



# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive <a href="#">1990/0288(COD)</a>	Procedure completed
Processing of personal data and protection of privacy in the telecommunications sector, ISDN Repealed by <a href="#">2000/0189(COD)</a>	
Subject 1.20.09 Protection of privacy and data protection 3.30.03.04 Telecommunication networks	

Key players			
European Parliament	Former committee responsible		
	<b>JURI</b> Legal Affairs, Citizens' Rights		26/07/1994
		PSE <a href="#">MEDINA ORTEGA Manuel</a>	
Council of the European Union	Council configuration	Meeting	Date
	Telecommunications	<a href="#">2054</a>	01/12/1997
	<a href="#">Agriculture and Fisheries</a>	<a href="#">1995</a>	19/03/1997
	<a href="#">Agriculture and Fisheries</a>	<a href="#">1946</a>	17/09/1996
	Telecommunications	<a href="#">1941</a>	27/06/1996

Key events			
12/10/1990	Committee referral announced in Parliament, 1st reading		
10/02/1992	Debate in Parliament		
11/03/1992	Decision by Parliament, 1st reading	T3-0141/1992	Summary
23/11/1993	Vote in committee, 1st reading		
02/12/1993	Decision by Parliament, 1st reading	T3-0681/1993	Summary
19/09/1996	Committee referral announced in Parliament, 2nd reading		
18/12/1996	Vote in committee, 2nd reading		Summary
15/01/1997	Debate in Parliament		
16/01/1997	Decision by Parliament, 2nd reading	T4-0011/1997	Summary
19/03/1997	Parliament's amendments rejected by Council		
24/09/1997	Formal meeting of Conciliation Committee		Summary
05/11/1997	Final decision by Conciliation Committee		
19/11/1997	Debate in Parliament		Summary

			
20/11/1997	Decision by Parliament, 3rd reading	T4-0566/1997	Summary
01/12/1997	Decision by Council, 3rd reading		
15/12/1997	Final act signed		
15/12/1997	End of procedure in Parliament		
30/01/1998	Final act published in Official Journal		

### Technical information

Procedure reference	1990/0288(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealed by <a href="#">2000/0189(COD)</a>
Legal basis	EC before Amsterdam E 100A
Stage reached in procedure	Procedure completed
Committee dossier	CODE/4/08752

### Documentation gateway

Legislative proposal	COM(1990)0314	24/09/1990	EC	Summary
Economic and Social Committee: opinion, report	<a href="#">CES0569/1991</a> <a href="#">OJ C 159 17.06.1991, p. 0038</a>	24/04/1991	ESC	
Text adopted by Parliament, 1st reading/single reading	T3-0141/1992 <a href="#">OJ C 094 13.04.1992, p. 0077-0202</a>	11/03/1992	EP	Summary
Reconsultation	COM(1993)0570	10/11/1993	EC	
Committee final report tabled for plenary, 1st reading/single reading	A3-0364/1993 <a href="#">OJ C 342 20.12.1993, p. 0002</a>	23/11/1993	EP	
Text adopted by Parliament confirming position adopted at 1st reading	T3-0681/1993 <a href="#">OJ C 342 20.12.1993, p. 0015-0030</a>	02/12/1993	EP	Summary
Committee draft report	PE207.257	01/03/1994	EP	
Modified legislative proposal	COM(1994)0128 <a href="#">OJ C 200 22.07.1994, p. 0004</a>	16/06/1994	EC	Summary
Council position	<a href="#">08937/1/1996</a> <a href="#">OJ C 315 24.10.1996, p. 0030</a>	12/09/1996	CSL	Summary
Commission communication on Council's position	SEC(1996)1605	12/09/1996	EC	Summary
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A4-0415/1996</a> <a href="#">OJ C 033 03.02.1997, p. 0023</a>	18/12/1996	EP	
Text adopted by Parliament, 2nd reading	T4-0011/1997 <a href="#">OJ C 033 03.02.1997, p. 0058-0078</a>	16/01/1997	EP	Summary

