identify the communication device or what purports to be the communication device:***<br>***(1) Concerning Mobile Telephony:***<br>***(a) The International Mobile Subscriber Identity (IMSI) of the calling and called party;***<br>***(b) The International Mobile Equipment Identity (IMEI) of the calling and called party.*** | | |

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| | ***(2) Concerning Internet Access, Internet e-mail and Internet telephony:***<br>***(a) The calling telephone number for dial-up access;***<br>***(b) The digital subscriber line (DSL) or other end point identifier of the originator of the communication;***<br>***(c) The media access control (MAC) address or other machine identifier of the originator of the communication.***<br>.<br>***f) Data necessary to identify the location of mobile communication equipment:***<br>***(1) The location label (Cell ID) at the start and end of the communication;***<br>***(2) Data mapping between Cell IDs and their geographical location at the start and end of the communication.***<br>*Justification*<br>This amendment moves the text of the annex of the Commission's proposal into the body of the Directive | |
| Article 4, introductory part | Jean-Marie Cavada Amendment 157 | |
| ***Member States shall ensure that*** the following ***categories of data are retained under this Directive***: | ***The data necessary are*** the following : | **157: Change of wording** |
| Article 4, point (a) | Jean-Marie Cavada Amendment 158 | |

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| (a) data necessary to trace and identify the source of a communication; | (a) data necessary to trace and identify the source of a communication;<br>***(1) Concerning Fixed and Mobile Telephone Services :***<br>***(a) The calling telephone number;***<br>***(b) Name and address of the subscriber or registered user;***<br>***(2) Concerning Internet Access, Internet e-mail and Internet telephony:***<br>***(a) The Internet Protocol (IP) address, whether dynamic or static, allocated by the Internet access provider to a communication;***<br>***(b) The User ID of the source of a communication;***<br>***(c) The Connection Label or telephone number allocated to any communication entering the public telephone network;***<br>***(d) Name and address of the subscriber or registered user to whom the IP address, Connection Label or User ID was allocated at the time of the communication.*** | **158: Annex put in main text. Fields of data included right underneath types of data required.** |
| Article 4, point (b) | Jean-Marie Cavada Amendment 160 | |

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| b) data necessary to trace and identify the destination of a communication; | b) data necessary to trace and identify the destination of a communication:<br>***(1) Concerning Fixed and Mobile Telephone Services :***<br>***(a) The called telephone number or numbers;***<br>***(b) Name(s) and address(es) of the subscriber(s) or registered user(s);***<br>***(2) Concerning Internet Access, Internet e-mail and Internet telephony:***<br>***(a) The Connection Label or User ID of the intended recipient(s) of a communication;***<br>***(b) Name(s) and address(es) of the subscriber(s) or registered user(s) who are the intended recipient(s) of the communication.*** | **160: Annex put in main text. Fields of data included right underneath types of data required.** |
| Article 4, point (c) | Jean-Marie Cavada Amendment 161 | |
| (c) data necessary to identify the date, time and duration of a communication; | (c) data necessary to identify the date, time and duration of a communication;<br>***(1) Concerning Fixed Network Telephony and Mobile Telephony:***<br>***(a) The date and time of the start and end of the communication.***<br>***(2) Concerning Internet Access, Internet e-mail and Internet telephony:***<br>***(a) The date and time of the log-in and log-off of the Internet sessions based on a certain time zone.*** | **161: Annex put in main text. Fields of data included right underneath types of data required.** |
| Article 4, point (d) | Jean-Marie Cavada Amendment 163 | |

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| (d) data necessary to identify the type of communication; | (d) data necessary to identify the type of communication;<br>***(1) Concerning Fixed Network Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, fax and messaging services.***<br>***(2) Concerning Mobile Telephony:***<br>***(a) The telephone service used, e.g. voice, conference call, Short Message Service, Enhanced Media Service or Multi-Media Service.*** | **163: Annex put in main text. Fields of data included right underneath types of data required.** |
| Article 4, point (e) | Jean-Marie Cavada Amendment 165 | |
| (e) data necessary to identify the communication device or what purports to be the communication device; | (e) Data necessary to identify the communication device or what purports to be the communication device:<br>***(1) Concerning Mobile Telephony:***<br>***(a) The International Mobile Subscriber Identity (IMSI) of the calling and called party;***<br>***(b) The International Mobile Equipment Identity (IMEI) of the calling and called party.*** | **165: Annex put in main text. Fields of data included right underneath types of data required.** |

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| | ***(2) Concerning Internet Access, Internet e-mail and Internet telephony:***<br>***(a) The calling telephone number for dial-up access;***<br>***(b) The digital subscriber line (DSL) or other end point identifier of the originator of the communication;***<br>***(c) The media access control (MAC) address or other machine identifier of the originator of the communication.*** | |
| Article 4, point (f) | Jean-Marie Cavada Amendment 167 | |
| (f) data necessary to identify the location of mobile communication equipment. | (f) data necessary to identify the location of mobile communication equipment.<br>***(1) The location label (Cell ID) at the start and end of the communication;*** | **167: Annex put in main text. Fields of data included right underneath types of data required.** |
| ARTICLE 4, PARAGRAPH 2 | Alexander Alvaro Amendment 26 | |
| ***The types of data to be retained under the abovementioned categories of data are specified in the Annex.*** | ***Data that reveals the content of a communication must not be included.*** | **26: Content is not to be included.** |
| Article 4, last subparagraph | Jean-Marie Cavada Amendment 171 | |
| ***The types of data to be retained under the abovementioned categories of data are specified in the Annex.*** | ***Specific guarantees will be provided for in order to ensure a stringent, effective distinction between content and traffic data, both for the Internet and for telephony.*** | **171: Guarantees to be provided for to ensure effective distinction between content and traffic data** |
| ARTICLE 4, POINT (F) | Alexander Alvaro Amendent 24 | |
| ***(f) data necessary to identify the location of mobile communication equipment.*** | ***deleted*** | **24: f) deleted** |
| Article 4, paragraph 1, point b) | Herbert Reul Amendment 159 | |

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| b) zur Rückverfolgung und Identifizierung des Adressaten einer Nachricht benötigte Daten | b) zur Rückverfolgung und Identifizierung des Adressaten einer Nachricht benötigte Daten<br><br>***(1) Festnetz:***<br><br>***(a) Die angerufene(n) Rufnummer(n)***<br><br>***(b) Name und Anschrift des bzw. der Teilnehmer bzw. registrierten Nutzer***<br><br>***(a) Die angerufene(n) Rufnummer(n)***<br><br>***(2) Mobilfunk:***<br><br>***(b) Name und Anschrift des bzw. der Teilnehmer bzw. registrierten Nutzer***<br><br>***(3) Internetzugang, E-Mail per Internet und Sprachübermittlung per Internet:***<br><br>***(a) Anschluss- oder Benutzerkennung des bzw. der geplanten Empfänger einer Nachricht***<br><br>***(b) Name und Anschrift des bzw. der Teilnehmer oder registrierten Nutzer, an die die Nachricht gerichtet ist*** | **159: Annex put into main text, but number of fields reduced.** |

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| | *Justification*<br><br>Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden. | |
| Article 4, paragraph 1, point c) | Herbert Reul Amendment 162 | |
| c)zur Bestimmung von Datum, Uhrzeit und Dauer einer Nachrichtenübermittlung benötigte Daten | c)zur Bestimmung von Datum, Uhrzeit und Dauer einer Nachrichtenübermittlung benötigte Daten<br><br>***(1) Fest- und Mobilfunknetz :***<br><br>***(a) Datum sowie der genaue Beginn und das genaue Ende der Nachrichtenübermittlung***<br><br>***(2) Internetzugang, E-Mail per Internet und Sprachübermittlung per Internet:***<br><br>***(a) Datum und Uhrzeit der An- und Abmeldung für eine Internet-Sitzung ausgehend von einer bestimmten Zeitzone***<br><br>*Justification*<br><br>Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden. | **162: Annex put into main text, but number of fields reduced.** |

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| Article 4, paragraph 1, point d) | Herbert Reul Amendemnt 164 | |
| d) zur Bestimmung der Art einer Nachrichtenübermittlung benötigte Daten | d) zur Bestimmung der Art einer Nachrichtenübermittlung benötigte Daten<br>***(1) Festnetz:***<br>***(a) Der in Anspruch genommene Telefondienst, z.B. Sprachtelefonie, Telefonkonferenz, Telefax, Nachrichtenübermittlungsdienste***<br>***(2) Mobilfunk:***<br>***(a) Der in Anspruch genommene Mobilfunkdienst, z.B. Sprachtelefonie, Telefonkonferenz, Kurznachrichtendienste (SMS, EMS oder MMS)***<br>*Justification*<br>Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden. | **164: Annex put into main text, but number of fields reduced.** |
| Article 4, paragraph 1, point e) | Herbert Reul Amendment 166 | |

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| e) zur Bestimmung der (mutmaßlichen) Endeinrichtung benötigte Daten | e) zur Bestimmung der (mutmaßlichen) Endeinrichtung benötigte Daten<br><br>***(1) Mobilfunk:***<br><br>***(a)internationale Mobilfunkteilnehmerkennung***<br>***(b) Streichung***<br>***(2) Internetzugang, E-Mail par Internet und Sprachübermittlung per Internet***<br>***(a) die für die Einwahl verwendete Rufnummer***<br>***(b) der DSL-Anschluss oder eine andere Endpunktkennung des Urhebers der Nachrichtenübermittlung***<br>***(c) Streichung***<br><br>*Justification*<br><br>*Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden.*<br><br>*Die Seriennummer des Mobilfunkgerätes wird von den Herstellern mehrfach vergeben und kann von den Nutzern manipuliert werden.*<br><br>Die Gerätenummer der Netzwerkkarte eines Rechners kann nicht eindeutig zugeordnet werden, weil sie auch von den Herstellern mehrfach vergeben werden kann und vom Nutzer mit geringem Aufwand nachträglich manipuliert werden kann. Mit der Speicherung beider Datentypen wird die Verbrechensbekämpfung nicht spürbar verbessert werden können. | **166: Annex put into main text, but number of fields reduced.**<br><br>**Serial number of mobile telephones deleted, since these are not unique numbers.** |

