

Tuesday, 9 March 1982

RESOLUTION

on the protection of the rights of the individual in the face of technical developments in data processing

The European Parliament,

- having regard to its debates of 8 July 1974 ⁽¹⁾ and 21 February 1975 ⁽²⁾,
- having regard to its resolution of 8 April 1976 ⁽³⁾ in which it:
 - instructed its Legal Affairs Committee to report to it on Community activities to be undertaken or continued with a view to safeguarding the rights of the individual in the face of developing technical progress in the field of automatic data processing, and
 - invited the Commission of the European Communities to take steps to ensure that the collection of data and information intended as a basis for the drafting of Community legislation in this field was brought to a conclusion under its authority,
- having regard to the joint declaration by the European Parliament, the Council and Commission on respect for fundamental rights ⁽⁴⁾,
- having regard to its resolution of 8 May 1979 ⁽⁵⁾ in which it:
 - called upon the Commission to prepare a proposal for a Directive on the harmonization of legislation on data protection to provide the citizens of the Community with the maximum protection, and
 - urged strongly the Commission and the Council when preparing legislation on data protection to take the fullest account of the recommendations appended to that resolution of which they were an integral part,
 - recommended the Member States to coordinate their efforts in all the international forums where these questions are discussed and once the Council of Europe Convention had been signed to work for the accession to that convention of the greatest possible number of third countries, subject to reciprocity,
- having regard to its debates of 24 September 1979 ⁽⁶⁾,
- whereas according to Article 17 of the International Covenant on civil and political rights (no one shall be subject to arbitrary or unlawful interference with his private life) everyone is entitled to protection under the law against such interference or encroachment,
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms (principle of respect for privacy),
- having regard to the resolution of the Organization for Economic Cooperation and Development (OECD) of 22 July 1979,
- having regard to the motion for a resolution tabled by Mrs Roudy and others (Doc. 1-103/80),

⁽¹⁾ OJ Debates No 179, p. 54 *et seq.*

⁽²⁾ OJ Debates No 186, p. 254.

⁽³⁾ OJ No C 100, 3. 5. 1976, p. 27.

⁽⁴⁾ OJ No C 103, 27. 4. 1977, p. 1.

⁽⁵⁾ OJ No C-140, 5. 6. 1979, p. 34.

⁽⁶⁾ OJ Debates No 245, p. 19 *et seq.*

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- having regard to the motion for a resolution tabled by Mr Glinne and others on behalf of the Socialist Group (Doc. 1-116/80),
 - having regard to the report of the Legal Affairs Committee (Doc. 100/79),
 - having regard to the second report of the Legal Affairs Committee (Doc. 1-548/81),
1. Welcomes the resolution of the Committee of Ministers of the Council of Europe of 18 September 1980 approving the Convention for the protection of individuals with regard to automatic processing of personal data;
 2. Is however concerned that it is not clear when all the Member States of the Community will finally have signed and ratified this European Convention;
 3. Considers that rules on the protection of personal data are also feasible and necessary for the Community;
 4. Takes the view that modern technology may pose serious threats to the rights of the individual and in particular to the right to respect for privacy;
 5. Notes that a number of Community countries do not yet have laws protecting the citizen from the misuse of data files and data processing or that such laws where they exist may differ in the level of protection, the procedural principles or the rules they contain;
 6. Refers to Article 100 of the EEC Treaty providing for the approximation of such provisions laid down by law, regulation or administrative action in the Member States as directly affect the establishment or functioning of the common market;
 7. Expresses the view that consideration should be given to a draft Directive, if the Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data proves inadequate;
 8. Considers that in any event the Commission should issue a recommendation to Member States to ensure that national legislation to implement the Convention is of equivalent effect;
 9. Considers that the use of data processing and transmission techniques, particularly in the light of rapid technological change, demands periodic review at a Community level;
 10. Takes the view that the European Community as a Community set up for economic and commercial purposes must have power to eliminate related problems and protect the citizens of Europe by means of general, equivalent and effective provisions in the field of data protection;
 11. Considers that data transmission in general should be placed on a legal footing and not be determined merely by technical considerations;
 12. Considers that thought should be given to investigating the possibility and desirability of expressly incorporating the right to the protection of personal data as a human right or fundamental freedom in the text of the European Convention for the protection of Human Rights and Fundamental Freedoms in the form of a sixth protocol;

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13. Regrets that the Member States have complied only partially with the Commission Recommendation of 29 July 1981⁽¹⁾ on the Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data, namely to sign it before the end of 1981, to ratify it before the end of 1982 and to give legal effect to the provisions thereof;

14. Calls on the Member States to ratify the Convention, as recommended by the Commission, by the end of 1982, and calls on the five Member States who have not yet signed the Convention to do so without delay;

15. Calls upon the Commission to undertake regular consultation with the Consultative Committee of the said Convention on personal data and to review its work;

16. Believes that the European Community should in due course accede to the abovementioned convention in its own right;

17. Considers the adoption of a Community Directive to be worthy of consideration, with special care being taken to ensure that:

- the same level of protection from such technologies should be afforded in both the private and public sector and that such protection shall extend to all data of a personal nature irrespective of national borders,
- the Directive shall entitle the person concerned to have access to, and to correct, information concerning him,
- liability for culpable damage caused shall be introduced,
- the operation of data banks shall be subject to obligatory notification and approval on a national basis;

18. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice and the governments and parliaments of the Member States, the Assembly and the Committee of Ministers of the Council of Europe, the Council of the Organization for Economic Cooperation and Development and the national bodies responsible for supervising the application of general or specific legal provisions on the protection of freedoms.

(1) OJ No L 246, 29. 8. 1981, p. 31.

14. Common transport policy — Future of the Community railway network (vote)

The next item was the vote on the motions for resolutions contained in the Carossino and Gabert reports.

- Motion for a resolution contained in the Carossino report (Doc. 1-996/81).

Parliament adopted the following resolution: