

Dear Ms Malmström,
European Commissioner for Home Affairs,

On behalf of the European Federation of Journalists (EFJ), We are writing to you [regarding the recent ruling of the European Court of Justice](#) concerning the Data Retention Directive (2006/24/EC) and the legislative development in the UK in this area.

You may be aware that the UK government is currently pushing through to the Parliament a [Bill on Data Retention and Investigatory Powers](#), which requires phone and Internet companies to store call and search records for a year. The Bill introduced last week was based on the EU Directive (2006/24/EC) which was invalidated by the European Court of Justice (ECJ) on 8 April.

As Europe's largest journalists' organisation, the EFJ firmly defends the fundamental rights to freedom of expression and freedom of information that is enshrined in the EU Charter for Fundamental Rights. We have previously raised concerns with you over the impact of the Directive on the work of journalists, in particular, the rights of journalists' to protect confidential sources.

The blanket collection of all telecommunications data deters informants from passing confidential information of public interest to journalists by telephone, fax or the Internet. [One in 14 journalists says that data retention has negative effects on their work.](#)

The recent ruling by the ECJ has re-affirmed our criticism over the intrusive nature of the law. The Directive creates a process for recording details of who communicated with whom via various electronic communications systems. In the case of mobile phone calls and SMS messages, the respective location of the users is also recorded. In combination with other data, Internet usage is also to be made traceable.

The EFJ and its affiliates in the Member States, together with other European and national civil society groups believe that such an invasive surveillance on the entire population is unacceptable and violated the fundamental right of privacy as laid down in Article 8 of the European Convention on Human Rights. **With a data retention regime in place, sensitive information about social and business contacts including those of journalists is collected in the absence of any suspicion.**

Telecommunications data retention undermines the important principle of protection of sources for journalists which was repeatedly reaffirmed by the European Court of Human Rights as the cornerstone of press freedom.

The recent ruling by the ECJ has invalidated the intrusive practices authorised by the Directive and re-affirmed that our concerns are valid: that the **Directive "does not provide**

for sufficient safeguards to ensure effective protection of the data against the risk of abuse and against any unlawful access and use of the data”.


We would like to ask you to **clarify the validity of the Directive (2006/24/EC) following the recent ruling of the ECJ.**

We urge you to **take immediate review** of the Directive and **make necessary amendments** in order to ensure its compatibility with European fundamental rights laws and **to provide safeguards (such as exemption) to journalists in fulfilling their duties to protect confidential sources.**

Should you require further information, please feel free to contact the EFJ Policy and Project Officer, Yuk Lan Wong (Yuklan.wong@ifj.org +32 2 2352 226).

Thank you and I look forward to reading your response.

Best regards,



Ricardo Gutiérrez
EFJ General Secretary



Mogens Blicher Bjerregård
EFJ President