

WRITTEN QUESTION E-1252/05
by Theresa Villiers (PPE-DE)
to the Commission

Subject: Clarification of the relationship between data protection provisions and fraud/anti-money-laundering provisions

According to Article 13(1)(d) of Directive 95/46/EC¹ of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data, Member States are allowed to adopt legislative measures that restrict some of the obligations and rights arising from the directive when such a restriction constitutes a necessary measure to safeguard the prevention, investigation, detection and prosecution of criminal offences. This provision thus allows Member States to ensure that law enforcement measures vis-à-vis for instance, anti-money-laundering practices, can be taken without violating the data protection provisions.

In practice, however, and as the Commission will acknowledge, Member States have either not implemented this provision or have not implemented it with the same scope. This uneven implementation is perceived as an obstacle to the functioning of the internal market and clearly prevents companies from setting up a uniform anti-money-laundering compliance regime across the European Union. It also does not allow them to share fraud-related information with other market participants.

Is the Commission prepared to clarify the relationship between data protection provisions, on the one hand, and fraud/anti money laundering provisions, on the other hand, by

1. amending EU law to ensure that all Member States are required to use the derogations provided in data protection laws which give anti-money-laundering rules precedence over data protection rules, or
2. clarifying which rules take precedence in case of conflict between both sets of rules?

¹ OJ L 281, 23.11.1995, p. 31.