



**COUNCIL OF
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NOTE

From :	Presidency
To :	Coreper
Subject :	Data Retention: Discussions with the European Parliament

The Presidency, with the Commission, will meet with representatives of the European Parliament on 10 November to discuss amendments to the draft Directive on data retention. At that meeting the Presidency plans to give the European Parliament the following assessment of discussions in the Council:

Any draft Directive would have to include:

- Retention periods – flexibility within a minimum and maximum period, with a minimum obligation to retain data falling within the scope of the Directive for 6 months, and a maximum of at least 24 months.
- A list of telecommunications data to be retained which includes at least data on Internet access, Internet email and Internet telephony, in addition to data on fixed and mobile telephony.

- Retention of data for the purposes of the investigation, detection and prosecution of all criminal offences, but not for prevention purposes.
- Continued application of Article 15(1) of Directive 2002/58/EC in relation to data falling outside the scope of the Directive and for retention for purposes other than those covered by the Directive,
- Reimbursement of costs and rules on accessing the retained data to be regulated at a national level.

The Presidency will also make clear that contacts are without prejudice to the decision to be made by the JHA Council on the appropriate legal base for rules on data retention and that there is no final Council position on any of the above issues. As appropriate, it will recall that Article 95(4) TEC provides a mechanism for Member States to maintain existing legislation falling within the scope of the Directive.

The Presidency will report to COREPER on the 17 November on the outcome of these discussions.
