



Data Retention in the European Union

Why now is the time to get involved

Twitter:

@edri_org @ak_vorrat @bitsoffreedom @panoptykon

#dataretention

DIRECTIVE 2006/24/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 March 2006****on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

erased or made anonymous when no longer needed for the purpose of the transmission of a communication, except for the data necessary for billing or interconnection payments. Subject to consent, certain data may also be processed for marketing purposes and the provision of value-added services.

(4) Article 15(1) of Directive 2002/58/EC sets out the condi-

22nd Chaos Communication Congress

Private Investigations

We lost the war

Welcome to the world of tomorrow

Come to terms with the imminent loss of privacy and civil rights without going lethargic. We will analyse current events, how we think they will affect the issues we care about and how we can be most effective given the new circumstances. Or possibly how to simply survive the times ahead.



During this lecture, we will first analyse what is happening on a global scale with regards to privacy, civil rights, democracy, corporate control of the media and related issues. We will try to highlight trends and the interests and motivations behind them, and we will try to analyse which strategies work well and which ones don't, both from the Luke Skywalker and from the Darth Vader

SPEAKERS



Rop Gonggrijp



Frank Rieger

SCHEDULE

Day **1**

Room **Saal 1**

Start time **19:00**

Duration **01:00**

INFO

ID **920**

Event type **Lecture**

Track **Society**

Language **English**

EU-Parlament beschließt massive Überwachung der Telekommunikation

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14. Dezember 2005 14:49

Die Wut jetzt sinnvoll kanalisieren---> gemeinsames Netzwerk bilden

Bew

Twister (mehr als 1000 Beiträge seit 27.11.00)

Dass wir (wir = diejenigen, die Datenschutz hochhalten und gegen die VDS sind) jetzt enttäuscht, wütend, desillusioniert und frustriert sind, ist verständlich. Doch die Wut kann jetzt sinnvoll genutzt, als Triebfeder verstanden und für Aktionen genutzt werden.

Wichtig ist es imho (ich lasse das ab jetzt weg weil alles hier mho ist) sich bewusst zu werden, dass mit dieser Entscheidung nicht "alles aus" ist. Einerseits wird das Ganze natuerlich noch in nationale Entscheidungen gegossen, insofern sind weiterhin die Bundestagsabgeordneten etc. in Deutschland auch die Richtigen, wenn es darum geht mitzuteilen, dass man die VDS ablehnt, warum man dies tut etc.

Außerdem bleibt die Möglichkeit der Klage offen, imho ist sie durchaus erfolgversprechend.



Freiheit statt Angst

KEIN 4 REICH

WOMEN ÜBER

DEN GROßEN BRUDER

PRIVAT SPAREN IST KEIN VERBRECHEN

LINSER DA SICH

FREIHEIT GEMEINSCHAFT VERDIENEN

DICH NOCH

34 451





Bundesverfassungsgericht



Overview:

- **What is data retention and why don't we like it?**
- Constitutional court cases
- State of evaluation of the directive
- State of affairs in the European Commission
- Our evidence: data retention is superfluous
- Abuse cases: data retention is harmful
- The upcoming battle
- Why now is the time to get involved

UNITED STATES MISSION
TO THE EUROPEAN UNION

16 October 2001

Dear President Prodi,

I have the honour to transmit to you, from President Bush, a list of proposed actions that the European Union might undertake to help the United States in the international effort against terrorism. This letter is in response to the request made by Belgian Prime Minister Verhofstadt during the Summit meeting in Washington on 27 September. The list includes suggestions to intensify cooperation in the areas of terrorist financing, law enforcement, non-proliferation, border controls, transport security and multi-lateral/diplomatic support.

The US Government deeply appreciates the offer of the European Union to work closely with us against the scourge of terrorism, and hopes that this list will provide a good basis for future discussion and cooperation.

Sincerely,

James J Foster

Deputy Chief of Mission



So where are we now?



"On the Internet, nobody knows you're a dog."



500 Million Suspects



225 per day

every 6 minutes

“just traffic data”

- Traffic data allow to reveal **who are your colleagues, acquaintances and friends** in 90% of the cases.
- Traffic data allow to predict **if you will meet a person** in the next 12 hours in 90% of the cases.
- Traffic data of the last month allow to predict **where you will be** in the next 12 hours in 95% of all cases.
- Traffic data allow a prediction of **your activities** within the next 12 hours in 80% of the cases.

Source:

Massachusetts Institute of Technology (MIT), Relationship Inference, <http://reality.media.mit.edu/dyads.php>

Affected rights:

freedom of information

freedom of expression

freedom of assembly

freedom of organization

presumption of innocence?

anonymity?

free society?

dam breach?

EUROPEO EVROPSKÝ PARLAMENT
EUROPÄISCHES PARLAMENT EUROOPA PARLAMENT
ΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
ORÉEN PARLAMENT EIROPAS PARLAMENT
POS PARLAMENTAS PARLAMENT
NT EWROPEW EUROPEAN PARLAMENT PARLAMENT EU
RLAMENTO EUROPEU PARLAMENT
ENT EUROOPAN PARLAMENT PARLAMENTET



HUSTINX

Overview:

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Bundesverfassungsgericht



Bundesverfassungsgericht:

- Access only under detailed circumstances, prescribed by specific law
- If telecoms data retention is pursued, other retention policies can be unconstitutional (banking, traveling, etc.)



Legal basis

The Constitution of Romania, republished (2003)
Law nr.47/1992, republished (2004)
Law nr.124/2000
Standing rules on Organisation and Functioning

General presentation

Composition and organization

Present composition
Former judges
Assistant - magistrates
The General Secretariat

Jurisdictional activity

Constitutional review.
Selected decisions

Other powers

Statistics

Statistical situation

Publications

The Constitutional Court Buletin

Press releases

Presidential Elections 2004

Press releases
Rullngs

Presidential Elections 2009

Press releases
Rullngs

Events



PHOTO GALLERY



Romanian Constitutional Court:

- Principle of data retention in breach of article 8 ECHR

- “continuous limitation of privacy [...] makes the **essence** of the right disappear.”

- passive subject in communications: “the called person can become, without his will, suspect.”

*“Taking surveillance measures,
without adequate and sufficient
safeguards,
can lead to destroying
democracy
on the ground of defending it”*



Hungarian Constitutional Court



Irish High Court



ECJ

General principles in EU case-law:

- Respect for privacy and secrecy communications in art. 8 ECHR
- Surveillance must be 'strictly necessary', not merely 'useful' (EctHR Silver, §98)
- Proportionality: the more invasive, the higher the barrier
- Blanket retention of biometric data illegal, irrespective of its retention period (ECtHR Marper, §119-125)
- If there exist “less restrictive alternatives” to prosecute serious crime, surveillance is illegal (recent judgement ECJ Schecke, §86)
- These principles apply to every aspect: retention, access conditions, further processing of data

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Evaluation

- [Part I](#) covers the latest developments which occur
- [Part II](#) gives a general view of the accomplishments

STATE OF EVALUATION

WANTED!

DEAD OR ALIVE!



Osama bin Laden

UP TO
\$30,000,000
REWARD!





