



Ericsson Position on Key Elements of the Data Protection Regulation

Ericsson welcomes the European Commission's proposal for a General Data Protection Regulation, which contains very important and helpful recommendations for reforming Europe's current data protection framework. We share the view that a Regulation can help address the current challenges caused by the fragmentation of legal regimes between 28 Member States and help unleash the potential of the EU Digital Single Market.

Ericsson commends the work done by the Council of the EU and the strong backing it has given to the fundamental principles of the proposed Regulation. We firmly support the progress made by the Council of the EU following the partial general approach reached on Chapters IV & V and believe that future discussions should continue to seek to improve the quality of the legislation in an effort to achieve a balanced Regulation.

While acknowledging the positive steps taken by the Council of the EU, including the introduction of key elements such as legitimate interest into the draft text, Ericsson wishes to express its thoughts on the following issues, which are of critical importance:

Controller & Processor

Ericsson strongly believes that the modernization of Europe's data protection regime requires a review of the roles and responsibilities of data controllers and processors. However, Ericsson cautions against the implementation of a "one size fits all" solution that blurs the responsibilities in the data processing value chain, which could also jeopardize the protection of citizens' rights and increase costs on industry.

International Data Transfers

Ericsson stands by the view that while aiming to encourage growth in the EU's internal market the proposed Regulation must also foster global trade in services and promote cross border data flows. Ericsson believes that not all data transfers are equal and supports the introduction of legitimate interest as a legal basis to transfer data. Ericsson encourages the Council of the EU to preserve this legal provision during triilogue discussions.

Sanctions

Ericsson recognizes that reasonable administrative fines are a necessary part of an effective data protection regime so that deceptive enterprises are not able to exploit non-compliance. However, Ericsson believes that an enforcement strategy promoting accountability and increased detection should be encouraged over simple deterrence and codified in well-balanced sanction guidelines.

Controller & Processor: Today's current legislative framework as laid out in the 1995 Directive sets out a clear separation between the role of a data controller and a data processor. The responsibilities between these two entities are today also well defined by clear contractual terms creating a separate liability for each body when a failure to meet the terms required in the contract occurs. Ericsson firmly believes that the freedom to negotiate between contractual parties is a fundamental principle which should be retained in the proposed Regulation.

While Ericsson firmly agrees with the need to review the roles and responsibilities of data controllers and data processors, we caution against the introduction of a "one size fits all" solution that blurs the responsibilities in the data processing value chain. Such a solution risks reducing the protection of EU citizen's rights while leading to unnecessary administrative burdens on businesses.

Ericsson stands by the view that the roles and responsibilities set out in the 1995 Directive have overwhelmingly stood the test of time and the existing principles regulating the roles, responsibilities and liabilities in the data processing value chain should be maintained in the proposed Regulation. Ericsson encourages the Council of the EU to pursue such provisions throughout its revision of the text and during triilogue negotiations.