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| Article 4, paragraph 1, point f) | Herbert Reul Amednment 169 | |
| f) zur Bestimmung des Standorts mobiler Geräte benötigte Daten. | f) zur Bestimmung des Standorts mobiler Geräte benötigte Daten:<br>***1)Funkzellen-Identifikationsnummer zu Beginn (Streichung) der Nachrichtenübermittlung***<br>***2) Streichung***<br>*Justification*<br>Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden.Die Seriennummer des Mobilfunkgerätes wird von den Herstellern mehrfach vergeben und kann von den Nutzern manipuliert werden.Bisher werden Standortdaten im Mobilfunk nur zu Beginn eines Mobilfunktelefonates gespeichert. Die Forderung nach einer Speicherung von Standortdaten bei Beendigung eines Mobilfunktelefonates würde hohe Investitionskosten zur Folge haben, die in einem unangemessenen Verhältnis zu dem erwarteten Ermittlungsmehrwert für die Strafverfolgungsbehörden stehen. | **169: Serial number of mobile telephones deleted, since these are not unique numbers.** |
| Article 4, paragraph 2 | Herbert Reul Amednemnt 172 | |
| ***Die gemäß den oben genannten Datenkategorien auf Vorrat zu speichernden Datentypen sind im Anhang im Einzelnen aufgeführt.*** | ***Den Mitgliedstaaten bleibt es überlassen, andere Datentypen, z. B. unerfolgreiche Verbindungsversuche innerhalb dieser Datenkategorien auf Vorrat zu speichern.*** | **172: Member States may record unsuccessful call attempts** |

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| | *Justification*<br><br>Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden.Eine Opt-Out Klausel ermöglicht es den Mitgliedstaaten mehr Daten zu speichern, wenn sie es für ihre innere Sicherheit für nötig halten. | |
| Article 4, paragraph 1, point f) | Charlotte Cederschiöld Amendment 168 | |
| ***f) data necessary to identify the location of mobile communication equipment.*** | ***deleted*** | **168: location data deleted.** |
| Artikel 4, lit f | Sylvia-Yvonne Kaufmann Amendment 170 | |
| ***f) zur Bestimmung des Standorts mobiler Geräte benötigte Daten.*** | ***Streichung***<br><br>*Justification*<br><br>*Die Erfassung von Standortdaten liesse die Erstellung und Speicherung vollständiger Bewegungsprofile jedes EU-Bürgers zu.* | **170: location data deleted.** |
| Artikel 4, Absatz 2 (neu) | Sylvia-Yvonne Kaufmann Amendment 173 | |
| | ***2. Gemäß den in Absatz 1 genannten Datenkategorien sind folgende Datentypen auf Vorrat zu speichern:*** | **173: Annex placed in main text.** |

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| | ***a) zur Rückverfolgung und Identifizierung der Quelle einer Nachricht benötigte Daten:***<br>***(1) Festnetz:***<br>***(a) Rufnummer des anrufenden Anschlusses,***<br>***(b) Name und Anschrift des Teilnehmers bzw. registrierten Nutzers.***<br>***(2) Mobilfunk:***<br>***(a) Rufnummer des anrufenden Anschlusses,***<br>***(b) Name und Anschrift des Teilnehmers bzw. registrierten Nutzers.***<br><br>***b) zur Rückverfolgung und Identifizierung des Adressaten einer Nachricht benötigte Daten:***<br>***(1) Festnetz:***<br>***(a) die angerufene(n) Rufnummer(n),***<br>***(b) Name und Anschrift des bzw. der Teilnehmer bzw. registrierten Nutzer.***<br>***(2) Mobilfunk:***<br>***(a) die angerufene(n) Rufnummer(n),***<br>***(b) Name und Anschrift des bzw. der Teilnehmer bzw. registrierten Nutzer.***<br>***c) zur Bestimmung von Datum, Uhrzeit und Dauer einer Nachrichtenübermittlung benötigte Daten:***<br>***(1) Fest- und Mobilfunknetz:***<br>***(a) Datum sowie der genaue Beginn und das genaue Ende der Nachrichtenübermittlung.*** | |

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| | ***d) zur Bestimmung der Art einer Nachrichtenübermittlung benötigte Daten:***<br><br>***(1) Festnetz:***<br><br>***der in Anspruch genommene Telefondienst, z.B. Sprachtelefonie, Telefonkonferenz, Telefax, Nachrichtenübermittlungsdienste.***<br><br>***(2) Mobilfunk:***<br><br>***(a) der in Anspruch genommene Mobilfunkdienst, z.B. Sprachtelefonie, Telefonkonferenz, Kurznachrichtendienste (SMS, EMS oder MMS).***<br><br>***e) zur Bestimmung der (mutmaßlichen) Endeinrichtung benötigte Daten:***<br><br>***(1) Mobilfunk:***<br><br>***(a) internationale Mobilfunkteilnehmerkennung (IMSI) des anrufenden und angerufenen Anschlusses,***<br><br>***(b) internationale Mobilfunkgerätekennung (IMEI) des anrufenden und des angerufenen Anschlusses.***<br><br>*Justification*<br><br>So tiefgreifende Eingriffe in die Grundrechte der europäischen Bürgerinnen und Bürger wie die Speicherung persönlicher Daten dürfen nicht im Kommitologieverfahren verändert werden, sondern nur unter Mitwirkung des Europäischen Parlaments. | |

Total number of amendments: **26**
Synopsis of proposed amendments:

**All amendments place annex into main text**

**Four amendments add to the title of Article 4 "types" of data.**

**One amendment states that it is only for data that is "processed and logged"**

**One amendment does not include internet data because it is too expensive and its use has not been proven.**

**Two amendments exclude content data.**
**One amendment states that there must be guarantees to ensure that there is an effectve distinction between content and traffic data.**

**Two amendments remove the serial number of mobile phones since these numbers are not unique and can be manipulated.**

**At least three amendments remove "location data" from data required**

**One amendment leaves it open to Member States to require unsuccessful call attempts to be recorded if they so wish.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Article 5 | Alexander Alvaro Amendment 27 | |
| ***Revision of the Annex***<br><br>***The Annex shall be revised on a regular basis as necessary in accordance with the procedure referred to in Article 6(2).*** | *deleted* | **27: reference to annex deleted** |
| Article 5 | Jean-Marie Cavada Amednment 174 | |
| ***Revision of the annex***<br><br>***The Annex shall be revised on a regular basis as necessary in accordance with the procedure referred to in Article 6(2).*** | ***deleted*** | **174: reference to annex deleted** |
| Article 5 | Kathalijne Maria Buitenweg Amendment 175 | |
| ***Revision of the annex***<br><br>***The Annex shall be revised on a regular basis as necessary in accordance with the procedure referred to in Article 6(2).*** | ***deleted*** | **175: reference to annex deleted** |
| Article 5 | Charlotte Cederschiöld Amendment 176 | |
| ***Revision of the annex***<br><br>***The Annex shall be revised on a regular basis as necessary in accordance with the procedure referred to in Article 6(2).*** | ***deleted***<br><br>*Justification*<br><br>*The Annex can under no circumstances be revised under the comitology procedure.* | **176: reference to annex deleted** |
| Article 5 | Edith Mastenbroek and Lilli Gruber Amendment 177 | |

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| ***Revision of the annex***<br><br>***The Annex shall be revised on a regular basis as necessary in accordance with the procedure referred to in Article 6(2).*** | ***deleted***<br><br>*Justification*<br><br>*This article refers to comitology.* | **177: reference to annex deleted** |
| Article 5 | Herbert Reul Amednemnt 178 | |
| ***Überarbeitung des Anhangs***<br><br>***Der Anhang wird gemäß dem in Artikel 6 Absatz 2 festgelegten Verfahren regelmäßig überarbeitet.*** | ***entfällt***<br><br>*Justification*<br><br>*Das Komitologieverfahren ist zur Änderung der im Anhang vorgesehenen Datentypen nicht akzeptabel. Da Änderungen von Datentypen ein grundrechtsrelevanter Eingriff darstellen, müssen sie mit Einbeziehung des Parlaments vorgenommen werden.* | **178: reference to annex deleted** |
| Article 5 | Sylvia-Yvonne Kaufmann Amendment 179 | |
| ***Der Anhang wird gemäß dem in Artikel 6 Absatz 2 festgelegten Verfahren regelmäßig überarbeitet.*** | ***Streichen***<br><br>*Justification*<br><br>*Folgeänderung zur Einarbeitung des Annex in den Corpus der Richtlinie.* | **179: reference to annex deleted** |
| Article 5 | Martine Roure,Wolfgang Kreissl-Dörfler Amendment 180 | |
| ***Révision de l'annexe***<br>***L'annexe fait l'objet d'une révision régulière s'il y a lieu, selon la procédure prévue à l'article 6, paragraphe 2.*** | ***Supprimé*** | **180: reference to annex deleted** |
| Article 5 | Jean-Marie Cavada Amendment 181 | |

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| The ***Annex*** shall be revised on a regular basis ***as necessary in accordance with the procedure referred to in Article 6(2).*** | The ***list of data*** shall be revised on a regular basis. | |
| Total number of amendments: **9**<br>Synopsis of proposed amendments:<br><br>**Eight amendments (including the Rapporteur's) delete the whole article, many because the comitology procedure is not felt to be appropriate.**<br><br>**One amendment removes reference to comitology, but states that the list of data should neverthless be revised reguarly.** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| Article 6 | Alexander Alvaro Amendment 28 | |
| ***Committee***<br><br>***1. The Commission shall be assisted by a Committee composed of representatives of the Member States and chaired by the representative of the Commission.***<br><br>***2. Where reference is made to this paragraph, Article 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***<br><br>***3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.*** | ***deleted*** | **28: reference to comitology committee deleted** |
| Article 6 | Herbert Reul Amendment 182 | |
| ***Ausschuss***<br><br>***1. Die Kommission wird von einem Ausschuss unterstützt, der sich aus Vertretern der Mitgliedstaaten zusammensetzt und in dem der Vertreter der Kommission den Vorsitz führt.***<br><br>***2. Wird auf diesen Absatz Bezug genommen, so gelten die Artikel 5 und 7 des Beschlusses 1999/468/EG unter Beachtung von dessen Artikel 8.***<br><br>***3. Der in Artikel 5 Absatz 6 des Beschlusses 1999/468/EG vorgesehene Zeitraum wird auf drei Monate festgesetzt.*** | ***Streichung***<br><br>*Justification*<br><br>*Das Komitologieverfahren ist zur Änderung der im Anhang vorgesehenen Datentypen nicht akzeptabel. Da Änderungen von Datentypen ein grundrechtsrelevanter Eingriff darstellen, müssen sie mit Einbeziehung des Parlaments vorgenommen werden.* | **182: reference to comitology committee deleted** |
| Article 6 | Kathalijne Maria Buitenweg Amendment 183 | |

