

E-6858/10EN
Answer given by Ms Malmström
on behalf of the Commission
(22.10.2010)

Pursuant to Article 14 of Directive 2006/24/EC (the "Data Retention Directive"), the Commission will submit to the European Parliament and the Council an evaluation of the application of this Directive and its impact on economic operators and consumers with the view to determining whether it is necessary to amend the provisions of this Directive, in particular with regard to the list of data in Article 5 and the periods of retention provided for in Article 6.

To that end, the Commission will obviously take into account and assess the concerns of all stakeholders, notably those mentioned by the Honourable Member regarding data protection, privacy and proportionality, in the light of the aims pursued by the Directive, i.e. law enforcement. From this perspective, the Commission requested on 27 July 2010 that Member States provide additional information that would allow the link between the use of retained data and law enforcement results to be made even more specific.

In that context, the continuing respect of fundamental rights will be addressed as well.

Indeed, the legislator stated in recital 22 of the Data Retention Directive that the Directive respects the fundamental rights and observes the principles recognized, in particular, by the Charter of Fundamental Rights of the European Union, especially by ensuring full compliance with citizens' fundamental rights to respect for private life and communications and to the protection of their personal data, as enshrined in Articles 7 and 8 of the Charter.

As to the German and Romanian constitutional courts, it has to be stressed that they addressed the constitutionality of national transposition legislation. Their decisions do not affect the validity of the Directive. Member States are now understandably taking time to draft laws that are compatible both with the Directive and the requirements of their courts.