



Combating terrorism / protection of personal data - MEPs underline freedom of expression

In adopting a report on combating terrorism, the EP voted to beef up the data protection provisions of a proposed framework decision on police and judicial cooperation in criminal matters. In a second report on protection of personal data relating to a proposal to include three new offences in European law: public incitement to commit terrorist offences, recruitment for terrorism, and terrorist training, MEPs say the fight against terrorism must not constrain freedom of expression.

Police and judicial cooperation in criminal matters: MEPs seek stronger personal data protection

The European Parliament voted to beef up the data protection provisions of a proposed Council framework decision on police and judicial cooperation in criminal matters in its third report on this proposal. MEPs feel that the text had been weakened by the political agreement in the Council, which needs unanimity. The report was adopted with 556 votes in favour 90 against and 19 abstentions.

"A lowest common denominator deal" in Council

The European Parliament had already been consulted on this issue, but when a November 2007 agreement in Council diverged substantially from the Commission's original proposal, MEPs were invited to comment on the new text. The rapporteur regretted that "the Council had emptied the Commission's initial proposal of its content and arrived at an agreement on the lowest common denominator". For example, the text drafted in Council would apply only to exchanges of data among Member States, and not to the processing of data within them, as originally planned.

MEPs consider on the contrary that the text should also apply to data processed at national level and that particular attention should be paid to the purposes to which personal data may be utilised. Article 7, on the processing of a special category of personal data to do inter alia with race or ethnic origin, political opinions, and religious or philosophical beliefs, is strengthened: the processing of these data is prohibited save in exceptional, clearly-defined, circumstances.

MEPs also reinsert the idea, proposed by the Commission but not taken up by the Council, of a working party on the protection of people with regard to the processing of personal data, which would deliver opinions and recommendations to the institutions.

Private operators, transfers to third countries or international organisations

MEPs stipulate that Member States' competent authorities must have access to data held by private operators case by case, subject to judicial control. Private operators entrusted with public service tasks should be subject to requirements at least equivalent to those imposed on the authorities.

MEPs also stipulate that the transfer of personal data to third countries or international organisations must be better governed, by doing it case by case, and that Member States must meet tougher conditions in order to avail themselves of an exemption from the requirement to ensure adequate protection for data transferred to third countries. The assessment of whether the level of protection offered by a third country is adequate should moreover be done by an independent authority.

Terrorism: MEPs favour making incitement a crime, but with safeguards for fundamental rights

The fight against terrorism must not constrain freedom of expression, says the European Parliament in a report it on a Commission proposal to include three new offences in European law: public incitement to commit terrorist offences, recruitment for terrorism, and terrorist training.

Aiming to produce a balanced text that can best serve those seeking to prevent radicalisation and the emergence of potential terrorists whilst affording maximum protection to fundamental rights, MEPs adopted a consultation report by Roselyne Lefrançois (PES, FR) with 600 votes in favour 21 against and 39 abstentions.

Tighter definition of public incitement

MEPs first seek to clarify the definition of "public provocation". This initially used term was replaced by "public incitement", as being clearer and more widely used in legal language.

Furthermore, where the proposal would have made it a criminal offence to make available to the public any message intended to incite the commission of a terrorist act, MEPs specify that this conduct would be an offence only if it created a "genuine" danger and not just a "hypothetical" one.

Explicit safeguard clauses

MEPs propose inserting safeguards, throughout the text, for fundamental freedoms and in particular freedom of expression. These provisions took up the safeguard clause already present in the Council of Europe Convention, which the Commission had left out of its proposal.

The approved report also reiterates the need to abide by the EU Charter of Fundamental Rights and the European Convention on Human Rights.

Finally, it stresses that the framework decision must not prevent the airing of radical, polemic or controversial views, even on terrorism and that the contents of private communications such as e-mail must be protected.

Contact :

Baptiste CHATAIN

BXL: (32-2) 28 40992

STR: (33-3) 881 73603

PORT: (32) 498.983.590

EMAIL: libe-press@europarl.europa.eu

Richard FREEDMAN

E-mail: press-EN@europarl.europa.eu

BXL: (32-2) 28 41448

STR: (33-3) 881 73785

PORT: (+32) 498 98 32 39