SAT

SC(I,F)

SHO(S)

SIL

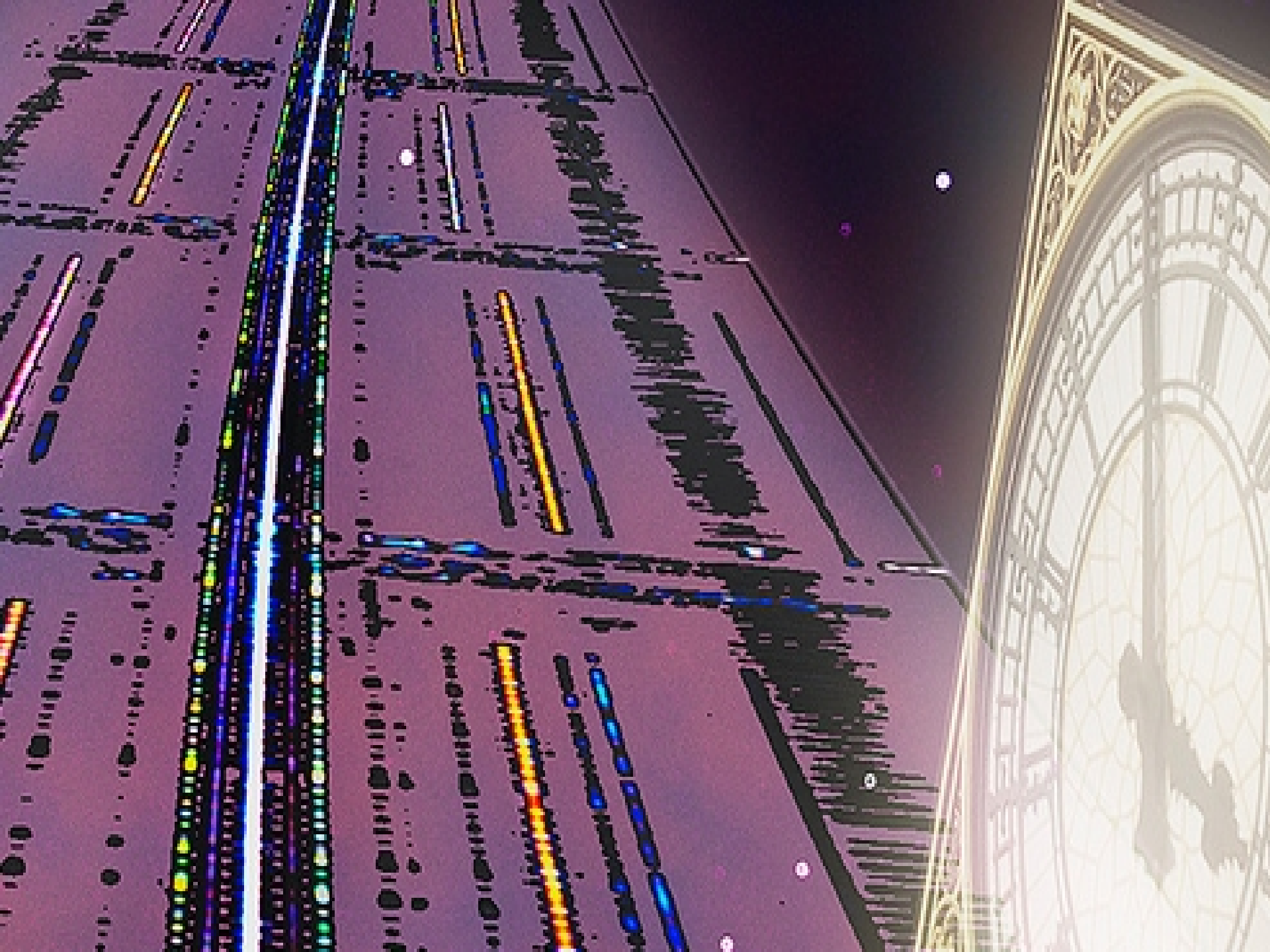
Book Series
Taylor, William
1841-1842
Shelton, George (1841-1842)







HARMONISATION FAILED









46

GEER
2095

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STATE OF AFFAIRS IN THE COMMISSION





**They did receive
SOME data...**

**... but
apparently they
asked a wrong
question**







AM ACTION MAN

- MOTORISE
- GEMOTORISEERD
- MOTORBOOT

MISSION RAFT



- CANON LANCE-MISSILES
- HET KANON VUURT ECHTE RAKETTEN AF
- FUNKTIONIERENDES FLUGKÖRPER-GESCHÜTZ*

TAURUS

*NICHT ERHÄLTICH IN DEUTSCHLAND, ÖSTERREICH UND DER SCHWEIZ

“toys for the boys??”



PERSONNAGE NON INCLUS • ACTIEFIGUUR NIET INBEGREPEN
FIGUR NICHT ENTHALTEN

EQUIPEMENT DE MISSION • MISSIE HULPPAKKET • EINSATZ AUSTRÜSTUNG



- EQUIPEMENT DE COMBAT
- GEVECHTSUITRUSTING
- COMBAT KIT*



- MISSION DESERT
- WOESTIJNUITRUSTING
- DESERT MISSION



- EQUIPEMENT DE SURVIE
- OVERLEVINGSPAKKET
- OUTDOOR SURVIVAL



- EQUIPEMENT DE TRAI
- BASISUITRUSTING
- BASIC TRAINING



- COMMANDO HAUTE-MONTAGNE
- KLIMUITRUSTING
- CLIMBING SET



- COMMANDO ECLAIR
- ANTI-TERRORIST POLI
- S.W.A.T. POLICE



- PILOTE DE CHASSE
- STRAALJAGER-PILOOT
- ACE FLYER



FR/NL/D 07/93

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Taking on the Data Retention Directive

Brussels, 3 December 2010



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- ▶ [Data Retention Directive](#)
- ▶ [Discussion paper for the](#)

Legislations

- ▶ [Data Retention Directive 2006](#)
- ▶ [ePrivacy Directive 2002/58](#)
- ▶ [Expert Group Platform on electronic data retention](#)
- ▶ [Rules of procedure of the group](#)

Commissioner Malmström announces intention to amend Data Retention Directive

03/12/2010

A conference about the Data Retention Directive today was the last step before the Commission publishes its evaluation of the directive. In her speech, EU Commissioner Cecilia Malmström made clear that the Directive will be changed: "I am convinced that data retention is here to stay. Access to telecommunications data is, at least in some cases, the only way of detecting and prosecuting serious crime. But most, perhaps all, of us would agree that the Data Retention Directive leaves room for improvement. I therefore intend to prepare a proposal to amend the Directive."

Cecilia Malmström emphasized that the Directive should be improved in a full and open public debate. The purpose and the scope of data retention should be limited to what is necessary, and the Directive should contain all necessary safeguards to protect against abuse. The ongoing evaluation of the Directive will be presented in Spring 2011, with the aim to come up with a well-prepared proposal to amend the Directive as soon as the procedures allow.

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1 „Retention makes more data available to law enforcement“

- Much data is available without data retention.
- Does more data make a difference?

72% of data requests do not result in an indictment.

