
 TEXT PROPOSED BY THE COMMISSION OF
 THE EUROPEAN COMMUNITIES

Article 5

Persons who have committed serious *or repeated* ⁽¹⁾ offences against customs, fiscal or economic legislation may be excluded from the right to declare on behalf of another person.

⁽¹⁾ In other language versions this reads '... serious *and* repeated ...'

 TEXT AMENDED BY THE EUROPEAN PARLIAMENT

Article 5

Persons who have committed serious offences against customs, fiscal or economic legislation may be excluded from the right to declare on behalf of another person.

Articles 6 and 7 unchanged

Rights of the individual in the face of data processing (vote)

Parliament then voted on the motion for a resolution contained in the Bayerl report (Doc: 100/79): the preamble and paragraphs 1 to 6 were adopted.

On paragraph 7 Mr Pintat had tabled, on behalf of the Liberal and Democratic Group, amendment No 1 seeking to delete this paragraph.

The rapporteur spoke.

Amendment No 1 was rejected.

Parliament adopted paragraph 7.

Parliament then adopted paragraphs 8 to 17.

Parliament adopted the following resolution:

RESOLUTION

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

The European Parliament.

— recalling its debates of 8 July 1974 ⁽¹⁾ and 21 February 1975 ⁽²⁾,

— having regard to its resolution ⁽³⁾ of 8 April 1976 in which it:

- (i) instructed its Legal Affairs Committee to report back to it on the action to be taken or continued by the Community in order to protect the rights of the individual in the face of continuing technical developments in the field of automatic data processing,

⁽¹⁾ OJ Debates No 179, p. 55.

⁽²⁾ OJ Debates No 186, p. 256.

⁽³⁾ OJ No C 100, 3. 5. 1976, p. 27.

- (ii) invited the Commission to take early action to ensure that the work of collecting data and information intended as a basis for the preparation of Community legislative proposals in this field, was carried through under its authority,
- having regard to the Treaties establishing the European Communities and specifically to Articles 2, 3, 100, 210, 229, 230 and 231 of the EEC Treaty,
 - having regard to the Joint Declaration by the European Parliament, the Council and the Commission on the respect of fundamental rights⁽¹⁾,
 - anxious to pursue and intensify its efforts to protect the rights of the individual,
 - appreciating the legitimate concern of the general public over the risks of mistaken or improper use of the data stored in data banks, whether local, regional, national or international,
 - convinced that technical progress can and must — most especially in this field — be placed at the service of man,
 - having regard to the legislation on the protection of the individual in respect of automated filing systems that has recently been introduced in some Member States, and to the draft legislation in preparation in several other Member States,
 - conscious of the need to guarantee the free movement of information within the Community without prejudice to the restrictions justified by considerations of national security,
 - convinced that the free movement of information implies a harmonious development of the various national legislations guaranteeing individual liberties and privacy against the misuse of data processing,
 - anxious to see Community help to solve these problems in all the international forums in which they are debated,
 - convinced that Parliaments as institutions — both in the Member States and at Community level — have a supervisory role to play in this field, and that an authority created by and including representatives of the Parliament concerned must be given the powers needed to carry out that task and must have a statute which will ensure the full independence of that authority,
 - whereas the protection of individual rights in the face of developing technical progress in the field of data processing is one of the essential features of the development of law in all democratic societies,
 - having regard to the report of the Legal Affairs Committee (Doc. 100/79),
1. Stresses that a harmonious development of economic activities within the common market calls for the creation of a genuine common market in data-processing in which the free movement of goods and freedom to provide services are assured and competition is not distorted;
 2. Points out that national provisions to protect privacy have a direct influence on the establishment and operation of the common market and, in particular, distort the conditions of competition;
 3. Considers that it would be unwise for the Community institutions to wait until there are serious disorders in the operation of the common market before taking action;
 4. Calls once again on the Commission to prepare a proposal for a Directive on the harmonization of legislation on data protection to provide citizens of the Community with the maximum protection;

⁽¹⁾ OJ No C 103, 27. 4. 1977, p. 1.

5. Notes that the Community institutions are empowered to take action in this sector but such action must conform to the principles laid down in the joint declaration on the protection of fundamental rights and remain within the limits of the authority vested in the Communities;
6. Believes that the Community legislation must be primarily designed to remove any technical obstacles to the exchange of information and, for this and also for other practical and economic reasons, must be introduced at an early date;
7. Further considers that the protection of data relating to legal persons, and notably to undertakings, might be necessary for the smooth operation of the common market, and that it should — in an appropriate form — be guaranteed also to political, trade union and religious groups;
8. Notes that the hearings held by the Subcommittee on Data Processing and the Rights of the Individual, set up by the Legal Affairs Committee in pursuance of the resolution of 8 April 1976, have helped to build up a substantial documentation, available in all the official languages, on the basis of which an informed evaluation can be made of the general pattern of Community rules and the guidelines for Community action in this field;
9. Takes note of the setting up by the Commission, following the resolution of 8 April 1976, of a Working Party on Data Processing and Protection of Liberties, of the recommendation forwarded by the Working Party to the Commission and the instructions provided on this subject by the Commissioner responsible;
10. Urges strongly the Commission and the Council, when preparing legislation on data protection to take the fullest account of the recommendations appended to this resolution of which they are an integral part;
11. Recommends the Member States to coordinate their efforts in all the international forums where these questions are discussed and, once the Council of Europe Convention has been signed, to work for the accession to that Convention of the greatest possible number of third countries subject to reciprocity;
12. Asks that account be taken of the need to adapt the Community provisions, once adopted, both to further developments in technical progress and to any new international legislation that is introduced;
13. Considers it essential that, without prejudice to the Commission's supervisory powers as guardian of the Treaties, a committee of representatives of the national bodies of the Member States responsible for the application of the legislation, general or specific, relating to the protection of liberties be instructed to supervise the implementation of Community texts and ensure the smooth functioning of the cooperation required between those bodies;
14. Considers it necessary that the European Parliament be appropriately represented on and hold the chairmanship of this committee and that the committee should report to the European Parliament and to the Commission and Council;
15. Requests the Commission to report to it on the progress made by the Working Party on Data Protection set up by the Committee of Ministers of the Council of Europe, on which it is represented as an observer, and on the circumstances in which the Community as such might become a signatory to the Convention now in the drafting stage and to expedite this work through the cooperation of its departments;
16. Points out in this connection that — in accordance with the jurisprudence of the Court of Justice ⁽¹⁾ — the Community has no exclusive capacity to enter into international commitments over the whole field of objectives defined by Treaties save to the extent that it has actually assumed — in the internal Community order — the powers and duties assigned to it;

