

PILLAR C – CIVIL AND CULTURAL RIGHTS IN COMMUNICATION

C2 The right to privacy of communication

Attributes of communication rights	Relevant data: legal basis, sources for assessment of implementation, indicators and parameters for further evaluation	More information: websites and documents (specific EU, institutional)	International standards	Role of non-state actors & Initiatives, proposals and critical analysis
<p>C2 The right to privacy of communication</p> <p>Is there a right to privacy of communication?</p> <p>C2.1 Are there laws and regulations to ensure a right to privacy of communication, by internet, telephony, postal or other means, with exceptions only in clearly-defined and extreme circumstances, and covering access in private, public and commercial environments?</p> <p>C2.2 Are such laws enforced in a transparent, non-partisan and proactive manner, including against government violations, with a right to redress where rights have been violated?</p> <p>C2.3 Are there effective measures to control Spam (unsolicited commercial e-mail), on order to prevent it hindering the general capacity for internet interaction?</p> <p>C2.4 Are there measures to protect against excessive video surveillance and the 'chilling effect' it may have on freedom of association and movement?</p>	<ul style="list-style-type: none"> ▪ Constitutional principles <p>EU Charter of Fundamental Rights (2000) – art. 7, 8</p> <p>Treaty on the European Union (TEU): Art F</p> <ul style="list-style-type: none"> ▪ Legal basis (with specific reference to documents) <p>European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) – art 7, 8</p> <p>Directive 99/93/EC of the European Parliament on a Community framework for electronic signatures</p> <p>Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector</p> <p>Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector</p> <p>Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data</p> <ul style="list-style-type: none"> ▪ Policies/strategies/programmes ▪ Structures, people (departments, ad hoc offices ecc.) <p>European agency for security of net and information (R N. 460/2004/CE)</p> <ul style="list-style-type: none"> ▪ Evaluation mechanisms (activated at institutional level) ▪ <p>The Commission Communication, COM(2004) 28, on unsolicited commercial communications or 'spam'</p>	<p><i>In this section we indicate reference to all resources (web, documents code) that are specific of the EU and related to the nstitutional dimension</i></p> <p>At this link, the position of Ue on: security in information sistem http://www.europa.eu.int/scadplus/leg/it/lvb/l24121.htm</p> <p>data protection in electronic medium http://www.europa.eu.int/scadplus/leg/en/lvb/l24120.htm</p> <p>Opinion 5/2004 of ARTICLE 29 Data Protection Working Party' on unsolicited communications for marketing purposes, under Article 13 of Directive 2002/58/EC, adopted on 27 February 2004 http://europa.eu.int/comm/internal_market/privacy/docs/wpdocs/2004/wp90_en.pdf</p> <p>Communication (2004) 28, from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the committee of the regions, of 22.01.2004, on unsolicited commercial communications or 'spam'</p> <p>Opinion of the economic and social committee on the proposal for a directive concerning the processing of personal data and the protection of privacy in the electronic communication sector of 24/01/2001</p> <p>Living in justice and freedom, a booklet by the European Commission.</p>	<p>International Standards (es Universal Declaration of Human Rights, art ???)</p> <p>Universal Declaration of Human Rights (1948) – art. 12</p> <p>International Covenant on Civil and Political Rights (1966) – art. 17</p> <p>Regional Standards – non European (es. Interamerican Convention on Human Rights...)</p> <p>American Convention on Human Rights (1969), Article 11</p> <p>American Declaration of the Rights and Duties of Man, (1965)</p> <p>Other materials, useful documentation (es. UNESCO Report on Freedom of Information ecc., available at...)</p> <p>OECD Guidelines on Privacy http://europa.eu.int/comm/internal_market/privacy/instruments/ocde_guideline_en.htm</p>	<p>Identification of non-state actors (particularly civil society organizations) that have been active on the topic at the EU level + together with initiatives, campaigns, petitions, positions that have been expresse</p> <p>Evaluation mechanisms (activated by non-State actors)</p> <ul style="list-style-type: none"> ▪ Critical analyses that have been carried on by NGOs, associations, scholars, others <p>Privacy International and GreenNet Educational Trust reserch "Silenced: Censorship and Control of the Internet" http://www.privacyinternational.org/article.shtml?cmd%5b347%5d=x-347-61390&headline=Silenced</p> <p>The Privacy international Overview "Watching the Watchmen and their Watchers", Privacy International report Inadequate Adequacy http://www.privacyinternational.org/issues/terrorism/rpt/inadequat_eadequacy.pdf</p> <p>Privacy International, European Digital Rights, Foundation for Information Policy Research and Statewatch, paper on the program CAPPS-II.</p> <p>Statewatch Report & Analysis (http://www.statewatch.org/news/2002/may/15epvote.htm) on EU surveillance of telecommunications policies on telephone and internet, Statewatch analysis of proposed EU Framework Decision on data retention; Statewatch report (http://www.statewatch.org/news/2001/nov/19sis.htm) on EU plans to extend the Schengen Information System (SIS); Statewatch report on the agreements EU-US on passengers data.</p> <p>Reporters sans frontiers report on ""Desk / World report 11 September 2001 - 11 September 2002 The Internet on probation"</p> <p>The dossier of an italian group on net security, http://www.giurispudenza.it/sicurezzazzareti.htm (in Italian)</p>
<p>Eventual - In this section we indicate relevant information or aspects concerning not the EU but the State level (of policies, debates ecc.) The Italian Parliament and Schengen Treatment http://www.parlamento.it/parlam/bicam/schengen/home.htm , http://194.89.205.3/eng/schengen/sis.htm</p>				
<p>Eventual - In this section we indicate information concerning EU position in relation to international treaties, negotiations, ecc..</p>				
<p>The Article 29 Data Protection Working Group issues an Opinion on unsolicited communications for market purposes The opinion provides clarification on some issues regulated by Article 13 of the Directive on Privacy and Electronic Communications</p> <p>Privacy International and the GreenNet Educational Trust published on 10/09/2003 the research Silenced: Censorship and Control of the Internet that includes more than fifty experts' and advocates' collaboration throughout the world, on freedom and rights in the net; at http://www.privacyinternational.org On 09/08/2004 Privacy international published the overview, "Watching the Watchmen and their Watchers". It has also released a report, Inadequate Adequacy, to show how badly the Commission 'negotiated' with the U.S the agreement to transfer passenger details to the U.S. Department of Homeland Security Privacy International, European Digital Rights, Foundation for Information Policy Research and Statewatch, published a paper that says that the Commission, under Bolkestein leadership, permitted secretly the USA' use of passengers' data in the program CAPPS-II (Computer Assisted Passenger Pre-Screening System). The report is at http://www.statewatch.org</p> <p>In 2002 Statewatch published a Report & Analysis on EU surveillance of telecommunications policies on telephone and internet; one on the agreements EU-US on passengers data, talking also of civil society pressure; it released also a report, on 3 12 2001, on EU plans to extend the Schengen Information System (SIS); an analysis of proposed EU Framework Decision on data retention in 2002; a</p>				