2 „Retained data is used to prosecute crime etc.“

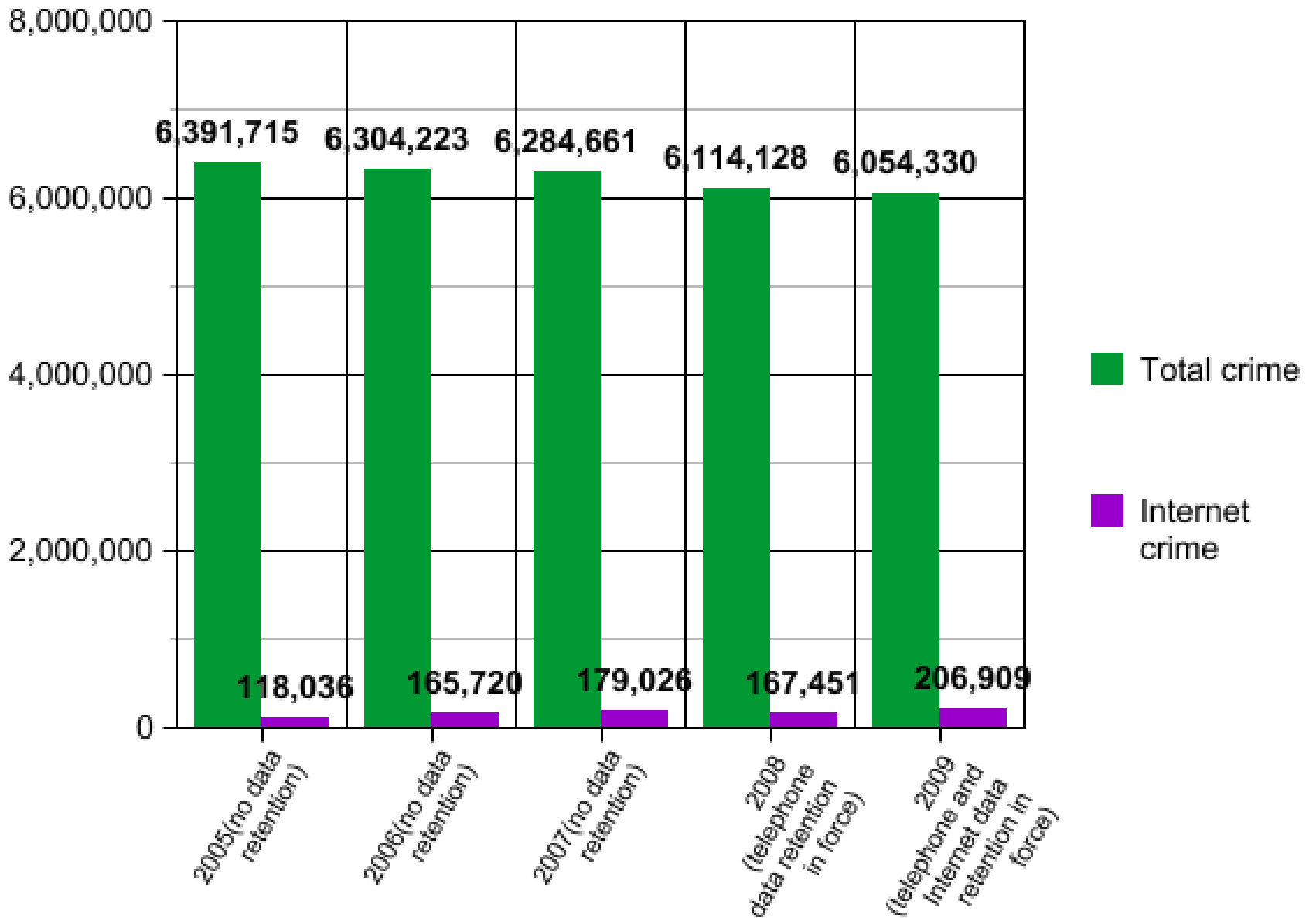
- In 33% of criminal investigations, a lack of traffic data can be compensated
- In total, blanket retention can make a difference to 0.002% of criminal investigations at most

2 „Retained data is used to prosecute crime etc.“

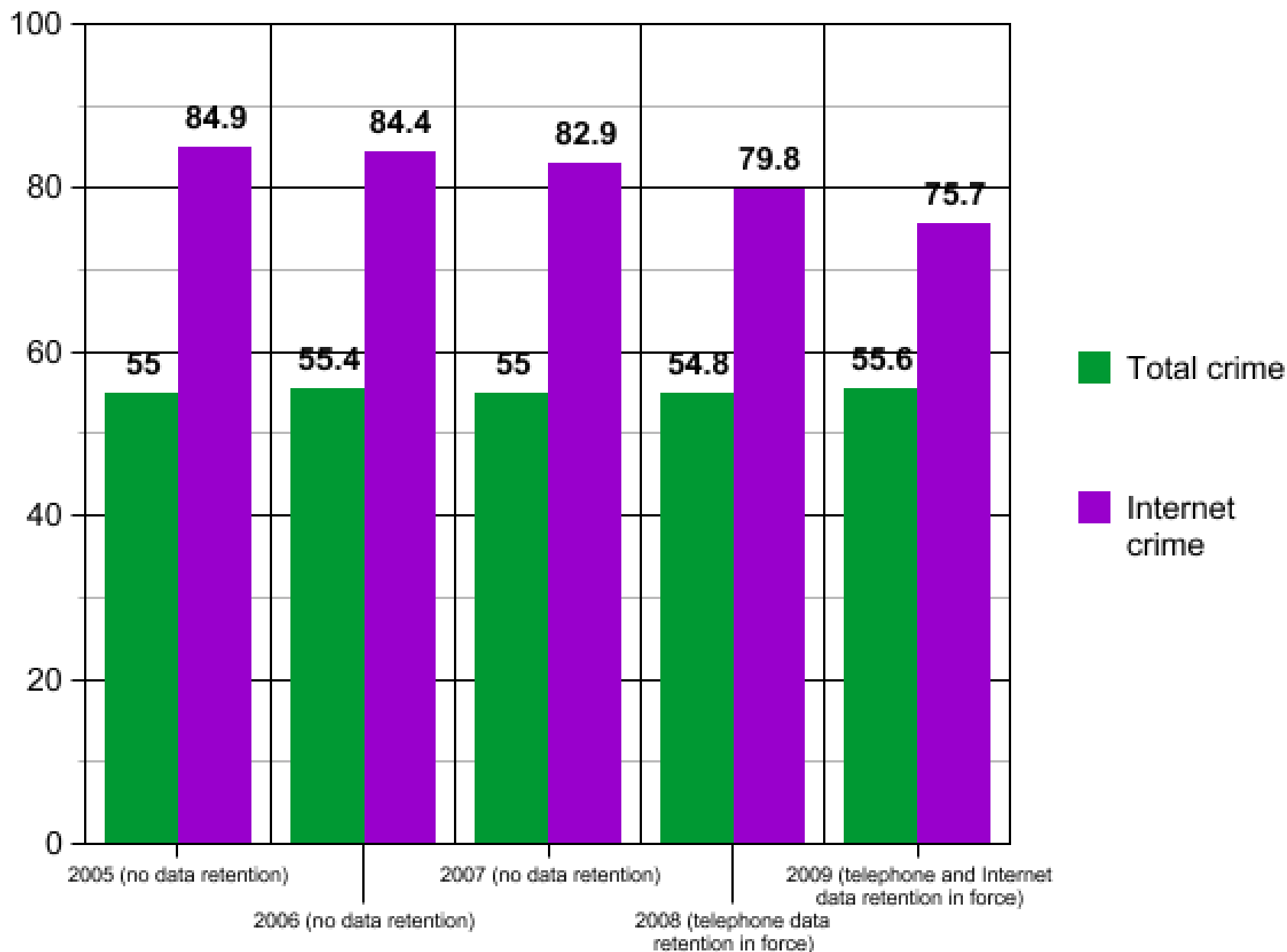
➤ Data retention disrupts the prosecution of crime:

46.4% used or planned to use an anonymization service.