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| ***Committee***<br><br>***1. The Commission shall be assisted by a Committee composed of representatives of the Member States and chaired by the representative of the Commission.***<br><br>***2. Where reference is made to this paragraph, Article 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***<br><br>***3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.*** | ***deleted*** | **183: reference to comitology committee deleted** |
| Article 6 | Charlotte Cederschiöld Amendment 184 | |
| ***Committee***<br><br>***1. The Commission shall be assisted by a Committee composed of representatives of the Member States and chaired by the representative of the Commission.***<br><br>***2. Where reference is made to this paragraph, Article 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***<br><br>***3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.*** | ***deleted***<br><br>*Justification*<br><br>*The comitology procedure.* | **184: reference to comitology committee deleted** |
| Article 6 | Edith Mastenbroek and Lilli Gruber Amendment 185 | |

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| ***Committee***<br><br>***1. The Commission shall be assisted by a Committee composed of representatives of the Member States and chaired by the representative of the Commission.***<br><br>***2. Where reference is made to this paragraph, Article 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.***<br><br>***3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.*** | ***deleted***<br><br>*Justification*<br><br>*This article refers to comitology.* | **185: reference to comitology committee deleted** |
| Article 6 | Martine Roure,Wolfgang Kreissl-Dörfler Amendment 186 | |
| ***Comité***<br><br>***1. La Commission est assistée par un comité composé de représentants des États membres et présidé par le représentant de la Commission.***<br><br>***2. Dans le cas où il est fait référence au présent paragraphe, les articles 5 et 7 de la décision 199/468/CE s'appliquent, dans le respect des dispositions de l'article 8 de celle-ci.***<br><br>***lai prévu à l'article 5, paragraphe 6, de la décision 1999/468/CE est fixé à trois mois.*** | ***supprimé*** | **186: reference to comitology committee deleted** |
| Total number of amendments: **6**<br>Synopsis of proposed amendments:<br>**All six amendment s (including the Rapporteur's) delete the Article as it refers to the comitology procedure.** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
|---|---|---|
| ARTICLE 7 | Alexander Alvaro Amendment 29 | |
| Die Mitgliedstaaten sorgen dafür, dass die in Artikel 4 genannten Datenkategorien für den Zeitraum ***eines Jahres*** ab dem Zeitpunkt der Kommunikation auf Vorrat gespeichert werden. ***Dies gilt nicht für Daten im Zusammenhang mit elektronischen Nachrichtenübermittlungen, die ganz oder überwiegend unter Verwendung des Internet-Protokolls vorgenommen werden. Für letztgenannte Daten beträgt die Speicherungsfrist sechs Monate.*** | Die Mitgliedstaaten sorgen dafür, dass die in Artikel 4 genannten Datenkategorien für den Zeitraum ***von drei Monaten*** ab dem Zeitpunkt der Kommunikation auf Vorrat gespeichert werden***; danach müssen die Daten gelöscht werden.***<br>***Sollte im Rahmen der Bewertung nach Artikel 12 ein Bedarf nach Ausdehnung der Frist festgestellt werden, so kann diese bis auf sechs Monate ausgedehnt werden.*** | **29: Retention periods of one year and six months reduced to three months for both, with the possibility of an extension to six months.** |
| ARTICLE 7, PARAGRAPH 1 A (new) | Alexander Alvaro Amendment 30 | |
| | ***Competent law enforcement authorities shall ensure that transferred data are erased by automated means once the investigation for which access to the data was granted is completed.*** | **30: Competent authorities will ensure that data is erased after use.** |
| ARTICLE 7, PARAGRAPH 1 B (new) | Alexander Alvaro Amendment 31 | |
| | ***The Commission shall keep the European Parliament duly informed of the notifications made by Member States under Article 95 (4) of the Treaty.*** | **31: Commission shall inform EP of notifications of Member States pursuant to Article 95 (4) of Treaty.** |
| ARTICLE 7 A (new) | Alexander Alvaro Amendment 32 | |

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| | ***Article 7a*** | **32:** |
| | ***Data protection and data security*** | |
| | ***Each Member State shall ensure that data retained under this Directive is subject, as a minimum, to the rules implementing Article 17 of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and the free movements of such data, to the provisions of Article 4 of Directive 2002/58/EC and the following data security principles:*** | **Each Member State shall ensure that data retained is subject to minimum rules** |
| | ***a) the retained data shall be of the same quality and shall be subject to the same security and protection as those data on the network;*** | **retained data shall be of same quality as that on network** |
| | ***b) the data shall be subject to appropriate technical and organisational measures to protect the data against accidental or unlawful destruction or loss, alteration, unauthorised or unlawful disclosure or access, and against all other unlawful forms of processing;*** | **measures in place to prevent damage to data and unlawful disclosure.** |
| | ***c) the data shall be subject to appropriate technical and organisational measures to ensure that disclosure of, and access to data is undertaken only by authorised persons whose conduct is subject to oversight by a competent judicial or administrative authority;*** | **technical measures inplace to ensure that only authorised authorities gain access to data** |
| | ***d) that providers keep log lists and undertake regular and systematic self-auditing to ensure that the applicable rules on data protection are respected;*** | **Providers must keep log lists and undertake self-auditing** |
| | ***e) the data cannot under any circumstances be transmitted to third countries;*** | **data cannot be transmitted to a third country** |
| | ***f) all data shall be destroyed at the end of the period for retention except those data which have been accessed and preserved.*** | **At end of retention period all data will be destroyed, except for data accessed and preserved.** |

| Article 7 | Herbert Reul Amendment 187 | |
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| Die Mitgliedstaaten sorgen dafür, dass die in Artikel 4 genannten Datenkategorien für den Zeitraum ***eines Jahres*** ab dem Zeitpunkt der Kommunikation auf Vorrat gespeichert werden. ***Dies gilt nicht für Daten im Zusammenhang mit elektronischen Nachrichtenübermittlungen, die ganz oder überwiegend unter Verwendung des Internet-Protokolls vorgenommen werden. Für letztgenannte Daten beträgt die Speicherungsfrist sechs Monate.*** | Die Mitgliedstaaten sorgen dafür, dass die in Artikel 4 genannten Datenkategorien für den Zeitraum ***von 6 Monaten*** ab dem Zeitpunkt der Kommunikation auf Vorrat gespeichert werden***, wobei den Mitgliedstaaten überlassen bleibt, die in Artikel 4 genannten Datenkategorien länger zu speichern.***<br><br>*Justification*<br><br>*Die Speicherfrist von 6 Monaten deckt nach empirischen Studien den größten Bedarf der Strafverfolgungsbehörden sowohl an Internetdaten als auch an Telefondaten.*<br><br>*Die Opt-Out Klausel ermöglicht es den Mitgliedstaaten, Kommunikationsdaten länger zu speichern, wenn sie es für die innere Sicherheit für nötig halten* | **187: Retention period reduced from one year to six months, but Member States can choose to retain data in Art 4 for longer** |
| Article 7 | Sylvia-Yvonne Kaufmann Amednemnt 188 | |
| 7. Die Mitgliedstaaten sorgen dafür, dass die in Artikel 4 genannten Datenkategorien für den Zeitraum ***eines Jahres*** ab dem Zeitpunkt der Kommunikation auf Vorrat gespeichert werden. ***Dies gilt nicht für Daten im Zusammenhang mit elektronischen Nachrichtenübermittlungen, die ganz oder überwiegend unter Verwendung des Internet-Protokolls vorgenommen werden. Für letztgenannte Daten beträgt die Speicherungsfrist sechs Monate.*** | 7. Die Mitgliedstaaten sorgen dafür, dass die in Artikel 4 genannten Datenkategorien für den Zeitraum ***von drei Monaten*** ab dem Zeitpunkt der Kommunikation auf Vorrat gespeichert werden. ***Danach müssen die Daten gelöscht werden, es sei denn, es besteht ein hinreichender Tatverdacht gegen den Teilnehmer bzw. registrierten Nutzer.*** | **188: Retention period reduced to three months** |

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| | *Justification*<br><br>Diese Änderung bezweckt, die Vorratsdatenspeicherung auf ein Minimum zu reduzieren und gleichzeitig, in Anerkennung der Bedürfnisse der Strafverfolgungsbehörden, eine Möglichkeit zu schaffen, Daten unter bestimmten Umständen länger als 3 Monate aufzubewahren. Durch die Kombination von Vorratsdatenspeicherung und quick Freeze werden auch die Daten von Flatrate-Inhabern überhaupt erst erfasst und damit den Bedürfnissen der Strafverfolgungsbehörden genüge getan. Durch die Kürze der Speicherperiode wird der Eingriff in die Grund- und Menschenrechte auf das Nötigste limitiert. | |
| Article 7 | Martine Roure,Wolfgang Kreissl-Dörfler Amendment 189 | |
| Les États membres veillent à ce que les catégories de données visées à l'article 4 soient conservées pour une durée d'un an à compter de la date de la communication, à l'exception des données relatives à des communications électroniques utilisant uniquement ou principalement le protocole Internet. Ces dernières données sont conservées pour une durée de six mois | Les États membres veillent à ce que les catégories de données visées à l'article 4 soient conservées pour une durée ***de six mois à un maximum de deux ans*** à compter de la date de la communication à l'exception des données relatives à des communications électroniques utilisant uniquement ou principalement le protocole internet. Ces dernières sont conservées pour une durée de six mois. ***Les Etats membres s'assurent que toutes les données sont effacées à la fin de cette période de rétention***. | **189: Retemtion period made flexible- from six months to a maximum of two years.** |
| Article 7 | Sarah Ludford Amendment 190 | |
| Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***one year*** from the date of the communication***, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of six months.*** | Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***6 months*** from the date of the communication**.** | **190: Retention period reduced to six months** |