Commission opinion on Parliament's position at 2nd reading	COM(1997)0094	05/03/1997	EC	Summary
Joint text approved by Conciliation Committee co-chairs	<a href="#">3626/1997</a>	06/11/1997	CSL/EP	
Committee draft report	PE223.212	12/11/1997	EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	<a href="#">A4-0361/1997</a> <a href="#">OJ C 371 08.12.1997, p. 0004</a>	12/11/1997	EP	
Text adopted by Parliament, 3rd reading	T4-0566/1997 <a href="#">OJ C 371 08.12.1997, p. 0164-0174</a>	20/11/1997	EP	Summary

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Directive 1997/66](#)  
[OJ L 024 30.01.1998, p. 0001](#) Summary

## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

This draft directive seeks to ensure an equivalent level of protection of privacy for individuals throughout the EU. It involves the processing of personal data by telecommunications organizations in the context of public digital telecommunications networks in the Community. This may only be used for specific telecommunications purposes. Subscribers have the right to know which personal data are stored, to have the data corrected or deleted and to prevent this data from being divulged without authorization. Many of the provisions relate to detailed invoicing, the right to anonymity, the protection of subscribers from unsolicited calls and the protection of subscribers to teleshopping and video-tex lines from unauthorized use of their personal data. ?

## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

This amended proposal was the result of Parliament's opinion and a new approach with regard to subsidiarity. It was thus greatly simplified in comparison to the initial proposal, avoiding the requirement for technical solutions from the Member States and enabling them greater flexibility in its implementation. Moreover, a clear distinction was made between the protection of subscribers and the protection of users, and provisions were included on legal recourse and the penalties applied in cases of violation of the directive. Finally, with a view to aligning the terminology with the text of the amended proposal on the protection of natural persons with regard to the processing of personal data and in order to ensure the free flow of this data, which supplemented this proposal, as well as to avoid any overlap, several provisions were redrafted or referred back to this text. ?

## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

The Commission considered that the Council's work resulted in a useful contribution to its proposal and that, overall, the amendments were positive. It therefore supported the common position.?

## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

The Council adopted its common position on the proposal for a Directive concerning the processing of personal data and the protection of privacy in the telecommunications sector, in particular in the integrated services digital networks (ISDN) and in the public digital mobile networks. The adoption of various new legislative acts over the past two years necessitated an alignment of the proposal for a Directive on the general Directive on the protection of personal data (Directive 95/46/EC) and influenced the incorporation of the amendments adopted by Parliament: - the scope of the Directive is reduced and only covers public telecommunications services; - the definitions have been amended

so as to be better adapted to the new realities of the market, in which concepts such as 'telecommunications organizations' and 'exclusive and special rights' are no longer current; - certain requirements of the Directive have been amended so that their implementation should not depend on a specific technology, in order to achieve the maximum scope; - the Article on directories of subscribers has been retained and supplemented by two new options. Also, the right to be omitted from the directory may now be departed from. Whilst dealing with the fundamental rights of natural persons, and in particular their right to privacy, the common position also aims at protecting the legitimate interests of legal persons. Its provisions include: - security of services and networks; - confidentiality of communications; - traffic and billing data (revised to take account of the general Directive); - the right to receive non-itemized bills; - presentation and restriction of calling and connected line identification; - automatic call-forwarding; - personal data contained in directories of subscribers; - unsolicited calls for purposes of direct marketing. The time limit for transposition of the Directive would be the same as for the general Directive on the protection of personal data, i.e. 24 October 1998. ?

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## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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Due to the numerous changes to telecommunications technologies and the Council's delay in voting, the text submitted to the European Parliament at second reading had little in common with the text submitted in 1990. The new text should also apply henceforth to the protection of the legitimate interests of the subscribers/legal persons and not only the natural persons. As the telecommunications networks and services are of a transnational nature, the rapporteur gives an interpretation of the subsidiarity principle which limits the Member States' margin for manoeuvre and several amendments were adopted on these lines. Another significant amendment deletes the possibility for the Member States to allow operators to require a payment from subscribers if they do not wish their particulars to appear in a directory.?