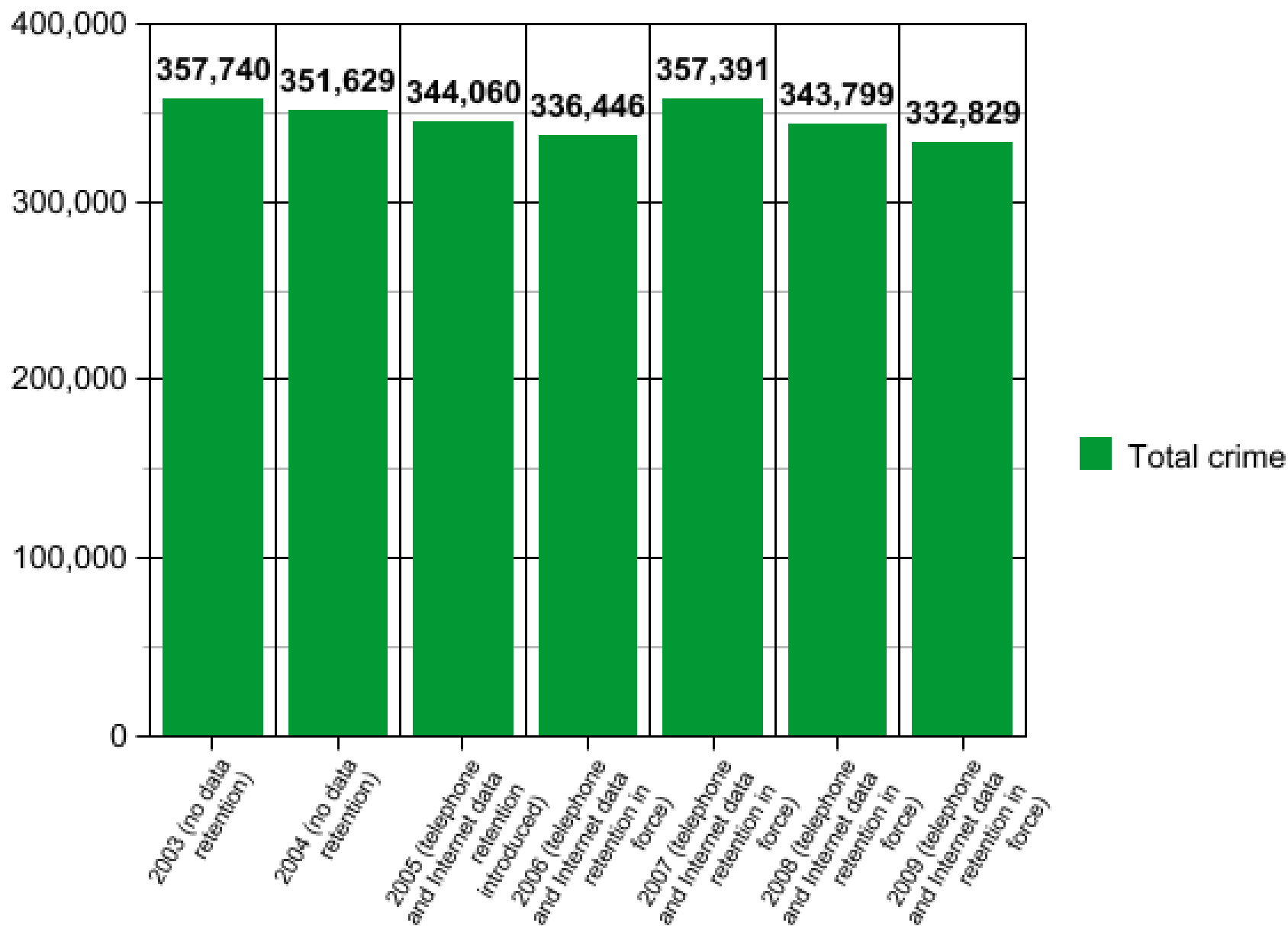
Registered crime in Germany



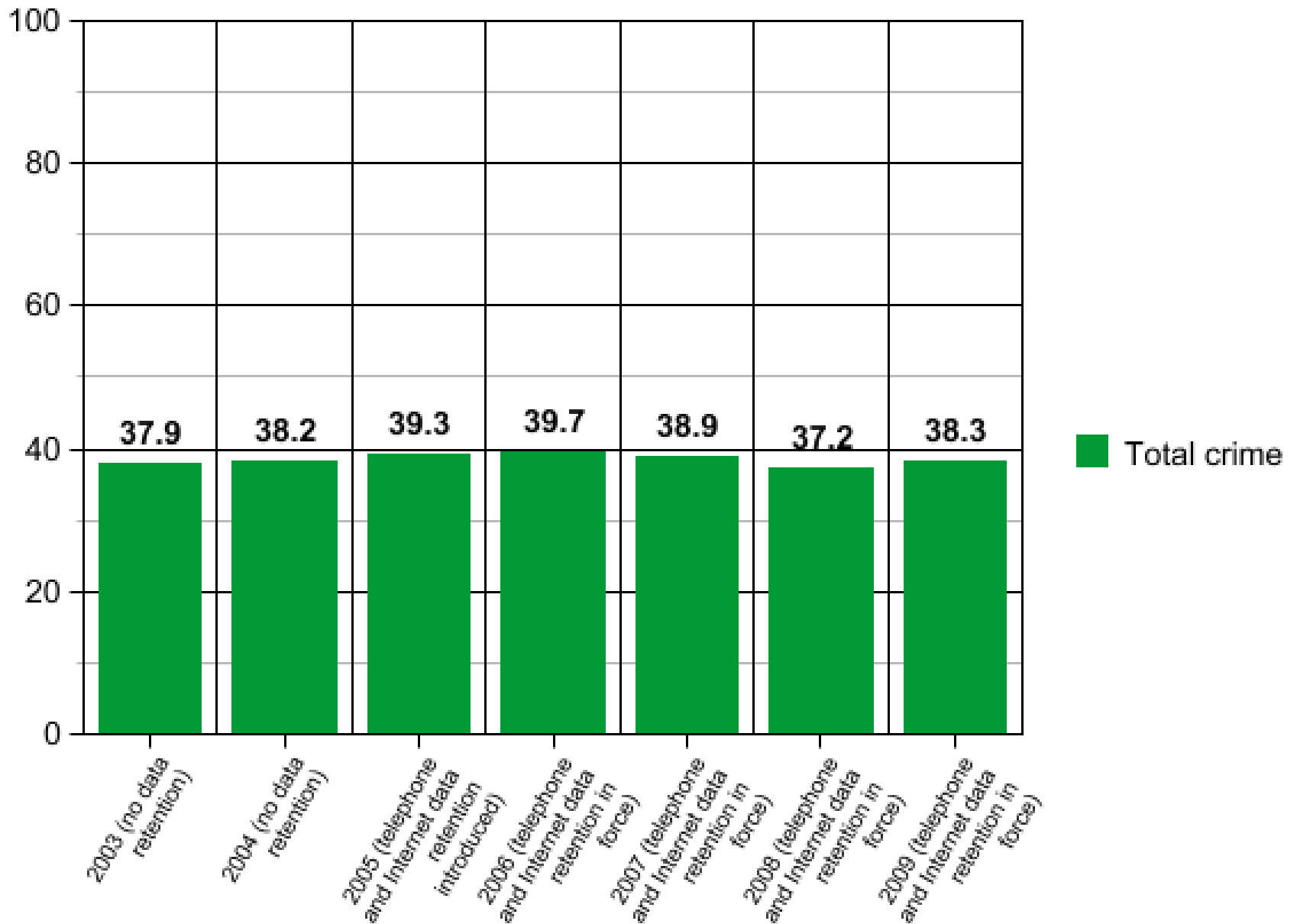
Crime clearance rate in Germany



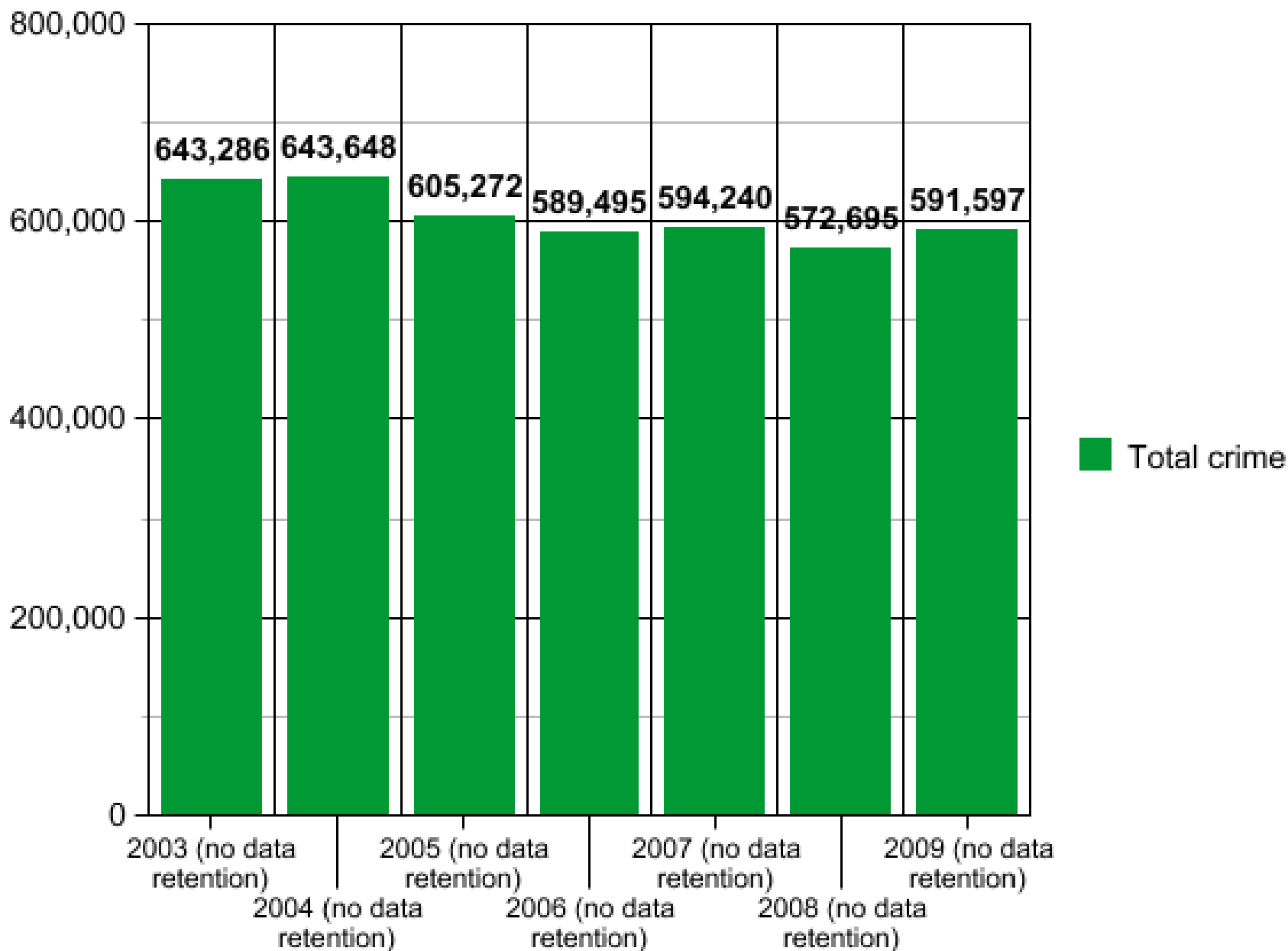
Registered crime in the Czech Republic



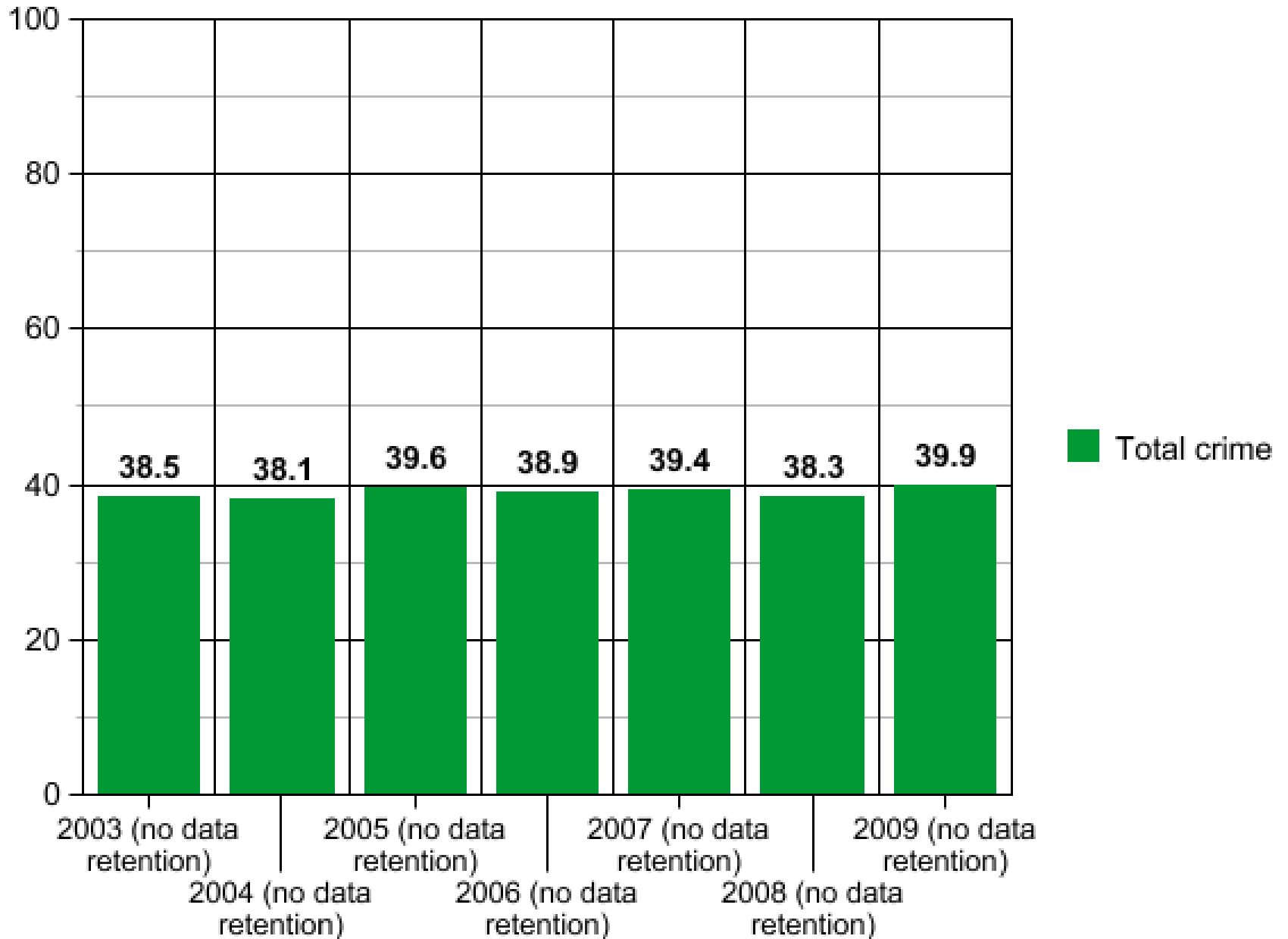
Crime clearance rate in Czech Republic



Registered crime in Austria



Crime clearance rate in Austria



Data retention is superfluous

- No statistically significant impact on crime or the investigation of crime

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CASES OF ABUSE

Page last updated at 21:11 GMT, Tuesday, 17 November 2009

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News Front Page



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Magazine

T-Mobile staff sold personal data

Staff at mobile phone company T-Mobile passed on millions of records from thousands of customers to third party brokers, the firm has confirmed.

Details emerged after the firm alerted the information commissioner, who said his office was preparing a prosecution.

Christopher Graham said brokers had sold the data to



Information Commissioner: "The penalties... aren't strong enough to stop it"



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Czuchnowski przed komisją śledczą

