

**Proposal for a Regulation of the European Parliament and of the Council on the protection of privacy and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on private life and electronic communications)**

**(COM (2017) 10 final)**

***Final document approved by the Committee on Justice***

The Committee on Justice of Italy's Chamber of Deputies, having examined pursuant to Rule of Procedure No. 127 the Proposal for a Regulation of the European Parliament and of the Council on the protection of privacy and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on private life and electronic communications),

considering that:

In recent years, the electronic communications sector has undergone continuous and remarkable changes wrought by technological advances that have multiplied the number of platforms and expanded the volume of content and data that can be exchanged;

Both domestic and European legislation has inevitably found it difficult to keep up with all the new challenges posed by technological progress, with the result that, as things now stand, expectations for a more satisfactory safeguarding of internet users' rights remain partially unfulfilled;

The availability of diverse terminal devices (smartphones, tablets, computers) has radically changed our mode of communication by enabling the continuous sharing of information and by exponentially increasing the size of data streams. At the same time, however, the risk of violations of the fundamental right to privacy that is embodied in the principle of the confidentiality of communications has also increased exponentially;

The ability of third parties to access, manipulate and use sensitive information puts those who are most vulnerable to concrete threats at particular risk, and may seriously prejudice their legal rights;

Hence the need to assure higher standards for the protection of the confidentiality of electronic communications, as well as the need to improve the situation by applying the recent European legislation on personal data protection (Regulation no. 679/2016);

We therefore welcome the European Commission's efforts to address the problem through this proposed Regulation, which seeks to strike a satisfactory balance between, on the one hand, the need to ensure that privacy laws are aligned with the new comprehensive system of data protection and, on the other, the legitimate expansionary ambitions of companies that provide communications services, also in light of the fact that the rules for the European digital market remain in a state of flux as the EU authorities continue to deliberate regulatory reform. Finally, adequate tools are needed to combat cybercrime.

Mindful that the present final document needs to be forwarded without delay to the European Commission as part of the political dialogue, as well as to the European Parliament and the Council,

does hereby express a favourable opinion,

with the following remarks:

With regard to articles 5-7 in the text proposed by the European Commission, consideration ought to be given to strengthening the rules on the confidentiality of electronic communications by introducing a uniform regulation on content and metadata

that would, for example, impose a blanket ban on third-party access to either without the express consent of the parties concerned. Such a ban would be more consistent with the principles enshrined in the general regulation on the protection of personal data;

With regard to the provisions of article 8 relating to the collection of information emitted by terminal equipment to enable it to connect to another device or to network equipment, a practice that could lead to a user's movements being logged (as happens with Wi-Fi tracking), privacy protection needs to be enhanced through a stipulation that the party concerned must give express consent to the transmission of information, and that simply issuing alerts to advise users does not sufficiently fulfil this obligation;

The mechanism envisaged in article 10 of the Proposal whereby end-users may prevent or partly limit third parties from storing and processing information on their terminal equipment (which generally entails the installation and use of cookies), or else generally consent to the same, needs to be made more robust by setting stricter default protocols on the setup menu for the installation of applications that enable electronic communications. In particular, the new rules should require software producers to make it easy for end-users both to review the cookie options selected when installing the programme and to change them at a later date;

Finally, the penalties for breaching the provisions of the Proposal for a Regulation need to be aligned to those for breaches of the rules on the protection of personal data, even though the latter rules will not come into force until the implementation, scheduled for May 2018, of Regulation no. 679/2016;

and with the further remark:

Consideration should be given to amending article 18 of Chapter IV of the Proposal, which refers to independent supervisory and enforcement authorities. A more precise definition is needed of the sort of cooperation that will take place between the authorities

responsible for monitoring the Regulation on the confidentiality of electronic communications and the authorities to be established under the future “Electronic Communications Code” Directive.