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| | *Justification*<br><br>*The simple fact of retaining traffic data for longer periods (12 months as proposed by the Draft Directive) will only produce more data volumes, without proportionally increasing the quality of information. Larger volumes of data also increase the complexity of the translation of data into information and the risks of misuses and the need for increased security. LEAs will have to optimise ICT resources in order to request more precise and accurate data.*<br><br>*So far, LEAs have not been able to justify a general minimum data retention period that exceeds 6 months. On the contrary, empirical data shows that a 6 month retention period already covers the majority of public authorities' needs. Even the President of the Federal Criminal Police Office considers a preservation period of 6 months to be fully sufficient. The experiences of other EU Member States also show that, as for example in Sweden, 85% of the data requested is not more than 3 months old. In the UK, too, providers estimate that 80% of requests for information relate to data that is less than 3 months old.*<br><br>The retention periods should be kept to the absolute minimum in order to minimize the complexity for retrieving information out of the available data. | |
| Article 7 a (new) | Stavros Lambrinidis Amendment 191 | |

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| | ***Protection et sécurité des données***<br>***Each Member State shall ensure that data retained under this Directive is subject, as a minimum, to the rules implementing Article 16 and 17 of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and the free movements of such data, to the provisions of Article 4 and 5 of Directive 2002/58/EC and the following data security principles:***<br>***a) the data shall be subject to appropriate security measures to protect it against accidental or unlawful destruction, loss, or alteration;*** | **191:**<br><br>**data security measures** |
| | ***b) providers of publicly available electronic communications services or networks as well as Member State authorities accessing the data shall take the appropriate security measures to prevent unauthorized or other inappropriate or unlawful storage, access, processing, disclosure, or use, including through fully updated technical systems to protect the integrity of data and through the designation of specially authorized personnel who can have exclusive access to the data;*** | **Unlawful access prevented through designation of specially authorised personnel who have exhaustive access to the data.** |
| | ***c) providers of publicly available electronic communications services or networks create a separate system of storage of data for public order purposes, the data of this separate system cannot under any circumstance be used for business purposes or other purposes not explicitly authorized under this Directive,*** | **Providers must create a separate storage system, so that retained data cannot for any reason be used for business purposes.** |

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| | ***d) the data cannot under any circumstances be transmitted to third countries and third parties,***<br>***e) An appropriate independent authority in each Member State is designated to oversee the lawful implementation of this Directive regarding the security of the stored data as well as in each case where data is requested, accessed, processed and used, subject to the overall oversight authority of national legislatures.*** | **data must not be transmitted to third countries.**<br><br>**Independent authority is designated in each MS to ensure lawful implementation of Directive.** |
| | Martine Roure,Wolfgang Kreissl-Dörfler, Stavros Lambrinidis et Giovanni Claudio Fava Amendment 192 | |
| | ***Protection et sécurité des données***<br>***Each Member State shall ensure that data retained under this Directive is subject, as a minimum, to the rules implementing Article 16 and 17 of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and the free movements of such data, to the provisions of Article 4 and 5 of Directive 2002/58/EC and the following data security principles:***<br><br>***a) the data shall be subject to appropriate security measures to protect it against accidental or unlawful destruction, loss, or alteration*** | **192: As 191** |

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| | ***b) providers of publicly available electronic communications services or networks as well as Member State authorities accessing the data shall take the appropriate security measures to prevent unauthorized or other inappropriate or unlawful storage, access, processing, disclosure, or use, including through fully updated technical systems to protect the integrity of data and through the designation of specially authorized personnel who can have exclusive access to the data;***<br>***c) providers of publicly available electronic communications services or networks create a separate system of storage of data for public order purposes, the data of this separate system cannot under any circumstance be used for business purposes;***<br><br>***d) the data can only be transmitted to third countries and third parties under special cisrcumstances,***<br>***e) An appropriate independent authority in each Member State is designated to oversee the lawful implementation of this Directive regarding the security of the stored data as well as in each case where data is requested, accessed, processed and used, subject to the overall oversight authority of national legislatures.*** | |
| Article 7, subparagraph 1 | Edith Mastenbroek and Lilli Gruber Amendment 193 | |
| Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***one year*** from the date of the communication, ***with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of six months.*** | ***1)*** Member States shall ensure that the categories ***and types*** of data referred to in Article 4 are retained for a period of ***six months*** from the date of the communication.<br>***After this period has elapsed, the retained data have to be deleted.*** | **193: Addition of "types" of data**<br><br>**Retention period reduced to six months** |

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| Article 7, paragraph 1 a (new) | Amendment by Edith Mastenbroek and Lilli Gruber<br>Amendment 194 | |
| | ***1.a) By derogation from paragraph 1, any Member State may provide for retention of communication data referred to in Article 4 for longer periods in accordance with national criteria, following national procedural or consultative processes, when such retention constitutes a necessary, appropriate and proportionate measure within a democratic society.*** | **194: Retention periods may exceed 6 months according to national law when appropriate in a democratic society.** |
| Article 7, paragraph 1 b (new) | Edith Mastenbroek and Lilli Gruber Amednment 195 | |
| | ***1.b) By derogation from paragraph 1, any Member State may provide for retention of communication data referred to in Article 3 for shorter periods should the Member State not find acceptable, following national procedural or consultative processes, the retention periods set out in paragraph 1 of this Article as well as article 3 of this directive.*** | **195: Retention periods may be made shorter than six months if this is felt appropriate at the national level** |
| Article 7, paragraph 1 c (new) | Edith Mastenbroek and Lilli Gruber Amendment 196 | |
| | ***1.c) Any Member State making use of paragraphs 2 or 3 must notify the Council and the Commission. Any such derogation must be evaluated every 2 years.*** | **196: The above derogations (195 and 196) are subject to notification to the Commission, and a review every two years.** |
| Article 7 | Jean-Marie Cavada Amendment 197 | |
| Member States shall ensure that the categories of data referred to in Article 4 are retained ***for a period of*** one year from the date of the communication, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of six months. | Member States shall ensure that the categories of data referred to in Article 4 are retained ***no longer than*** one year from the date of the communication, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a ***maximum*** period of 6 months.<br>***Members States shall ensure that all the data are erased at the end of the retention period.*** | **197: The retention period is not changed (1 year; 6 months) but these are maximums.** |

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| Article 7 | Bill Newton Dunn Amendment 198 | |
| Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of one year from the date of the communication***, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of six months.*** | Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of one year from the date of the communication***.*** | **198: Retention period one year for all data.** |
| Article 7 | Kathalijne Maria Buitenweg Amendment 199 | |
| Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***one year*** from the date of the communication***, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of six months.*** | Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***three months*** from the date of the communication. | **199: Retention period reduced to three months for all data.** |
| Article 7 | Charlotte Cederschiöld Amendment 200 | |
| Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***one year*** from the date of the communication, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of six months. | Member States shall ensure that the categories of data referred to in Article 4 ***a-e*** are retained for a ***harmonised*** period of ***three months*** from the date of the communication.<br>***Should the evaluation in Art 12 demonstrate a need for necessary and proportionate changes in the retention period adjustments could be made if harmonised.*** | **200: Retention period harmonised at three months.**<br>**Harmonised adjustments possible.** |
| Article 7, subparagraph 1 | Ioannis Varvitsiotis Amendment 201 | |

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| Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***one year*** from the date of the communication, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of ***six months***. | Member States shall ensure that the categories of data referred to in Article 4 are retained for a period of ***six months*** from the date of the communication, with the exception of data related to electronic communications taking place using wholly or mainly the Internet Protocol. The latter shall be retained for a period of ***three months***.<br><br>*Justification*<br><br>*In view of the cost and the use of the data, we support a shorter period of data retention.* | **201: Retention period reduced to six months and three months.** |
| Article 7, subparagraph 1 a (new) | Jean-Marie Cavada Amendment 202 | |
| | ***By derogation from paragraph 1, Member States may provide for the retention of data for longer periods, when such retention constitutes, given the particular situation in a Member State, a necessary, appropriate and proportionate measure within a democratic society. The procedure of Article 95, paragraphs 4 and following, applies.*** | **202: Longer retention periods possible at national level if this is appropriate in a democratic society.** |

Total number of amendments: **20**
Synopsis of proposed amendments:

**Two amendments state that competent authorities will ensure erasure of data after use.**

**One amendment states that the Commission shall inform the EP of any notifications pursuant to Article 95(4) of Treaty.**

**Three amendments mention data security measures**

**Three amendments have the idea that providers must keep logs and do self-auditing, or have someone with access to this information.**

**Three amendments state that data must not be tranmitted to a third country.**

**One amendment advocates a retention period of *one year* for all data.**

**One amendment keeps the retention periods of *one year* and *six months*, but stresses that these are maximums.**

**One amendment advocates a retention period reduced from one year to *six months* for all data (but Member States may choose to retain data for longer)**
**One amendment advocates a retention period reduced from one year to *six months* for all data (but Member States may decide to extend or reduce this period. They must inform the Commission of this, and review the situation every two years. )**
**One amendment advocates a retention period reduced from one year to *six months* for all data**

**Three amendments advocate a retention period reduced to *three months* for all data (with one stressing that this should be a harmonised period)**

**One amendment advocates a flexible retention period *from six months* to a *maximum of two years*.**

**Two amendments propose the designation of independent national authorities to ensure that this Directive is implemented legally.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ARTICLE 8 | Alexander Alvaro Amendment 38 | |
| Die Mitgliedstaaten stellen sicher, dass die Daten gemäß den Bestimmungen dieser Richtlinie so gespeichert werden, dass sie und alle sonstigen damit zusammenhängenden erforderlichen Informationen ***unverzüglich*** an die ***zuständigen Behörden*** auf deren Anfrage hin weitergeleitet werden können. | Die Mitgliedstaaten stellen sicher, dass die Daten gemäß den Bestimmungen dieser Richtlinie so gespeichert werden, dass sie und alle sonstigen damit zusammenhängenden erforderlichen Informationen ***ohne schuldhaftes Zögern*** an die ***zuständige Strafverfolgungsbehörde*** auf deren Anfrage hin weitergeleitet werden können. | **38: change from „immediately" to „without undue delay" (ohne schuldhaftes Zörgern).**<br><br>**„authorities" put in singular („authority")** |
| ARTICLE 8, ABSATZ 1 A (new) | Alexander Alvaro Amendment 39 | |
| | ***Die Mitgliedstaaten tragen dafür Sorge, dass die innerhalb ihres Staatsgebiets betroffenen Unternehmen eine Stelle einrichten, die im Falle der Datenabfrage als Ansprechpartner dient.*** | **39: Member States must ensure that firms in their jurisdiction create a point of contact for data access requests.** |
| ARTICLE 8 A (new) | Alexander Alvaro Amendment 40 | |
| | ***Article 8a***<br><br>***Penalties***<br><br>***1. Member States shall lay down penalties for infringements of the national provisions adopted to implement this Directive. The penalties shall be effective, proportionate and dissuasive.***<br><br>***2. Member States shall ensure that persons against whom proceedings are brought with a view to imposing penalties have effective rights of defence and appeal.*** | **40: Penalties shall be introduced that are effective, proportionate and dissuasive.**<br><br>**There should however be rights of defence and appeal.** |
| Article 8 | Herbert Reul Amendment 203 | |