Inwigilacja dziennikarzy zamiatana pod dywan?

19:08 23.11.2010

Autor: msies, gsad; Źródło: PAP, IAR

– Sprawa podsłuchiwania dziennikarza „Gazety Wyborczej” nacisków. Komisja zajmowała się tym, co miały prowadzić w latach 2005-2007.

onet.pl Wiadomości
Start Kraj Regionalne Świat Biznes Sport Kłosk Nauka CNN Ciekawostki Fotoreportaż
Start 1 Kraj Wydarzenia 2010: Walka o krzyż Wydarzenia 2010: Polska Trzy lata rządu Donalda Tuska Wydarzenia 2010: Co działo się w nauce Roszady w PiS

Inwigilacja dziennikarzy badana

w

gazeta
WYBORCZA.PL

Sąd w Warszawie nakazał prokuraturze zbadać sprawę dziennikarza "Gazety" Bogdana Wróblewskiego



Wróblewski znalazł się wśród osób, których kontakty telefoniczne były w przeszłości nadzorowane przez służby specjalne i policję.

Sprawę badała prokuratura w ramach śledztwa, stwierdzając, że nie doszło do przestępstwa. Szczegółów nie ujawniono ze względu na tajemnicę chroniącą całe postępowanie.



Tagi: Dziennikarze

Inwigilacja dziennikarzy była zgodna z prawem?

13 paź, 19:01
Le / PAP



Tanusz Krasoń (z prawej), fot. PAP/Paweł Supernak

Przewodniczący sejmowej komisji ds. służb specjalnych Janusz Krasoń (SLD) powiedział dzisiaj, że nie było nieprawidłowości w zakresie stosowania technik operacyjnych w stosunku do dziennikarzy w latach 2005-2007.