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## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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In approving the recommendation for second reading by Mr Manuel MEDINA ORTEGA (PSE, E) Parliament amended the Council's common position on the proposal for a directive concerning the processing of personal data and the protection of privacy in the telecommunications sector. Parliament considered that the new text should also apply to the protection of the legitimate interests of the subscribers/legal persons and not only the natural persons. As the telecommunications networks and services are of a transnational nature the report gives an interpretation of the subsidiarity principle which limits the Member States' margin for manoeuvre. Several amendments have been adopted on these lines. Another significant amendment deletes the possibility for the Member States to allow operators to require a payment from subscribers if they do not wish their particulars to appear in a directory. ?

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## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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The Commission accepted 7 of the 11 amendments adopted by the European Parliament at second reading and amended its proposal accordingly. These amendments seek to: - simplify the title of the directive; - emphasize certain aspects of subsidiarity; - insert a new recital on cooperation between all the parties concerned in order to ensure that the technologies required to implement the guarantees offered by the directive are available; - emphasize that no recourse may be taken to the committee procedure for fundamental changes to the categories of data in the Annex to the directive; - abolish the possibility for operators to require a payment from subscribers for omitting them from the directory. However, the Commission was unable to accept the amendments relating to: - the introduction of the concept of the "user's right to information" (possibility, for the Member States, not to apply the article on directories to legal persons); - unsolicited calls.?

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## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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The Conciliation Committee on the protection of personal data did not reach agreement but considerable progress was made in reconciling the points of view. President Imbeni considered that agreement was now within reach.

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## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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The rapporteur underlined that the agreement reached between Parliament and the Council had resulted in a text which covered phone-tapping and laid down provisions to guarantee the confidentiality of communications, while ensuring that public order and national security were not compromised. Commissioner Monti considered that protecting private life in a rapidly evolving telecommunications sector could not be left to subsidiarity and that Community legislation was therefore essential.

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## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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In adopting the report by Mr Manuel MEDINA ORTEGA (PSE, E), the European Parliament has approved the joint draft of the Conciliation Committee on the processing of personal data and the protection of privacy in the telecommunications sector. The agreement covers telephone tapping and makes provision for guaranteeing the confidentiality of communications whilst ensuring that public order and national security are not jeopardized. It has also been agreed that operators should not charge subscribers for omitting them from the directory, with the exception of administrative costs actually incurred. Finally, there is agreement on the degree of protection that must be offered to all subscribers with regard to unsolicited calls such as those made for the purpose of direct marketing. ?

## Processing of personal data and protection of privacy in the telecommunications sector, ISDN

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**OBJECTIVE:** to protect persons and in particular their privacy in respect of the processing of personal data in the telecommunications sector. **COMMUNITY MEASURE:** European Parliament and Council Directive 97/66/EC concerning the processing of personal data and the protection of privacy in the telecommunications sector. **CONTENT:** the Directive applies to the processing of personal data in the public telecommunications sector, in particular in the integrated services digital networks (ISDN) and in the public digital mobile networks. It conforms with the General Directive on the protection of personal data (Directive 95/46/EC). The Directive covers phone tapping and provides for measures to guarantee the confidentiality of communications, while at the same time ensuring that public order and national security are not compromised. Beyond the basic rights of natural persons and in particular their right to respect of privacy, the Directive also seeks to protect the legitimate interests of legal persons. The Directive relates mainly to: - the security of services and networks; - the confidentiality of communications; - data on communications traffic and billing; - the right to receive non-itemised bills; - the presentation and restriction of calling and connected line identification; - automatic call-forwarding; - personal data contained in directories of subscribers: subscribers who ask not to be included in a telephone directory can only be invoiced for the administrative charges actually incurred; - unsolicited calls for purposes of direct marketing: these are only authorised when the subscriber has given prior consent. **DEADLINE FOR TRANSPOSITION:** 24/10/1998. ?