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| Die Mitgliedstaaten stellen sicher, dass die Daten gemäß den Bestimmungen dieser Richtlinie so gespeichert werden, dass sie und alle sonstigen damit zusammenhängenden erforderlichen Informationen unverzüglich an die zuständigen ***Behörden*** auf deren Anfrage hin weitergeleitet werden können. | Die Mitgliedstaaten stellen sicher, dass die Daten gemäß den Bestimmungen dieser Richtlinie so gespeichert werden, dass sie und alle sonstigen damit zusammenhängenden erforderlichen Informationen unverzüglich an die ***in den jeweiligen Mitgliedstaaten*** zuständigen ***Strafverfolgungsbehörden*** auf deren Anfrage hin weitergeleitet werden können. ***Die Bereitstellung der Daten erfordert vorab eine richterliche Entscheidung.***<br><br>*Justification*<br><br>Es muss präziser formuliert werden, welche Behörden in den Mitgliedstaaten Zugang auf die auf Vorrat gespeicherten Daten haben dürfen. Um sicherzustellen, dass die gespeicherten Daten nicht missbraucht werden, erfordert die Bereitstellung der Daten an die Strafverfolgungsbehörden vorab eine richterliche Entscheidung. | **203: Data must only be given to law enforcement authorities, and only after this has been judicially approved.** |
| Article 8 | Ioannis Varvitsiotis Amendment 204 | |
| Member States shall ensure that the data are retained in accordance with this Directive in such a way that the data retained and any other necessary information related to such data can be transmitted upon request to the competent authorities without undue delay. | Member States shall ensure that the data are retained in accordance with this Directive in such a way that the data retained and any other necessary information related to such data can be transmitted upon request to the competent ***national*** authorities without undue delay***, following the approval of the judicial authorities***.<br><br>*Justification*<br><br>There must be a judicial control to the access to the data. | **204: There must be judicial approval before a transfer can take place** |

| Article 8 | Edith Mastenbroek and Lilli Gruber Amendment 205 | |
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| ***Storage requirements for retained*** data<br><br>Member States shall ensure that the data are retained in accordance with this Directive in such a way that the data retained and any other necessary information related to such data can be transmitted upon request to the competent authorities without undue delay. | ***Processing of*** data<br><br>Member States shall ensure that the data are retained in accordance with this Directive in such a way that the data retained and any other necessary information related to such data can be transmitted upon request to the competent authorities without undue delay.<br><br>***The processing of the data takes place in accordance with the provisions of Article 17 of Directive 95/46/EC and Article 4 of Directive 2002/58/EC.*** | **205: Data processing to take place in accordance with 95/46/EC and 2002/58/EC** |
| Article 8 | Jean-Marie Cavada Amendment 206 | |
| Member States shall ensure that the data are retained in accordance with this Directive in such a way that ***the data retained and any other necessary information related to such data*** can be transmitted upon request to the competent authorities without undue delay. | Member States shall ensure that the data ***as specified in Article 4*** are retained ***by providers of publicly available electronic communications services or of a public communicating network,*** in accordance with this Directive, in such a way that they can be transmitted upon request to the competent authorities without undue delay.<br><br>***Only well trained members of the staff with specified technical responsibilities can have access to the data.***<br><br>***Specific rules on confidentiality must be provided for. Logging of each access must be ensured and systematic auditing performed and kept at disposal of the national data protection authorities.*** | **206: only well-trained staff to have access to the data.**<br><br>**Logging must take place, and systematic auditing, which must be available to national data protection authorities.** |
| Article 8 | Charlotte Cederschiöld Amendment 207 | |

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| Member States shall ensure that the data are retained in accordance with this Directive in such a way that the data retained and any other necessary information related to such data can be transmitted upon request to the competent ***authorities*** without undue delay. | Member States shall ensure that the data are retained in accordance with this Directive in such a way that the data retained and any other necessary information related to such data can be transmitted upon request to the competent ***authority*** without undue delay.<br><br>*Justification*<br><br>*See Art 2 paragraph 2 point bb* | **207: "Authorities" put into singular ("authority")** |
| Article 8 | Martine Roure,Wolfgang Kreissl-Dörfler, Stavros Lambrinidis et Giovanni Claudio Fava Amendment 208 | |
| | ***Sanctions***<br>***Les Etats membres prennent les mesures nécessaires pour faire en sorte que toute usage et accès abusif et négligent aux données en violation des dispositions de cette Directive soient passibles de sanctions pénales effectives, proportionnées et dissuasives*** | **208 : Penalties shall be introduced that are effective, proportionate and dissuasive** |

Total number of amendments: **9**
Synopsis of proposed amendments:

**Two amendments put <u>"Authorities" into singular ("authority")</u>.**

**One amendment suggests that Member States must ensure that firms <u>in their jurisdiction create a point of contact for data access requests</u>.**

**Two amendments state that <u>penalties shall be introduced that are effective, proportionate and dissuasive</u>.**

**One amendment states that there should be <u>rights of defence and appeal</u> in the case of such penalties**

**Two amendments state that there <u>must be judicial approval before data can be transferred</u>.**

**One amendment states that <u>data processing must take place in accordance with 95/46/EC and 2002/58/EC</u>.**

**One amendment states that <u>only well-trained staff should have access to the data</u>, and that <u>logging and self-auditing</u> should take place, (which should in turn be <u>available to the national data protection authorities</u>).**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ARTICLE 9 | Alexander Alvaro Amendment 36 | |
| Die Mitgliedstaaten sorgen dafür, dass der Europäischen Kommission jährlich eine Statistik über die Vorratsspeicherung von in Verbindung mit der Bereitstellung elektronischer Kommunikationsdienste verarbeiteten Daten übermittelt wird. Aus dieser Statistik muss hervorgehen,<br>- in welchen Fällen im Einklang mit dem innerstaatlichen Recht Daten an die zuständigen Behörden weitergegeben worden sind,<br>- wie viel Zeit zwischen der Vorratsspeicherung der Daten und dem Zeitpunkt, zu dem sie angefordert wurden, vergangen ist ***und***<br>***- wie viele Anfragen der Behörden ergebnislos geblieben sind.***<br>Die Statistik darf keine personenbezogenen Daten enthalten. | Die Mitgliedstaaten sorgen dafür, dass der Europäischen Kommission jährlich eine Statistik über die Vorratsspeicherung von in Verbindung mit der Bereitstellung ***öffentlich zugänglicher*** elektronischer Kommunikationsdienste verarbeiteten Daten übermittelt wird. Aus dieser Statistik muss hervorgehen,<br>- in welchen Fällen im Einklang mit dem innerstaatlichen Recht Daten an die zuständigen Behörden weitergegeben worden sind,<br>- wie viel Zeit zwischen der Vorratsspeicherung der Daten und dem Zeitpunkt, zu dem sie angefordert wurden, vergangen ist**,**<br>***- in wie vielen Fällen die angefragten Daten nicht unmittelbar zur Aufklärung der damit im Zusammenhang stehenden Ermittlungen geführt haben,***<br>***- in wie vielen Fällen Daten verlangt worden sind, die seitens der betroffenen Unternehmen nicht zur Verfügung standen.***<br>***Die Kommission legt dem Europäischen Parlament diese Statistik jährlich zur Kenntnis vor.***<br>Die Statistik darf keine personenbezogenen Daten enthalten. | **36:**<br>**specification of "publicly accessible" electronic communications network.**<br>**Annual reports should state not only the number of requests that are not followed up, but they should specify the number of times that information is not provided for without undue delay, and also the number of times when the requested data was not available.**<br>**The Commission shall inform the EP of these statistics.** |
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| Article 9 | Edith Mastenbroek and Lilli Gruber Amendment 209 | |

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| Member States shall ensure that statistics on the retention of data processed in connection with the provision of public electronic communication services are provided to the European Commission on a yearly basis. Such statistics shall include<br>- the cases in which information has been provided to the competent authorities in accordance with applicable national law,<br>- the time elapsed between the date on which the data were retained and the date on which the competent authority requested the transmission of the data;<br>- the cases where requests for data could not be met.<br>Such statistics shall not contain personal data. | Member States shall ensure that statistics on the retention of data processed in connection with the provision of public electronic communication services are provided to the European Commission on a yearly basis. ***The European Commission shall forward the statistics to the European Parliament.*** Such statistics shall include<br>– the cases in which information has been provided to the authorities**, *including intelligence and security services,*** in accordance with applicable national law,<br>– the time elapsed between the date on which the data were retained and the date on which the competent authority requested the transmission of the data;<br>– the cases where requests for data could not be met.<br>***- the (positive or negative) outcome of investigations in which information has been used, as well as estimates regarding the necessity of the information for the investigation.***<br>Such statistics shall not contain personal data. | **209:**<br>**Specification that the Commission should provide the EP with the statistics**<br>**Specification that the report should also include instances where data is transferred to intelligence and security services.**<br>**Specification that the report should also include the positive or negative outcome of investigations, and estimates about how necessary the data was for the investigation.** |
| Article 9 | Sylvia-Yvonne Kaufmann Amendment 210 | |
| Die Mitgliedstaaten sorgen dafür, dass der Europäischen Kommission jährlich eine Statistik über die Vorratsspeicherung von in Verbindung mit der Bereitstellung elektronischer Kommunikationsdienste verarbeiteten Daten übermittelt wird. Aus dieser Statistik muss hervorgehen,<br>- in welchen Fällen im Einklang mit dem innerstaatlichen Recht Daten an die zuständigen Behörden weitergegeben worden sind, | Die Mitgliedstaaten sorgen dafür, dass der Europäischen Kommission jährlich eine Statistik über die Vorratsspeicherung von in Verbindung mit der Bereitstellung ***öffentlich zugänglicher*** elektronischer Kommunikationsdienste verarbeiteten Daten übermittelt wird. Aus dieser Statistik muss hervorgehen,<br>- in welchen Fällen im Einklang mit dem innerstaatlichen Recht Daten an die zuständigen Behörden weitergegeben worden sind, | **210: (identical to amendment 36)**<br>**specification of "publicly accessible" electronic communications network.** |