Krasoń dodał, że wyjątkiem jest jeden z przypadków, który "jest przedmiotem badania przez prokuraturę". – Wszystkie działania podejmowane przez służby były podejmowane zgodnie z prawem albo za zgodą prokuratora, albo z polecenia prokuratora lub z polecenia sądu, zgodnie z prawem zlecone do realizacji - powiedział.

Jak zaznaczył, "skala opisywanych (przez media) zjawisk nie była taka, jak w rzeczywistości". Nie ujawnił jednak, ilu dziennikarzy te działania dotyczyły. Poinformował też, że na kolejnych posiedzeniach komisja będzie jeszcze poruszała temat

DOOR NICK KIVITS | ILLUSTRATIES MAKI@SHOP AROUND



Hoe veilig zijn de mailboxen van het kabinet?

Yes, we're in

SARAH PALIN OVERKWAM HET IN SEPTEMBER: EEN STUDENT WIST TOEGANG TE KRIJGEN TOT HAAR PRIVÉMAILADRES. DAT WAS WERELDNIEUWS. REVU VROEG ZICH AF: ZIJN DE MAILBOXEN VAN ONZE KABINETSLEDEN TE HACKEN? EN ZOJA, IS ONZE VEILIGHEID IN HET GEDING? WE KOMEN TERECHT IN DE PRIVÉMAILBOX VAN STAATSSECRETARIS VAN DEFENSIE JACK DE VRIES. NIET OM DE WET TE OVERTREDEN, MAAR IN HET LANDBELANG.

Function Creep

Overview:

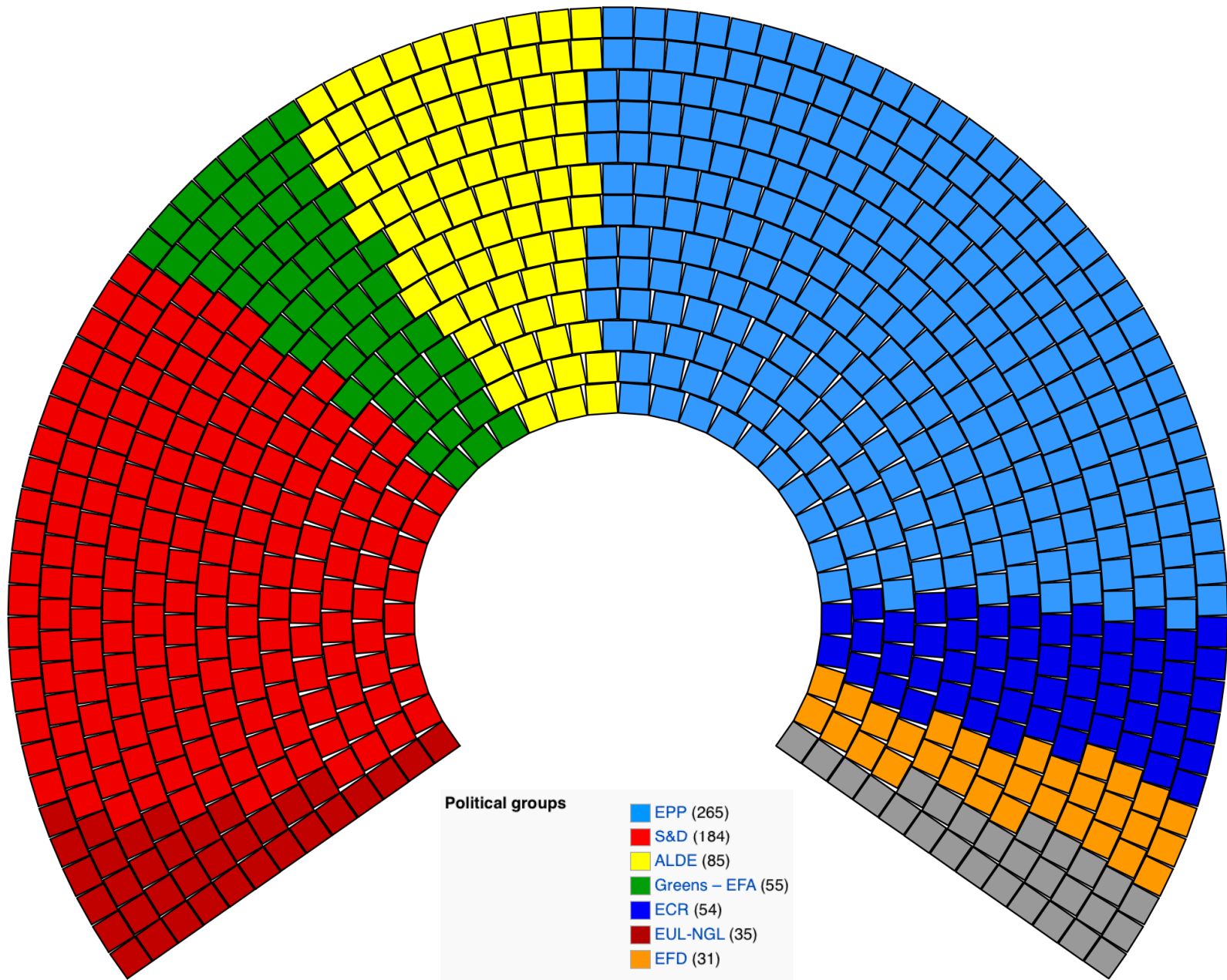
- What is data retention and why don't we like it?
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Data retention is here to stay??