⁽¹⁾ CJEC 14. 7. 1976 (Cornelis Kramer — application for a preliminary ruling) European Court Report 1976-6, p. 1279 — see also opinion 1-76, 26. 4. 1977, European Court Reports 1977-3, p. 741.

17. Instructs its President to forward this resolution and the annexed recommendations to the Council, Commission and Court of Justice and to the governments and parliaments of the Member States, the Parliamentary Assembly and the Committee of the Ministers of the Council of Europe, the Council of the OECD and the national agencies responsible for monitoring the implementation of the legislation, whether general or specific, relating to the protection of liberties.

Recommendations from Parliament to the Commission and Council pursuant to paragraph 10 of the motion for a resolution concerning the principles which should form the basis of Community norms on the protection of the rights of the individual in the face of developing technical progress in the field of data processing

The Community norms to be adopted in the field covered by this resolution should embody the following principles:

I

1. Computerized or manual personal data banks shall be subject to prior registration or authorization. The data protection body may permit individual and/or general exceptions.
2. Personal data to be processed:
 - shall be obtained by lawful means; the acquisition of especially sensitive data shall be subject to the consent of the person concerned or to special legal authorization;
 - may be recorded and transmitted only for the designated purposes and in conformity with the declaration made by, or the authorization granted to, the data controller; the data protection body must be empowered to permit exceptions;
 - shall be accurate and necessary for the purpose for which the data bank has been established;
 - shall be erased whenever they have been obtained by unlawful means, are inaccurate or out of date, or as soon as the purpose for which they were recorded has been achieved.
3. The data controller shall be liable for material and non-material damage caused by the misuse of data, whether or not there was any negligence on his part.
4. Data controllers shall inform the person concerned when personal data are first stored.
5. Public and private agencies shall at the earliest opportunity inform the data protection body of data processing plans which may involve personal data.
6. The amalgamation, in whatever form, of separate data banks shall require the consent of the data protection body.
7. Data from medical, police or intelligence service data banks and from the social security sector may be amalgamated or combined with other data banks only with the consent of the person concerned. Exceptions shall require the consent of the data control body.

II

8. All persons whose usual residence is in the territory of a Member State shall have the right:
 - (a) to information on all measures involving the recording, storage or transmission to third parties of data relating to them, and on the content, purpose and recipient thereof;

- (b) to have personal data erased where the conditions set out in point 2 above are not fulfilled, unless the data controller can prove the opposite;
 - (c) to have inaccurate or incorrect data relating to them corrected and third parties to whom such data have been transmitted informed accordingly;
 - (d) to require the data control body to check the legality of any data relating to them and stored in data banks which, for reasons of national security, are not by law subject to the exercise of the rights referred to above.
9. The Member States shall guarantee that the persons concerned may exercise their rights in an appropriate manner in respect of the protection of personal data within a reasonable period and free of charge.

III

10. Each Member State shall appoint an independent body with the appropriate staff and funds to monitor the application in its territory of the Community norms and the national norms introduced in implementation thereof. This body shall submit an annual report to the data control body of the European Community.
11. The body set up by each Member State shall publish the names of registered data banks in appropriate form, inform citizens of their rights to the protection of personal data, and assist them in exercising these rights.
12. In the cases referred to in I, paragraphs 4 and 5, the data protection body shall keep a register, which may be inspected where proof of a legitimate interest is established.
13. Cross-frontier transmissions of personal data intended for a recipient in another Member State or originating in another Member State shall not be subject to special arrangements within the Community. They shall be reported to the control body of the European Community.
14. The authorization of the data protection body of the European Community will be required for the export of data from the territory of the Member States.
15. The data protection body of the European Community shall submit an annual report to the European Parliament.
16. Infringements of these minimum norms for the protection of personal data shall be punishable by appropriate penalties.
17. Data relating to groups of individuals and the rights of such groups within the ambit of these principles shall be accorded the same protection as personal data and the rights of individuals within the meaning of the abovementioned principles.

Equal pay for men and women (debate)

The next item on the agenda was the report drawn up by Mrs Dunwoody on behalf of the Committee on Social Affairs, Employment and Education on equal pay for men and women in the Community Member States (Doc. 98/79).

Since no one had asked to speak, the President announced that the motion for a resolution would be put to the vote at the next voting time.

He declared the debate closed.