

Summarised report

REPORT 12/2017 OF THE JOINT COMMITTEE FOR EU AFFAIRS, DATED MARCH 30, 2017, ON THE COMPLIANCE WITH THE PRINCIPLE OF SUBSIDIARITY BY THE PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE RESPECT OF PRIVACY AND PERSONAL DATA PROTECTION ON ELECTRONIC COMMUNICATIONS AND REPEALING DIRECTIVE 2002/58/CE (DIRECTIVE ON PRIVACY AND ELECTRONIC COMMUNICATIONS) [COM(2017) 10 final] [2017/0003 (COD)] {SWD(2017) 3 final} {SWD(2017) 4 final} {SWD(2017) 5 final} {SWD(2017) 6 final}

BACKGROUND

- A. The legal basis for this report is to be found in articles 3 j), 5 and 6 of Act 8/1994 (amended by Act 24/2009), developing in Spain the Protocol on the Application of the Principles of Subsidiarity and Proportionality attached to the Lisbon Treaty.
- B. The deadline to verify the subsidiarity check of this Proposal is April 12, 2017.
- C. The Government has been requested a report and MP Ms. Mercedes Mallol has been appointed as rapporteur for the subsidiarity report on this initiative.
- D. In its meeting held on February 21, 2017, the Joint Committee for EU Affairs adopted Report 12/2017.

REPORT

1. Articles 5 (1) and 5 (3) of the TEU describe the principles of subsidiarity and proportionality.
2. The legislative Proposal under consideration is based on articles 16 and 114 of the TEU.
3. The main purpose of the Regulation is to update the actual regime (essentially Directive 2002/58) amplifying it's reach to all electronic communications. It also tries to create new possibilities to treat communication data and reinforce confidence and security in the Digital Single Market.

Privacy will be guaranteed for content and metadata of electronic communications (for example, time and place of a phone call). Both have a high privacy component and will have to be anonymized and suppressed if users do not give their consent, unless such data are necessary, for example, for billing. Once this consent has been given, traditional operators will have more opportunities to use the data and offer additional services.

The proposal also forbids unwanted communications, for instance, by email or phone calls unless consent has been given.

CONCLUSION

For the aforementioned reasons, the Joint Committee considers that this Proposal complies with the principle of subsidiarity laid down in the Treaty on the European Union in force.