CONSILIUM



Political groups

- EPP (265)
- S&D (184)
- ALDE (85)
- Greens - EFA (55)
- ECR (54)
- EUL-NGL (35)
- EFD (31)
- Non-Inscrits (27)





Digital Civil Rights in Europe

If you wish to help EDRI promote digital rights, please consider making a private [donation](#).

Search

European Digital Rights was founded in June 2002. Currently 29 privacy and civil rights organisations have EDRI membership. They are based or have offices in 18 different countries in Europe. Members of European Digital Rights have joined forces to defend civil rights in the information society. The need for cooperation among organizations active in Europe is increasing as more regulation regarding the internet, copyright and privacy is originating from European institutions, or from International institutions with strong impact in Europe.

EUROPEAN
DIGITAL
RIGHTS

News & Announcements

EDRI-gram - Number 8.21, 3 November 2010

[New EDRI members](#)

[Google admits it was gathering passwords and emails via StreetView](#)

[ECJ decides private copying levies are not allowed for business use](#)

[EC refers Austria to ECJ for lack of independence of DPA](#)

[Is YouTube back online in Turkey?](#)

[Free Culture 2010 in Barcelona](#)

[Continuing the battle against data retention](#)

Cecilia Malmström
European Commissioner for Home Affairs
BE-1049 Brussels

106 NGOs

3 September 2010

Dear Ms Malmström,

Thank you for your reply of 12 July to the joint letter of more than 100 organisations from 23 European countries asking you to “propose the repeal of the EU requirements regarding data retention in favour of a system of expedited preservation and targeted collection of traffic data”.

I welcome your intention to assess the proportionality of directive 2006/24, and I support the opinion you gave in this regard as a Member of European Parliament: *“I have so far not been convinced by the arguments for developing extensive systems for storing data, telephone conversations, e-mails and text messages. Developing these would be a very major encroachment on privacy, with a high risk of the systems being abused in many ways. The fact is that most of us, after all, are not criminals.”*¹ This statement illustrates an understanding of the fact that such encroachments must be necessary and proportionate rather than simply occasionally useful.

In your reply of 12 July you ask for more information regarding two statements in our letter: *“Studies prove that the communications data available without data retention are generally sufficient for effective criminal investigations. Blanket data retention has proven to be superfluous, harmful or even unconstitutional in many states across Europe, such as Austria, Belgium, Germany, Greece, Romania and Sweden.”* We have compiled some evidence on these points:



Stoppt die Vorratsdatenspeicherung

Gegen die totale Protokollierung von Telefon, Internet und E-Mails

EUROPEAN
DIGITAL
RIGHTS



Ogólnopolska
Federacja
Organizacji
Pozarządowych

NALEŻYMY DO

O NAS WATCHDOG

THINK TANK

EDUKACJA

AKCJE

W MEDIACH

WAŻNE STRONY



F U N D A C J A
PANOPTYKON



Publications of the German Working Group on Data Retention

Video: Bundestag streitet über Vorratsdatenspeicherung
Offener Brief des AK Vorrat an den Bundesdatenschutzbeauftragten
Keine Kommunikationserfassung ohne Verdacht! (14.11.2010)
German Minister wants to end EU-wide communications data retention

Aktuelle Termine

Mo, 27.12.2010 **Vortrag "Data Retention in the EU five years on"**
[weitere Termine](#) | [eintragen](#) | [Ortsgruppentreffen](#)

Retencja danych - trudne słowo, trudny problem



BITS OF FREEDOM

VERDEDIGT DIGITALE BURGERRECHTEN

◆ HOME ◆ DOE MEE ◆ ONS WERK ◆ OVER ONS ◆ CONTACT ◆ PERS



GŁÓWNE PR



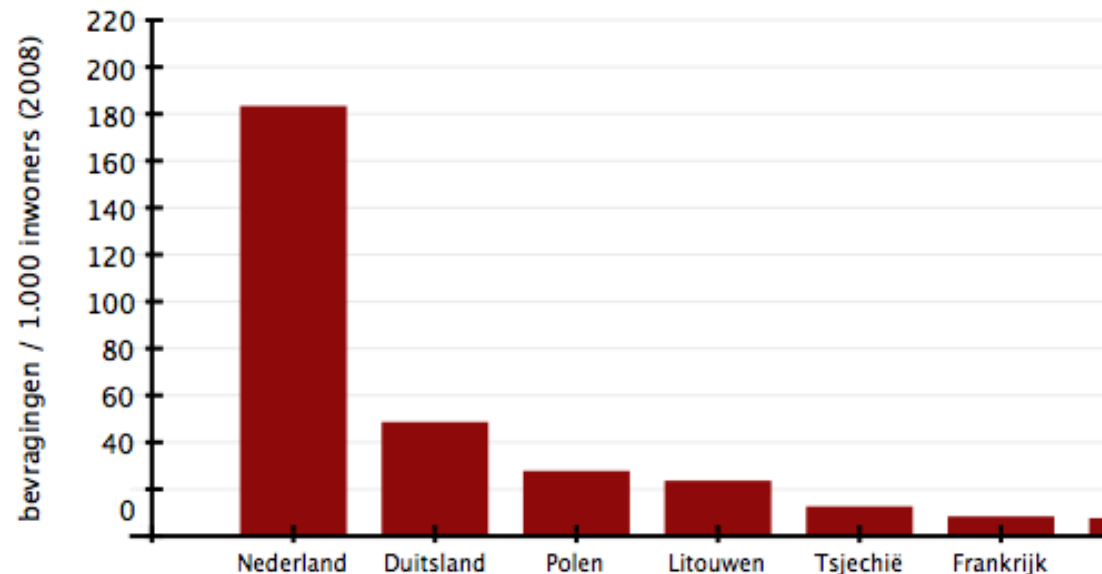
Data collection

From Wikipedia, the free encyclopedia

Data collection is a term used to describe a process of preparing and collecting **data** - for example as part of a **process improvement** or similar project. The purpose of data collection is to obtain information to keep on record, to make decisions about important issues, to share information on to others. Primarily, data is collected to provide information regarding a specific topic.^[1]

Data collection usually takes place early on in an improvement project, and is often formalised through a **data collection plan**^[2] which contains the following activity.

