

Open Letter to Vice-President of the Commission Michel Barnier and Commissioner Cecilia Malmstrom

July 22, 2014

Dear Commissioners,

We, the undersigned organisations, would like to draw your attention to an infringement of EU law by the United Kingdom through its adoption on July 17 2014 of the Data Retention and Investigatory Powers Bill (“DRIP”).

Intended to replace the UK’s data retention law, the bill would dramatically and dangerously extend the government’s surveillance powers.

While the [UK denies](#) that the DRIP is a new instrument, despite the new elements it adds to the legislation, the UK has, nonetheless, claimed that there are [additional safeguards](#). Consequently, even by the UK’s own analysis, this is a new instrument and therefore must go through the TRIS procedure as required by the Technical Standards Directive [98/34/EC](#).

The UK Government failed in its obligation to notify the European Commission of relevant impending legislation, a requirement that applies [even if legislation is adopted under emergency procedure](#). The notification was filed on July 17, the same day it was adopted, directly violating the provisions of the Directive.

Furthermore, the UK Government’s [request for emergency](#) procedures to bypass the standstill period has neither a logical nor a legal basis. The UK was aware of the Advocate General’s [opinion](#) from December 12, 2013 that the Directive was likely to be overturned, and had known for the past 3 months that the CJEU in fact [overturned](#) the Directive. The notion that a sudden emergency had been discovered is fallacious.

Additionally, it is difficult to imagine how the DRIP would be in line with the CJEU ruling.

As guardian of the treaties, the European Commission is legally obliged to enforce both the Directive and the CJEU ruling. The European Commission showed no compunction in taking action against member states for failing to implement the now illegal Data Retention Directive. We urge the Commission to be equally vigilant in its enforcement of European law for the benefit of European citizens. We therefore request your urgent feedback as to how it intends to remedy these flagrant breaches of EU law.

Sincerely,

Access

AKVorrat

Alternative Informatics

Article 19

Bits of Freedom

Chaos Computer Club

Digitale Gesellschaft

Digital Rights Ireland

Electronic Frontier Finland

Electronic Frontier Foundation

European Digital Rights

Initiative für Netzfreiheit

IT-Pol Denmark

Open Rights Group

Panoptikon

Privacy International

Vrijdschrift