



EUROPEAN PARLIAMENT

2009 – 2014

---

*Committee on Industry, Research and Energy*

---

**2011/2025(INI)**

11.5.2011

## **OPINION**

of the Committee on Industry, Research and Energy

for the Committee on Civil Liberties, Justice and Home Affairs

on a comprehensive approach on personal data protection in the European  
Union  
(2011/2025(INI))

Rapporteur: Giles Chichester

PA\_NonLeg

## SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Stresses that effective protection of the right to privacy is essential in order to ensure consumer confidence, which is required to unlock the full growth potential of the digital single market;
2. Believes that the digital single market requires common privacy protection arrangements coordinated at a European level, in order to encourage cross-border trade and prevent market distortions; stresses that a high level of protection for sensitive economic data (e.g. credit card numbers, addresses) is vital in terms of credibility and digital consumption;
3. Reminds the Commission that common principles and rules for both goods and services are a prerequisite for a single digital market, as services are an important part of the digital market;
4. Stresses that the Commission must consider all aspects, including verified need, legal certainty, reducing administrative burdens, maintaining a level playing field for operators, feasibility, cost and probable value with respect to data protection, in connection with any proposal;
5. Recognises that the Data Protection Directive (95/46/EC) has led to a fragmented legal framework due to different approaches in Member States' implementation and enforcement and that new technological developments have led to new challenges in terms of data protection; agrees therefore that the need for a new legal framework has been confirmed;
6. Reminds the Commission that the effects of extending the categories of sensitive data must be thoroughly examined; maintains that the stricter criteria for dealing with sensitive data should not require numerous new legal authorisations to maintain necessary and desired data processing applications and that the list of sensitive data should be extended only in so far as to include all those data which are sensitive in (almost) all conceivable data processing situations, such as genetic data;
7. Calls on the Commission to amend Directive 95/46/EC not only so as to include additional categories of data (such as genetic data) but also so as to take account of the future development of 'new data', and to thoroughly revise the Directive in this field;
8. Reminds the Commission that not all data controllers are internet businesses; calls on the Commission to ensure that new data protection rules can be applied in both the online and the offline environments;
9. Calls on the Commission to further regulate the collection, sale and purchase of personal data by including this aspect in the scope of any new data protection rules; stresses that

such data are not used for online purposes alone but also for direct postal marketing;

10. Invites the Commission, while maintaining a high level of data protection, to carefully consider the impact on SMEs, so as to ensure they are not disadvantaged, whether through unnecessary administrative burdens or through multiple notification requirements impeding their cross-border activities or other red tape; believes also that the volume and nature of data processed should be taken into consideration irrespective of the size of the controller;
11. Believes that the revision of the legal framework must ensure the flexibility required for the new framework to be able to meet future needs as technology develops; invites the Commission to assess any new provisions in accordance with the principle of proportionality and to ensure that they do not erect trade barriers, contravene the right to a fair trial or skew competition; stresses that any new principles must be designed to protect the rights of data subjects, be necessary for the achievement of that purpose and be sufficiently clear to ensure legal certainty and allow fair competition;
12. Points out that profiling is a major trend in the digital world, owing not least to the growing importance of social networks and integrated internet business models; calls therefore on the Commission to include provisions on profiling, while clearly defining the terms 'profile' and 'profiling';
13. Reminds the Commission that there is a need for a precise definition of the term 'right to be forgotten' that clearly identifies the relevant requirements and specifies against whom the right may be enforced;
14. Stresses that citizens must be able to exercise their data rights free of charge and without postal or other costs; calls on companies to refrain from any attempts to add unneeded barriers to the right to view, amend or delete personal data;
15. Calls on the Commission to ensure that users of social networking sites can obtain a complete overview of the data which are held concerning themselves without this necessitating an unacceptable cost or effort;
16. Calls on the Commission to facilitate greater data portability on the internet while taking into account the business models of service providers, the existing technical systems and the legitimate interests of stakeholders; stresses that users need sufficient control of their online data for a sovereign and responsible use of the internet;
17. Believes that any certification or seal scheme could be based on a model such as EMAS and must in any event be of ensured integrity and trustworthiness; asks for any such scheme to include individual serial codes on certificates viewable by the public and checkable in a central public database;
18. Invites the Commission to encourage the strengthening of self-regulation initiatives, personal responsibility and the right to control one's own data, in particular as regards the internet;
19. Welcomes the newly signed agreement on a Privacy and Data Protection Impact

Assessment Framework for RFID applications, which seeks to ensure consumer privacy before RFID tags are introduced onto a given market;

