Data retention:
a civil rights' perspective

Sjoera Nas, TF-CSIRT seminar,
Amsterdam, 24 January 2006

Agenda

- About Bits of Freedom / EDRI
- Obligations under the new EU directive
- How did we lose this war?
- Key implementation questions:
  -network layer vs service layer
  -central vs decentralised storage
  -responsability for data protection
  -security (access control)

Bits of Freedom / EDRI

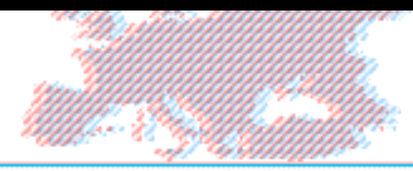
- Founded in 2000
- NGO, funded by private parties
- Themes: privacy, freedom of speech, spam, e-voting, copyright
- Co-founder EDRI - European Digital Rights
- 21 members in 14 European countries

Big Brother Awards

presented this Saturday, 28 January
in De Melkweg, Amsterdam

www.edri.org

Digital Civil Rights in Europe



If you wish to help EDRI promote digital rights, please consider making a private donation.

Search

EUROPEAN DIGITAL RIGHTS

EDRI-gram

Subscribe to the bi-weekly newsletter about digital civil rights in Europe.

Enter your email

European Digital Rights was founded in June 2002. Currently 21 privacy and civil rights organisations from 14 different countries in Europe have EDRI membership. Members of European Digital Rights have joined forces to defend civil rights in the information society. The need for cooperation among European organizations is increasing as more regulation regarding the internet, copyright and privacy is originating from the European Union.

News & Announcements

EDRI-Gram Saved!

19 January, 2006 » Campaigns

The campaign for support for EDRI-gram has been very successful. After an urgency call for pledges in the last 2005 issue of EDRI-gram, kind donators have pledged a little over 2.000 euro in support. On top of that, the Open Society Institute (Soros) kindly offered a donation of 1.500 euro. Combined with the 4.000 euro scraped together by EDRI itself, EDRI is pleased to announce the survival of EDRI-gram in 2006. The new editor, Bogdan Manolea from EDRI-member APTI in Romania, has agreed to produce 24 editions in 2006.

read more

EDRI-Gram - Number 4.1, 18 January 2006

New editor EDRI-gram
European parliament adopts data retention directive
Data Retention Directive: reactions related to the costs involved
French anti-hate groups win case against Yahoo
French Parliament is making the first step in legalising P2P

The new EU directive

- Storage of traffic data for 6 to 24 months
- Telephony: fixed and mobile traffic data, including failed caller attempts, *ms and location data
- Internet: IP addresses, e-mail and VOIP traffic data
- No cost reimbursement
- No minimum access rules
- Must be turned into national law by July 2007

What did we do?

- Looking back at a 5 years civil rights struggle against data retention
- We started in 2001, when the G8 Ministers of Justice first mentioned the desirability of systematic data retention
- In the EU hardliners successfully entered a possibility for national data retention legislation in the 2002 e-privacy directive

Summer 2002: NL petition

Nederland geen afluisterstaat!

12 september 2002

2328 brieven zijn verstuurd

Dank aan iedereen die meegeholpen en ondertekend heeft!

Ik wil op de hoogte gehouden worden van deze campagne. Vul hier je email adres in:

verstuur

Protest actie tegen de bewaarplicht succesvol verlopen.

We hadden niet gedacht dat het mogelijk was om in twee dagen meer dan 2300 ondertekeningen te verzamelen. De actie heeft veel response gekregen in een zeer korte tijd. Je kunt nu niet meer ondertekenen. Alle

September 2004: policy statement, June 2005 Open Letter to the EP

Digital Civil Rights in Europe

view | edit | outline | revisions | track

Home

Open Letter To The European Parliament On Data Retention

=>PDF version of this letter in English.

=>Voir la version Francaise sur le site d'IRIS. Également disponible en PDF.

=>Dieser Brief auf Deutsch. Auch in PDF

=>Esta carta en Espanol

To the presidents of the political groups in the European Parliament

Monday 6 June 2005

Dear Sir/Madam,

We kindly request your attention on the matter of the plenary vote (schedule
7 June 2005) on the report from LIBE rapporteur Alexander Alvaro on manda
data retention, nr. 2004/0813(CNS). We are appealing to you on behalf of
European Digital Rights, a not-for-profit association of 17 digital civil rights
organisations from 11 European countries, Privacy International, an internati
non-governmental organisation with members in over 30 countries and State
an organisation that monitors civil liberties in Europe with correspondents in 1
European countries.

90 Organisations Support PI / EDRI Statement Against Data Retention

15 September, 2004 » Campaigns | Privacy | Telecommunication data retention

Privacy International (PI) and European Digital Rights (EDRI) have published their joint answer to the consultation on mandatory data retention. The Directorate Generals on Information Society and on Justice and Home Affairs from the European Commission asked for public comments on a proposed retention regime across Europe between 12 and 36 months for all traffic data generated by using fixed and mobile telephony and Internet.

90 civil rights organisations across Europe, the United States and other countries around the world have responded rapidly in showing their concern about this trend of increasing surveillance in such a disproportionate way. Also 89 companies (mostly specialised in IT) have endorsed the statement.

The response can be found at
http://www.privacyinternational.org/issues/terrorism/rpt/responsetoret...