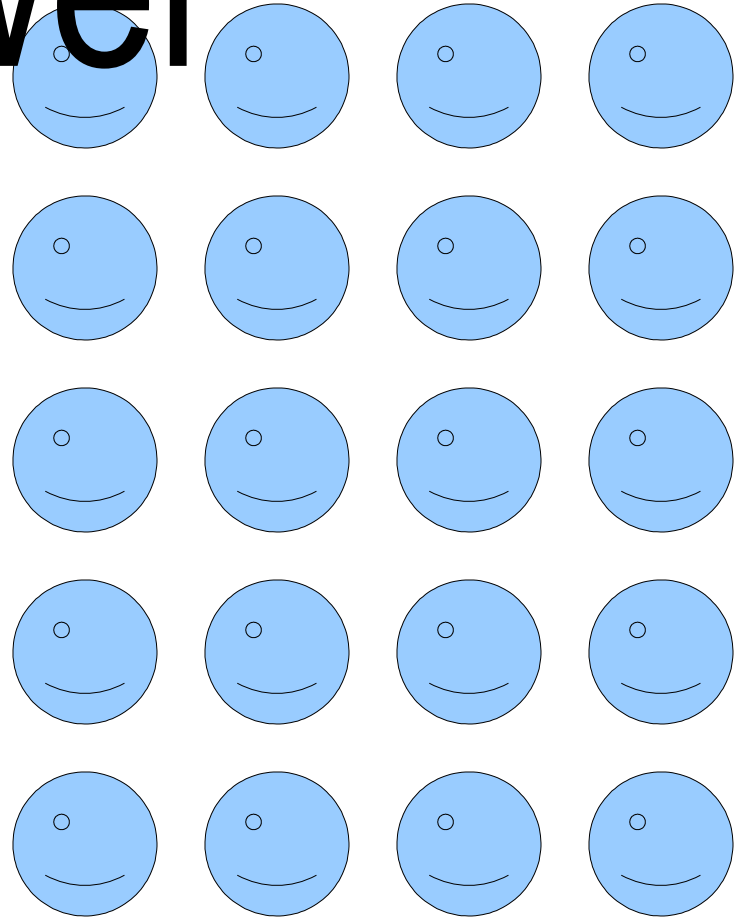
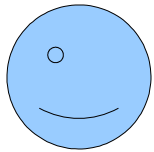
1. Pre collection activity – Agree goals, target data, definitions, methods
2. Collection – data collection
3. Present Findings – usually involves some form of sorting^[3] analysis and/or presentation.



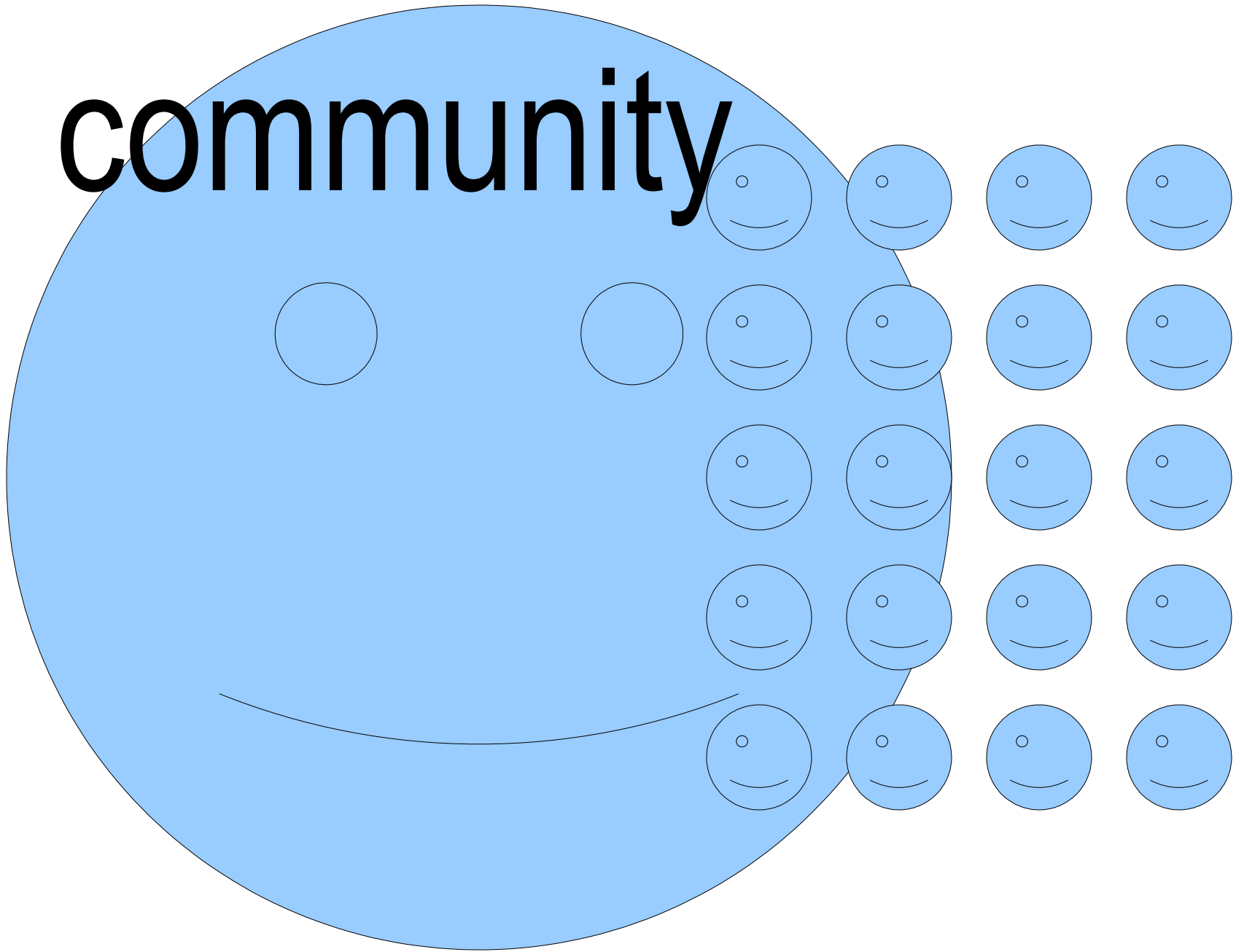
Bronnen:

https://www.bfj.nl/live/wp-content/uploads/BL_info_2006_24_EC_data_retention_dyn.pdf

Lobby power



community



Overview:

- What is data retention and why don't we like it?
- Constitutional court cases
- State of evaluation of the directive
- State of affairs in the European Commission
- Our evidence: data retention is superfluous
- Abuse cases: data retention is harmful
- The upcoming battle
- **Why now is the time to get involved**

Why the time is now to get involved:

- We don't like data retention
- The current situation is a mess
- We have the constitutional court decisions on our side
- We have the facts on our side
- Data retention causes serious harm to 500 million Europeans

Why the time is now to get involved:

- First review after inception in 2005
- Last moment to attack the core principle of blanket data retention
- We need political momentum
- We need to build a strong European movement against blanket data retention

Why the time is now to

GET INVOLVED

***2011 will be the decisive year
for ending data retention***



workshop room B04
Day 2, 20:00 hrs



Data Retention in the European Union

Why now is the time to get involved

Twitter:

@edri_org @ak_vorrat @bitsoffreedom @panoptykon

#dataretention



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