20. Encourages all the bodies involved to work towards a common standard for determining when individuals may be deemed to have given their consent and towards a common 'age of consent' for data usage and transfer;
21. Welcomes the fact that the Commission is considering 'privacy by design' and recommends that any concrete implementation thereof be based on the existing EU model of the New Approach and the New Legislative Framework with respect to goods, in order to ensure free movement of products and services conforming to harmonised privacy and data protection requirements; highlights the need for any implementation thereof to be based on sound and concrete criteria and definitions in order to ensure users' right to privacy and data protection, legal certainty, transparency, a level playing field and free movement; believes that 'privacy by design' should be based on the principle of data minimisation, meaning that all products, services and systems should be built in such a way as to collect, use and transmit only the personal data absolutely necessary for them to function;
22. Highlights the need for proper and harmonised enforcement across the EU; recommends that the Commission review the types of sanctions available to enforcement authorities in the event of proven infringement, taking into consideration the possibility of introducing appropriate behavioural sanctions aimed at avoiding further infringement;
23. Notes that class-action lawsuits could be introduced as a tool for individuals to collectively defend their data rights and seek reimbursement of damages resulting from a data breach; notes, however, that any such introduction must be subject to limits in order to avoid abuses; asks the Commission to clarify the relationship between this communication on data protection and the current public consultation on collective redress;
24. Stresses the need for the Member States to give greater powers to national judicial and data protection authorities to sanction companies for data protection breaches or failure to apply data protection laws;
25. Invites the Commission to clarify and substantiate the existing rules regarding relevance, need, efficiency, clarity and enforceability, as well as the powers, competence and enforcement activities of the authorities, so as to ensure that there is a single, comprehensive harmonised data protection framework in the EU providing a high and equivalent level of protection regardless of the type of data processing engaged in; calls for the revised legislation to be applicable and enforced across the EU as well as internationally, so that, once covered by EU law, personal data remain covered by EU law, regardless of any transfers of those data or the location of the data controller or processor, thus facilitating cross-border business without undermining the protection of individuals' personal data;
26. Believes that all personal data transfers should be subject to traceability requirements (as regards origin and destination) and that this information should be made available to the individual concerned; stresses that if an individual wishes to modify personal data held by

a controller, he or she should, as the data owner, be given the option of having this request forwarded to both the original source of the data and any other controllers the data have been shared with;

27. Asks the Commission to clarify the legal accountability of personal data controllers; stresses that it should be made clear whether the first data controller or the last known controller is accountable or whether they are jointly accountable;
28. Calls on the Commission to promote the EU's personal data protection standards in all relevant international fora and agreements; draws attention, in this connection, to its call on the Commission to present a proposal to extend the application of the Rome II Regulation on the law applicable to non-contractual obligations to include violations of data protection and privacy, and on the Council to authorise negotiations with a view to concluding an international agreement enabling individuals in the EU to gain effective redress in the event of violations of their right to data protection and privacy under EU law;
29. Emphasises that the rules on security and personal data breach notification laid down under the amended telecoms framework must be mirrored in any new general instrument in order to secure a level playing field and uniform protection for all citizens.

## RESULT OF FINAL VOTE IN COMMITTEE

|   |  |
|---|--|
| <b>Date adopted</b>   | 9.5.2011   |
| <b>Result of final vote</b>                                       | +: 32<br>-: 0<br>0: 4  |
| <b>Members present for the final vote</b>                         | Ivo Belet, Bendt Bendtsen, Maria Da Graça Carvalho, Giles Chichester, Pilar del Castillo Vera, Lena Ek, Ioan Enciu, Adam Gierek, Norbert Glante, Fiona Hall, Romana Jordan Cizelj, Krišjānis Kariņš, Lena Kolarska-Bobińska, Bogdan Kazimierz Marcinkiewicz, Marisa Matias, Jaroslav Paška, Herbert Reul, Amalia Sartori, Britta Thomsen, Evžen Tošenovský, Ioannis A. Tsoukalas, Niki Tzavela, Marita Ulvskog, Kathleen Van Brempt, Henri Weber |
| <b>Substitute(s) present for the final vote</b>                   | Matthias Groote, Françoise Grossetête, Satu Hassi, Jolanta Emilia Hibner, Yannick Jadot, Oriol Junqueras Vies, Silvana Koch-Mehrin, Vladko Todorov Panayotov, Markus Pieper, Algirdas Saudargas  |
| <b>Substitute(s) under Rule 187(2) present for the final vote</b> | Alexandra Thein  |