

Marco CAPPATO (IND, I)

Report on the Council common position for adopting a European Parliament and Council directive concerning the processing of personal data and the protection of privacy in the electronic communications sector

(15396/2/2001 - C5-0035/2002 - 2000/0189(COD))

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Procedure : Codecision procedure (2nd reading)

Debate : 29.05.2002

Vote : 30.05.2002

Vote

Parliament largely approved the compromise on the Directive on data protection that was worked out between the EPP-ED and the PES, Parliament's two largest groups, in consultation with the Spanish presidency. There will now be no conciliation procedure. Rapporteur Marco **CAPPATO** (NI, I) rejected any responsibility for the outcome, saying it entailed massive restrictions on civil liberties and ran counter to the position of the Freedoms and Rights Committee.

On data retention, possibly the most contentious issue of the Directive, the compromise says that Member States may only lift the protection of data privacy in order to conduct criminal investigations or safeguard national or public security, when this is a 'necessary, appropriate and proportionate measure within a democratic society'. For the retention of data for a limited period Member States may thus adopt legislative measures, which must be in accordance with the general principles of Community law, including article 6 of the EU Treaty. In a recital the compromise says that lawful interceptions of electronic communications should also be in accordance with the European Convention of Human Rights and Fundamental Freedoms and with the rulings of the European Court of Human Rights.

On spamming, Parliament left the Council's common position unaltered, thus approving an opt-in system for e-mail, faxes and automated calling systems, which means that users should give prior permission for receiving unsolicited electronic communications for marketing purposes. As regards 'cookies', Parliament accepts the Council's position that users should have the right to refuse them, specifying that users should be provided with clear and comprehensive information on their purposes.

On the inclusion of personal data into public directories, Parliament again accepts the Council's common position, saying that users should give prior permission. Parliament has maintained the possibility for Member States to allow reverse search functions.

Finally, Parliament wants a review of the Directive within three years of its application.

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