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| - wie viel Zeit zwischen der Vorratsspeicherung der Daten und dem Zeitpunkt, zu dem sie angefordert wurden, vergangen ist ***und***<br><br>***- wie viele Anfragen der Behörden ergebnislos geblieben sind.***<br>Die Statistik darf keine personenbezogenen Daten enthalten. | - wie viel Zeit zwischen der Vorratsspeicherung der Daten und dem Zeitpunkt, zu dem sie angefordert wurden, vergangen ist,<br><br>***- in wie vielen Fällen die angefragten Daten nicht unmittelbar zur Aufklärung der damit im Zusammenhang stehenden Ermittlungen geführt haben,***<br><br>***- in wie vielen Fällen Daten verlangt worden sind, die seitens der betroffenen Unternehmen nicht zur Verfügung standen.***<br><br>***Die Kommission legt dem Europäischen Parlament diese Statistik jährlich zur Kenntnis vor.***<br><br>Die Statistik darf keine personenbezogenen Daten enthalten.<br><br>*Justification*<br><br>Um eine genaue Analyse vornehmen zu können, ob die Speicherung von Verkehrsdaten eine sinnvolle Maßnahme ist, die einen so schwerwiegenden Eingriff in die Grundrechte der Bürgerinnen und Bürger rechtfertigt, müssen konkrete Statistiken vorliegen | **Annual reports should state not only the number of requests that are not followed up, but they should specify the number of times that information is not provided for without undue delay, and also the number of times when the requested data was not available.**<br><br>**The Commission shall inform the EP of these statistics.** |
| | Herbert Reul Amendment 211 | |

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| Die Mitgliedstaaten sorgen dafür, dass der Europäischen Kommission jährlich eine Statistik über die Vorratsspeicherung von in Verbindung mit der Bereitstellung elektronischer Kommunikationsdienste verarbeiteten Daten übermittelt wird. Aus dieser Statistik muss hervorgehen,<br>- in welchen Fällen im Einklang mit dem innerstaatlichen Recht Daten an die zuständigen Behörden weitergegeben worden sind,<br>- wie viel Zeit zwischen der Vorratsspeicherung der Daten und dem Zeitpunkt, zu dem sie angefordert wurden, vergangen ist und<br>- wie viele Anfragen der Behörden ergebnislos geblieben sind. | Die Mitgliedstaaten sorgen dafür, dass der Europäischen Kommission jährlich eine Statistik über die Vorratsspeicherung von in Verbindung mit der Bereitstellung elektronischer Kommunikationsdienste verarbeiteten Daten übermittelt wird. Aus dieser ***von den Strafverfolgungsbehörden zu erstellenden*** Statistik, muss hervorgehen,<br>- in welchen Fällen im Einklang mit dem innerstaatlichen Recht Daten an die zuständigen Behörden weitergegeben worden sind,<br>- wie viel Zeit zwischen der Vorratsspeicherung der Daten und dem Zeitpunkt, zu dem sie angefordert wurden, vergangen ist und<br>- wie viele Anfragen der Behörden ergebnislos geblieben sind. | **211:**<br>**Specification that the report should concern law enforcement authorities.** |
| Die Statistik darf keine personenbezogenen Daten enthalten. | ***- in wie vielen Fällen welche Datentypen zu einem Ermittlungserfolg geführt oder dazu wesentlich beigetragen haben.***<br>Die Statistik darf keine personenbezogenen Daten enthalten. | **Specification that the report should include the number of times such data led to a successful investigation, or at least when it made a considerable contribution.** |

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| | *Justification*<br><br>*Die Richtlinie soll die Strafverfolgungsbehörden zur Erstellung der Statistiken verpflichten.*<br><br>Die vorgesehen Maßnahmen allein sind nicht sinnvoll, denn anhand der Anzahl der Anfragen und des Alters der Daten lässt sich der Nutzen einer Vorratsdatenspeicherung kaum nachvollziehen. Es ist notwendig, dass die Strafverfolgungsbehörden darlegen, in wie vielen Fällen welche Datentypen welchen Alters tatsächlich auch zu einem Ermittlungserfolg geführt oder dazu im Wesentlichen beigetragen haben. | |
| Article 9 | Stavros Lambrinidis Amendment 212 | |
| Member States shall ensure that statistics on the retention of data processed in connection with the provision of public electronic communication services are provided to the European Commission on a yearly basis. Such statistics shall include<br>– the cases in which information has been provided to the competent authorities inaccordance with applicable national law,<br>– the time elapsed between the date on which the data were retained and the date on which the competent authority requested the transmission of the data;<br>– the cases where requests for data could not be met.<br>Such statistics shall not contain personal data. | Member States shall ensure that statistics on the retention of data processed in connectionwith the provision of public electronic communication services are provided to the European Commission on a yearly basis. Such statistics shall include<br>– the cases in which information has been provided to the competent authorities in accordance with applicable national law,<br>– the time elapsed between the date on which the data were retained and the date on which the competent authority requested the transmission of the data;<br>– the cases where requests for data could not be met.<br>***- the cases where the provided data proved either (a) not helpful or (b) not necessary for the prevention, detection, investigation or prosecution of specific crimes for which it was accessed under this Directive.***<br>Such statistics shall not contain personal data. | **212:**<br><br>**The report should include the number of times that the data was not helpful or necessary for the prevention, detection, investigation or prosecution of the specific crime in question.** |

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| | *Justification*<br><br>To determine whether the measures included in the Directive remain necessary and effective during future reviews, it is important that the statistics kept address these issues. In this regard, it is reminded that the Presidency of the Council, in its recent Paper entitled "Liberty and Security: Striking the Right Balance," noted that, "in the future some criminals and terrorists will adapt their use of technology to make the retention of data a less important tool for investigations." | |
| Article 9 Article 9, paragraph 1, introductorypart | Jean-Marie Cavada Amendment 213 | |
| Member States shall ensure that statistics on the retention of data processed in connection with the provision of public electronic communication services are provided to the European Commission on a yearly basis. Such statistics shall include | Member States shall ensure that statistics on the retention of data processed in connection with the provision of public electronic communication services are provided to the European Commission on a yearly basis. ***ENISA may provide help to Member States in collecting these statistics.*** Such statistics shall include | **213: ENISA may provide help to Member States in collecting these statistics** |
| Article 9, subparagraph 1, indent 3 a (new) | Charlotte Cederschiöld Amendment 214 | |
| | ***- the cases where suspected and factual security breaches occurred.***<br><br>*Justification*<br><br>*As risks are substantial with large and complex data retention systems it is cruial to include statistics on suspected and factual security breaches.* | **214: The Report should include the number of actual and suspected security breaches** |
| Article 9 a (new) | Charlotte Cederschiöld Amendment 215 | |
| | ***Each Member State shall nominate one independent official responsible directly to the EDPS (European Data Protection Superviso) and the Commission to report the above stated statistics on a yearly basis.*** | **215: Each MS should nominate an official who is responsible for reporting this info directly to the EDPS and the Commission** |

Total number of amendments: **7**
Synopsis of proposed amendments:

**Three amendments states that the Commission shall inform the European Parliament of these statistics**

**Two amendments advocate the inclusion of the number of times data was not transferred without undue delay, and the number of times the data requested was not available**

**One amendment states that the report should include instances where data is transferred to national intelligence and security services**

**One amendment suggests that the report should also include the number of positive or negative outcome of investigations, and estimates about how necessary the data was for the investigation.**

**The report should include the number of times that the data was not helpful or necessary for the prevention, detection, investigation or prosecution of the specific crime in question**

**One amendment states that the Report should include the number of actual and suspected security breaches**

**One amendment advocates the phrase law enforcement authorities instead of authorities.**

**One amendment states that ENISA may provide help to Member States in collecting these statistics**

**One amendment states that each MS should nominate an official who is responsible for reporting this info directly to the EDPS and the Commission**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ARTICLE 10 | Alexander Alvaro Amendment 37 | |
| Die Mitgliedstaaten stellen sicher, dass Anbietern elektronischer Kommunikationsdienste oder Betreibern eines ***öffentlichen*** Kommunikationsnetzes die Zusatzkosten, die ihnen in Erfüllung der ihnen aus dieser Richtlinie erwachsenden Verpflichtungen nachweislich entstanden sind, erstattet werden. | Die Mitgliedstaaten stellen sicher, dass Anbietern ***öffentlich zugänglicher*** elektronischer Kommunikationsdienste oder Betreibern eines ***öffentlich zugänglichen elektronischen*** Kommunikationsnetzes die Zusatzkosten, die ihnen in Erfüllung der ihnen aus dieser Richtlinie erwachsenden Verpflichtungen nachweislich entstanden sind ***oder entstehen werden, voll*** erstattet werden. | **37: "publicly accessible" electronic communication services**<br><br>**States that costs should be "fully" refunded** |
| Article 10 | Michael Cashman Amendment 216 | |
| ***Costs***<br><br>***Member States shall ensure that providers of publicly available electronic communication services or of a public communication network are reimbursed for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive.*** | ***Deleted*** | **216: Article pertaining to the reimbursement of costs deleted** |
| Article 10 | Martine Roure,Wolfgang Kreissl-Dörfler et Giovanni Claudio Fava Amendment 217 | |
| Les États membres veillent à ce que les fournisseurs de services de communications électroniques accessibles au public ou d'un réseau public de communications obtiennent le remboursement des surcoûts qu'ils justifient avoir supportés pour s'acquitter des obligations leur incombant en vertu de la présente directive. | Les États membres veillent à ce que les fournisseurs de services de communications électroniques accessibles au public ou d'un réseau public de communications obtiennent le remboursement des surcoûts qu'ils justifient avoir supportés pour s'acquitter des obligations leur incombant en vertu de la présente directive ***y compris les coûts supplémentaires pour assurer la protection des données***. | **217 : The costs to be reimbursed should include the extra costs for ensuring data protection.** |
| Article 10 | Sarah Ludford Amendment 218 | |

