

LAW & DATA

2023/2024

University of Padova

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History – **EU DATA PROTECTION DIRECTIVES**

Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data

limited harmonization → GDPR

Directive 2006/24/EC – Data Retention Directive

on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC

repealed by ECJ in *Digital Rights Ireland* | C-293/12 + C-594/12

Applicable – **EU DATA PROTECTION DIRECTIVES**

Directive 2002/58/EC

Directive on privacy and electronic communications

Directive 2016/680/EU

on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA



Directive 2002/58/EC | E-PRIVACY DIRECTIVE

USER

any **natural person** using a **publicly available electronic communications service**, for private or business purposes, without necessarily having subscribed to this service (**SUBSCRIBER**)

TRAFFIC DATA

any data **processed** for the purpose of **the conveyance of a communication** on an electronic communications network or **for the billing** thereof

LOCATION DATA

any data processed in an electronic communications network, **indicating the geographic position of the terminal equipment of a user** of a publicly available electronic communications service

COMMUNICATION

any information exchanged or conveyed between a **finite number of parties** by means of a **publicly available electronic communications service**. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the extent that the information can be related⁴ to the identifiable subscriber or user receiving the information



Directive 2002/58/EC | E-PRIVACY DIRECTIVE

- **Scope of application** *‘services concerned’
processing of PD in connection with the provision of **publicly available electronic communications services** in **public communications networks within the EU***
- **Service Provider** *required to take **appropriate technical and organizational measures** to ensure **security** of its services*
- **Objective** *require MS to ensure **confidentiality** of communications and related PD (i.e. traffic data) processed through public communication networks/publicly available electronic communications services*

Directive 2002/58/EC | E-PRIVACY DIRECTIVE

X **AUTOMATIC CALL FORWARDING**

by third parties to the subscriber's terminal, unless stopped

X **DIRECTORIES OF SUBSCRIBERS**

possible, but based on consent (express or implied)

X **UNSOLICITED COMMUNICATIONS**

automated calling systems without human intervention / fax
/ e-mail / direct marketing

possible, but with clear, distinct and prior consent
possibility to object free of charge & easily



Directive 2018/1972

European Electronic Communications Code (Recast)

NO PROCESSING OF PERSONAL DATA

Harmonised framework for the regulation of electronic communications networks, electronic communications services, associated facilities and services, and some aspects of terminal equipment

Goals:

- ✓ implement an **internal market** in electronic communications
- ✓ promote **fair competition** between companies
- ✓ ensure equal and fair access to these services
- ✓ promote **connectivity** all across EU