



Member of the European Parliament

Brussels, 29 April 2014

Dear Commissioner Malmström,

With reference to the debate in plenary concerning the Court of Justice's ruling on the invalidity of the Data Retention Directive on May 16th, I would like to raise the following issues, as not all questions were answered during the debate.

Considering that the Court has ruled that the foundations of the Directive were unsound; could the Commission provide an assessment of the impact of the Court's ruling on the national laws implementing the now invalid Directive? Is it possible that those national data retention laws can continue to be in force? Now the Court has clearly stated that the Directive was a disproportionate instrument, how can the national laws implementing this Directive possibly be proportionate? Is the Commission unanimous in its assessment?

Would the Commission consider starting reversed infringement procedures when Member States do not repeal their national implementing data retention laws? Would European agencies, for instance Europol, be acting in violation of EU law when it would process data that has been collected on the basis of national implementing legislation? What would be the legal consequences if telecom providers and internet service providers would refuse to continue the storage of phone and internet traffic data on the basis of the national implementing laws?

Furthermore, what will be the consequences of the principles laid down in the Court's ruling for other data collection programmes such as PNR, TFPT or Eurodac? As the Commission is funding the development of national PNR systems in 14 Member States, would the Commission agree that this funding is probably illegal?

With kind regards,

Sophie in 't Veld