The EU plans the wide-spread retention of personal data resulting from communications, or so-called traffic data. We argue that any such retention is necessarily a hazardously invasive act. With the progress of technology, this data is well beyond being simple logs of who we've called and when we called them. Traffic data can now be used to create a map of human associations and more importantly, a map of human activity and intention.

As technologies become more invasive, and as laws are increasingly reluctant to protect individual rights, the European Union should be fulfilling its role to uphold the rights of individuals. Data retention is an invasive and illegal practice with illusory benefits.

General background information

- http://www.privacyinternational.org/retention
- quintessenz EU Data Retention Dogubase

Summer 2005: EU petition

data retention is no solution

wiki.dataretentionisnosolution.com

THIS PETITION CLOSED ON MONDAY 21 NOVEMBER 2005 AT MIDNIGHT

languages: en nl fr fi sv de it es pl da hu cs bg ro ru hy sl ca el eu pt
58277 people already signed!

information banners privacy policy endorsing organisations list contact

Data retention is no solution!

The European ministers of Justice and the European Commission want to keep all telephone and internet traffic data of all 450 million Europeans. If you are concerned about this plan, please sign the petition.

What's wrong with data retention? The proposal to retain traffic data will reveal who has been calling and e-mailing whom, what websites people have visited and even where they were with their mobile phones. Telephone companies and internet services providers would be ordered to store all traffic data of their customers. Police and intelligence agencies in Europe would be granted access the traffic data. Various, competing proposals in Brussels mention retention periods from 6 months up to four years.

Data retention is an invasive tool that interferes with the private lives of all 450 million people in the European Union. Data retention is a

Petition

I believe that:

- Data retention is an invasive tool that interferes with the private lives of everyone;
- Retaining personal data on everyone is an illegal practice in terms of Article 8 of the European Convention on Human Rights, as it is disproportionate;
- Security gained from retention may be illusory, as it is likely that traffic data that is associated to one individual may actually be linked to activity taken by another, or by a process that is unrelated to the activities of that user;
- The means through which this policy is being pursued is illegitimate, as some member states who have failed to pass this policy through their own Parliaments are now trying to push it through the EU instead in the name of harmonisation and international cooperation.

Autumn 2005: 2 flyers for EP

VOTE NO TO COMMUNICATIONS SNOOPING

Protecting Privacy in the Information Society

Communications Data Retention policies are invasive, illegal, illusory and illegitimate.

Privacy International — European Digital Rights

This is the first time in history that human activity generates such vast logs. Many of these logs are already available for law enforcement purposes as long as the telecom industry retains them for business purposes. Some Justice and Home Affairs officials are now trying to ensure that even greater stores of information are made available, including internet data, thus registering all **our movements, interests, and associations over an extended period of time**.

After many critical legal analyses, the Council was forced to leave the proposal to the first pillar, as a directive proposal from the European Commission. On November 24th the parliamentary committees of ITRE and LIBE will vote on many amendments. The plenary vote is scheduled for December 14th, 2005. But the scope of this proposal is still dangerously broad and where the Council refuses to limit access or ensure judicial authorisation and adequate oversight, the Commission is incapable of introducing such essential safeguards. The democratic process is thus reduced to one single reading by the Parliament.

At this critical juncture we must restrain this policy. We call on the Parliament to:

How did we lose this war?

- In spite of a joined coalition of telco's, ISPs and citizens, and after 2 almost unanimous rejections, on 14 December the EP voted 387 in favour, 204 against
- Europe now has data retention, undisputed high numbers of wiretapping, data freezing and dramatically low access barriers
- Such systematic and silent electronic surveillance of innocent citizens is unthinkable in the USA!

How did we lose this war?

- US: strong civil rights movement, tradition of resistance against government interference
- Europe: terrorism used as ‘absolute‘ excuse
- 1948 Universal declaration of Human Rights; all men are born free and equal
- Oblivion to historical lessons; governments may and will make serious mistakes

Clarke, UK minister of Home Affairs, to the European Parliament in Sept ‘05;

"*(there is a) need to balance important rights for individuals against the collective right for security.*

The view of my Government is that this balance is not right for the circumstances which we now face – circumstances very different from those faced by the founding fathers of the European Convention on Human Rights - and that it needs to be closely examined in that context."

So what can we do?

- Open up an extra e-mail account with a non EU provider
- But don’t invest too much time in geek circumvention talk
- Get involved with the legal and practical details of the upcoming national implementation
- Think about your own data privacy every step of the way, it is not about ‘somebody else’ anymore

Key implementation questions

- network layer vs service layer
- central vs decentralised storage
- responsibility for data protection
- security (access control)

NL proposal for centralised storage

- Telecom providers already make their subscriber databases accessible through a central, double blind disclosure point (CIOT)
- NL 2004: 900.000 telephony subscriber requests by the police PLUS 300.000 requests by the secret services
- Government wants the same model for traffic data, suggested as cost-friendly solution
- Horrible from a civil rights perspective; possibility of large scale data-mining, no transparency, no access control = guilty untill proven innocent

Conclusions

- Security depends on respect for privacy
- As hardcore security staff, you are responsible to minimise and controll access to personal data
- Make an effort to bridge the mental gap, enlighten your colleagues

www.edri.org
www.bof.nl

this lecture:
www.bof.nl/docs/csirt2006.pdf

sjoera@bof.nl