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| Member States shall ensure that providers of publicly available electronic communication services or of a public communication network are reimbursed for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive. | Member States shall ensure that providers of publicly available electronic communication services or of a public communication network are ***fully*** reimbursed for demonstrated additional ***investment and operating*** costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive ***and any future amendments to it. The reimbursement should include costs arising from making the retained data available to law enforcement authorities.***<br><br>*Justification*<br><br>*This Directive does not merely regulate how communications service providers operate, it imposes a duty upon them to do undertake costly work specifically for law enforcement purposes. Most of those costs will probably be passed on to costumers.*<br><br>*It needs to be clearly understood that if law enforcement require access to data that is only retained as a result of this Directive, the cost of satisfying that demand (changes in systems' design, increased storage capacity, additional security measures, verification and responses to access requests, retrieval of raw data etc) is also a consequence of this Directive.*<br><br>*A cost-based access charge also tends to impose a certain restraint and discipline in limiting the number and scope of requests to what is actually needed for law enforcement purposes.* | **218:**<br><br>**Advocates that firms should be "fully" reimbursed for "investment and operating costs" including the costs of making the data available to law enforcement authorities.** |
| Article 10 | Edith Mastenbroek and Lilli Gruber Amendment 219 | |

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| Member States shall ensure that providers of publicly available ***electronic*** communication services or of a public communication network are reimbursed for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive. | Member States shall ensure that providers of publicly available communication services or of a public communication network are reimbursed for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive. ***In addition, Member States shall set up a uniform fee system for every request a law enforcement authority makes.*** | **219: A uniform fee system should be set up for data access requests** |
| Article 10 | Bill Newton Dunn Amendment 220 | |
| Member States shall ***ensure that*** providers of publicly available electronic communication services or of a public communication network ***are reimbursed*** for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive. | Member States shall ***provide for reimbursement to*** providers of publicly available electronic communication services or of a public communication network for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive.<br><br>*Justification*<br><br>*Member States should provide for reimbursement to the services providers for the demonstrated additional costs that they have incurred when complying with the obligation to retain data.* | **220: change of wording** |
| Article 10 | Charlotte Cederschiöld Amendment 221 | |
| Member States ***shall*** ensure that providers of publicly available electronic communication services or of a public communication network are reimbursed for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive. | Member States ***must*** ensure that providers of publicly available electronic communication services or of a public communication network are ***fully*** reimbursed for demonstrated additional costs they have incurred in order to comply with obligations imposed on them as a consequence of this Directive. | **221: Advocates that firms are "fully" reimbursed** |
| Article 10 | Herbert Reul Amendment 222 | |

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| Die Mitgliedstaaten stellen sicher, dass Anbietern elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen Kommunikationsnetzes die Zusatzkosten, die ihnen in Erfüllung der ihnen aus dieser Richtlinie erwachsenden Verpflichtungen nachweislich entstanden sind, erstattet werden. | Die Mitgliedstaaten stellen sicher, dass Anbietern elektronischer Kommunikationsdienste oder Betreibern eines öffentlichen Kommunikationsnetzes die Zusatzkosten, die ihnen in Erfüllung der ihnen aus dieser Richtlinie erwachsenden Verpflichtungen nachweislich entstanden sind, ***voll*** erstattet werden.<br><br>*Justification*<br><br>*Es muss klargestellt werden, dass die Unternehmen alle mit der Speicherung von Daten verursachten Kosten von den Mitgliedstaaten erstattet werden, da Verbrechensbekämpfung eine öffentliche Aufgabe darstellt.* | **222: Advocates that firms are "fully" reimbursed** |
| Total number of amendments: **8**<br>Synopsis of proposed amendments:<br><br>**One amendment deletes the article pertaining to the reimbursement of additional costs.**<br><br>**Four amendments advocate that additional costs are "fully" reimbursed.**<br><br>**One amendment suggests that the additional costs should include the extra costs for ensuring data protection.**<br><br>**One amendment suggests that additional costs include both investment and operational costs, including the cost of providing the authorities with the data.**<br><br>**One amendment suggests a uniform fee system for data access requests be set up.** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| Article 11 | Alexander Alvaro Amendment 38 | |
| In Article 15 of Directive 2002/58/EC ***the following paragraph 1a is inserted:***<br><br>***"1a. Paragraph 1 shall not apply to obligations relating to the retention of data for the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime, deriving from Directive 2005/../EC*. * OJ L nr. …. of …."*** | Article 15 of Directive 2002/58/EC ***shall be replaced by the following:***<br><br>***"The rights and obligations provided for in Article 5, Article 6, Article 8 (1), (2), (3) and (4), and Article 9 may only be restricted by the national provisions adopted to implement this Directive.*** | **38: Amendment means that general derogations will not be possible from the mentioned articles in 2002/58/EC, but only for rights and obligations stemming form this Directive.** |
| Article 11 | Charlotte Cederschiöld Amendment 223 | |
| ***In Article 15 of Directive 2002/58/EC the following paragraph 1a is inserted:***<br><br>***"1a. Paragraph 1 shall not apply to obligations relating to the retention of data for the prevention, investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime, deriving from Directive 2005/../EC*. * OJ L nr. …. of …."*** | ***deleted***<br><br>*Justification*<br><br>*The purpose of this Article is to amend an other Directive (2002/58/EC) via this Directive and add possibilities to deviate from the original requriements that all data retention must be "appropriate, proportionate and necessary".* | **223: The article is removed, as it would have made it possible to deviate from the principle that data retention must be appropriate, proportionate and necessary.** |
| Article 11 | Jean-Marie Cavada Amendment 224 | |

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| In Article 15 of Directive 2002/58/EC the following paragraph 1a is inserted:<br><br>”1a. Paragraph 1 shall not apply to obligations relating to the retention of data for the ***prevention,*** investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime, deriving from Directive 2005/../EC*. * OJ L nr. …. of ….”. | In Article 15 of Directive 2002/58/EC the following paragraph 1a is inserted:<br><br>"1a. Paragraph 1 shall not apply to obligations relating to the retention of data for the investigation, detection and prosecution of serious criminal offences, such as terrorism and organised crime, deriving from ***the transposition of*** Directive 2005/../EC. * * OJ L nr. ..... of .....<br><br>***Member States shall refrain from adopting legislative measures in the sectors covered by this Directive.*** | **224: “prevention” removed.** |
| Total number of amendments: **3**<br>Synopsis of proposed amendments:<br><br>**One amendment alters the text so that general derogations will not be possible from the mentioned articles in 2002/58/EC, but only for rights and obligations stemming from this Directive**<br><br>**One amendment removes the amendment to Article 15 of 2002/58/EC on the grounds it would have made it possible to deviatefrom the principle that data retention must be appropriate, proportionate and necessary.**<br><br>**One amendment removes the word “prevention”** | | |

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ARTICLE 12, PARAGRAPH 1 | Alexander Alvaro Amendment 39 | |
| 1. Not later than ***three*** years from the date referred to in Article 13(1), the Commission shall submit to the European Parliament and the Council an evaluation of the application of this Directive and its impact on economic operators and consumers, taking into account the statistical elements provided to the Commission pursuant to Article 9 with a view to determining whether it is necessary to modify the provisions of this Directive***, in particular with regard to the period of retention provided for in Article 7.*** | 1. Not later than ***two*** years from the date referred to in Article 13(1), the Commission shall submit to the European Parliament and the Council an evaluation of the application of this Directive and its impact on economic operators and consumers, taking into account the statistical elements provided to the Commission pursuant to Article 9 with a view to determining whether it is necessary to modify the provisions of this Directive.<br>***As part of the evaluation, the Commission shall assess the effectiveness of the implementation of this Directive from the point of view of law enforcement and its impact on fundamental rights.*** | **39: Report should be after two years, not three years.**<br>**The report should assess impact on fundamental rights and the effectiveness of the Directive with a view to law enforcement** |
| ARTICLE 12, PARAGRAPH 2 | Alexander Alvaro Amendment 40 | |
| 2. To that end, the Commission shall examine all observations communicated to it by the Member States or by the Working Party on the Protection of Individuals with regard to the Processing of Personal Data instituted by Article 29 of Directive 95/46/EC. | 2. To that end, the Commission shall examine all observations communicated to it by the Member States or by the Working Party on the Protection of Individuals with regard to the Processing of Personal Data instituted by Article 29 of Directive 95/46/EC***, or by the European Data Protection Supervisor.*** | **40: European Data Protection Supervisor's comments shall also be examined by the Commission** |
| ARTICLE 12, PARAGRAPH 2 A (new) | Alexander Alvaro Amendment 41 | |
| | ***2a. Where the outcome of the evaluation justifies extentindng the retention period laid down in Article 7 by three months, the Commission shall, in accordance with Article 251 of the Treaty, submit a proposal to the European Parliament and to the Council to amend that Article.*** | **41: If the outcome of the assessment justifies an extension in the retention period the Commission shall submit a proposal for amendment.** |

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| Article 12 | Herbert Reul Amendment 225 | |
| 1. Die Kommission legt dem Europäischen Parlament und dem Rat spätestens ***drei Jahre*** nach dem in Artikel 13 Absatz 1 genannten Zeitpunkt eine Bewertung der Anwendung dieser Richtlinie sowie ihrer Auswirkungen auf die Wirtschaft und die Verbraucher vor, um festzustellen, ob die Bestimmungen dieser Richtlinie und insbesondere die in Artikel 7 festgelegte Speicherungsfrist gegebenenfalls geändert werden müssen. Hierzu greift sie auf die ihr gemäß Artikel 9 der Richtlinie zur Verfügung gestellten statistischen Daten zurück. | 1. Die Kommission legt dem Europäischen Parlament und dem Rat spätestens ***zwei Jahre*** nach dem in Artikel 13 Absatz 1 genannten Zeitpunkt eine Bewertung der Anwendung dieser Richtlinie sowie ihrer Auswirkungen auf die Wirtschaft und die Verbraucher vor, um festzustellen, ob die Bestimmungen dieser Richtlinie und insbesondere die in Artikel 7 festgelegte Speicherungsfrist ***und die in Artikel 4 Absatz 1 vorgeschriebenen Datentypen*** gegebenenfalls geändert werden müssen. Hierzu greift sie auf die ihr gemäß Artikel 9 der Richtlinie zur Verfügung gestellten statistischen Daten zurück.<br><br>*Justification*<br><br>Nicht nur die Speicherungsfrist sondern auch die einzelnen Datentypen müssen auf ihre Notwendigkeit für die Kriminalitätsbekämpfung hin geprüft und bewertet werden. | **225: Report should be after two years, not three years.**<br><br>**Report should also assess the list of data types included in the Directive.** |
| Article 12, paragraph 1 | Jean-Marie Cavada Amendment 226 | |

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| 1. Not later than ***three*** years from the date referred to in Article 13(1), the Commission shall submit to the European Parliament and the Council an evaluation ***of the application of this Directive and its*** impact on economic operators and consumers, taking into account the statistical elements provided to the Commission pursuant to Article 9 with a view to determining whether it is necessary to modify the provisions of this Directive, in particular with regard to the period of retention provided for in Article 7. | 1. Not later than ***two*** years from the date referred to in Article 13(1) ***and in the light of the expiration of the retention measures adopted by Member States on the basis of this Directive***, the Commission shall submit to the European Parliament and the Council an evaluation of ***the effectiveness of the provisions contained in the Directive, and of the*** impact on ***fundamental rights of the data subjects. The evaluation will also considers the impact of the measures on*** conomic operators and consumers, taking into account the statistical elements provided to the Commission pursuant to Article 9. ***The results of the evaluations will be publicly available.*** | **226: Report should be after two years, not three years.**<br><br>**Report should assess the effectiveness of the provisions, and impact on fundamental rights.**<br><br>**The results of the report shall be made publicly available.** |
| Article 12, paragraph 1 | Edith Mastenbroek and Lilli Gruber Amendment 227 | |
| 1. Not later than ***three years*** from the date referred to in Article 13(1), the Commission shall submit to the European Parliament and the Council an evaluation of the application of this Directive and its impact on economic operators and consumers***,*** taking into account the statistical elements provided to the Commission pursuant to Article 9 with a view to determining whether it is necessary to modify the provisions of this Directive***, in particular with regard to the period of retention provided for in Article 7.*** | 1. Not later than ***two years*** from the date referred to in Article 13(1), the Commission shall submit to the European Parliament and the Council an evaluation of the application of this Directive and its impact on economic operators and consumers. ***The Commission shall also report on the necessity and effectiveness of this directive, as well as its impact on fundamental rights and privacy,*** taking into account the statistical elements provided to the Commission pursuant to Article 9 with a view to determining whether it is necessary to modify the provisions of this Directive. | **227: Report should be after two years, not three years.**<br><br>**Report will also assess the necessity and effectiveness of the Directive, and its impact on fundamental rights.** |
| Article 12, paragraphe 1 | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 228 | |

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| Au plus tard ***trois ans*** après la date visée à l'article 13, paragraphe 1, la Commission présente au Parlement européen et au Conseil une évaluation de l'application de la présente directive et de ses effets sur les opérateurs économiques et les consommateurs, compte tenu des statistiques transmises à la Commission en vertu de l'article 9 afin de déterminer s'il y a lieu de modifier les dispositions de la présente directive, notamment la durée de conservation prévue à l'article 7 | Au plus tard ***deux*** ans après la date visée à l'article 13, paragraphe 1, la Commission présente au Parlement européen et au Conseil une évaluation de ***l'efficacité, de*** l'application de la présente directive et de ses effets sur les opérateurs économiques et les consommateurs, compte tenu des statistiques transmises à la Commission en vertu de l'article 9 afin de déterminer s'il y a lieu de modifier les dispositions de la présente directive, notamment la durée de conservation prévue à l'article 7. | **228 : Report should be after two years, not three years.**<br><br>**Report should assess the effectivness of the Directive** |
| Article 12, paragraph 1 a (new) | Jean-Marie Cavada Amendment 229 | |
| | ***The Commission will submit a new Proposal for a Directive, in particular with regard to the types of data and the period of retention, on the basis of the evaluation .*** | **229: The Commission will submit a new proposal on the basis of the evaluation** |
| Article 12, paragraphe 2 | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 230 | |
| À cette fin, la Commission examine toute observation qui pourrait lui être transmise par les États membres ou le groupe de protection des personnes à l'égard du traitement des données à caractère personnel institué par l'article 29 de la directive 95/46/CE. | À cette fin, la Commission examine toute observation qui pourrait lui être transmise par les États membres, ***le contrôleur européen de la protection des données*** ou le groupe de protection des personnes à l'égard du traitement des données à caractère personnel institué par l'article 29 de la directive 95/46/CE. | **230 : The Commission should also take into account comments from the European Data Protection Supervisor.** |

Total number of amendments: **9**
Synopsis of proposed amendments:

**Five amendments advocate that the Commission makes a report no later than two years (instead of after three years) .**

**Three amendments advocate that the report include an evaluation of the impact on fundamental rights.**

**Four amendments advocate that the report include an evaluation of the effectiveness of Directive.**

**One amendment advocates that the report include an evaluation on the necessity of the Directive.**

**Two amendments state that the Commission's report shall take into consideration the views expressed by the European Data Protection Supervisor.**

**Two amendments suggest that the Commission put forward a new proposal based on the results of its evaluation.**

**One amendment suggests that the report should evaluate the list of data that has to be retained.**

**One amendment suggests that the report be made publicly available.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ARTICLE 14 A (new) | Alexander Alvaro Amendment 42 | |
| | ***Artikel 14a***<br>***Bestätigung der Richtlinie***<br><br>***Diese Richtlinie muss fünf Jahre nach ihrer Umsetzung gemäß dem Verfahren des Artikels 251 des Vertrags bestätigt werden; andernfalls verliert sie ihre Rechtswirksamkeit.***<br>***Rechtsvorschriften, die aufgrund der Rechtswirksamkeit dieser Richtlinie erfolgt sind, bleiben hiervon unberührt.*** | **42: Sunset clause. The Directive must be confirmed using co-decision or it will no longer apply.** |
| Article 14 | Amendement déposé par Stavros Lambrinidis, Edith Mastenbroek Amendment 231 | |
| ***Entry into force***<br>This Directive shall enter into force ***on the twentieth day following that of its publication in the Official Journal of the European Union.*** | ***Entry into force***<br>This Directive shall enter into force ***after its publication in the Official Journal of the European Union and upon the entry into force of a Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters.*** | **231: This Directive will only come into force upon the entry into force of the Framework Decision on data protection in the third pillar.** |

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| | *Justification*<br><br>During its presentations to the LIBE Committee, the European Commission repeatedly expressed the view that the protection of data under the present Directive can be fully guaranteed only under a Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters. | |
| Article 14 a (new) | Herbert Reul Amendment 232 | |
| | ***Revision***<br><br>***Diese Richtlinie wird spätestens zwei Jahre nach dem in Artikel 13 Absatz 1 genannten Zeitpunkt gemäß dem Verfahren des Artikels 251 des EG-Vertrags revidiert. Insbesondere werden die gespeicherten Datentypen und die Speicherungsfristen anhand der in Artikel 9 vorgesehenen Statistiken auf ihren Nutzen für die Bekämpfung von Terrorismus und organisierter Kriminalität hin geprüft.***<br><br>*Justification*<br><br>Die Datentypen, die gespeichert werden müssen, sind die wichtigsten Bestimmungen dieser Richtlinie. Angesichts ihrer hohen technologischen Komponente müssen sie nach einem relativ kurzen Zeitraum auf ihr Nutzen für die Verbrechensbekämpfung hin geprüft werden. Gleichermaßen muss festgestellt werden, ob die vorgesehene Speicherfrist relevant ist. Da es sich bei den Datentypen um grundrechtsrelevante Eingriffe muss das Europäische Parlament im Verfahren er Mitentscheidung miteinbezogen werden. | **232: This Directive will be revised by co-decision two years after the date in Article 13.** |

Total number of amendments: **3**
Synopsis of proposed amendments:

**One amendment introduces a sunset clause after five years, at which point failing the confirmation of the Directive by co-decision it will no longer apply.**

**One amendment states that the Directive will be revised by co-decision after two years.**

**One amendment states that this Directive will only come into force upon the entry into force of the Framework Decision on data protection in the third pillar.**

| Original Recital or Article as in the Commission proposal | Proposed amendment from MEP | Synopsis of proposed amendment |
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| ANNEX | Alexander Alvaro Amendment 43 | |
| | ***deleted*** | **43: annex deleted** |
| Annex | Jean-Marie Cavada Amendment 233 | |
| | ***deleted*** | **233: annex deleted** |
| Annex | Kathalijne Maria Buitenweg Amendment 234 | |
| | ***deleted***<br><br>*Justification*<br><br>See amendment 2 | **234: annex deleted** |
| Annex | Edith Mastenbroek and Lilli Gruber Amendment 235 | |
| | ***deleted*** | **235: annex deleted** |
| | Sylvia-Yvonne Kaufmann Amendment 236 | |
| | ***Streichung*** | **236: annex deleted** |
| ***Anhang*** | Herbert Reul Amendment 237 | |

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| | ***Der Anhang wird gelöscht.***<br><br>*Justification*<br><br>*Der Anhang sollte gelöscht und in Artikel 4 übernommen werden. Die Datenliste ist nicht nur eine technische Detailbestimmung sondern eine Kernbestimmung des Richtlinienvorschlages. Daher sollte sie in den operativen Text der Richtlinie aufgenommen werden.* | **237: annex deleted** |
| Annexe | Martine Roure,Wolfgang Kreissl-Dörfler,Stavros Lambrinidis Amendment 238 | |
| | ***suprimé*** | **238: annex deleted** |
| Total number of amendments: **7**<br>Synopsis of proposed amendments:<br>**All seven amendments (including the Rapporteur's) <u>delete the annex</u>.** | | |