

EN

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Answer given by Mr Brunner
on behalf of the European Commission
(22.10.2026)

As announced in the ProtectEU Strategy¹ and the Roadmap for effective and lawful access to data for law enforcement², the Commission has been preparing an impact assessment on possible measures on data retention to overcome obstacles in the criminal justice response to crime³. The impact assessment examines different legislative and non-legislative policy options in light of their effect on security, fundamental rights as well as burden for businesses. The assessment takes full account of the case law by the Court of Justice of the EU.

While the electronic evidence Regulation⁴ facilitates cross-border access to digital evidence, it does not create storage obligations for service providers, who are bound to delete data as soon as it is no longer needed for business purposes. Member States currently follow different approaches and have diverging or no data retention rules in place. Relevant data may therefore not be available for domestic or cross-border investigations into serious and organised crime affecting the security of citizens across the EU.

Any EU initiative must comply with the Charter of Fundamental Rights of the EU and the EU Treaties, including the principles of subsidiarity and proportionality, the respect for Member State competences, and it must be designed in a way that ensures an appropriate balance between the effectiveness of criminal investigations and prosecutions, the protection of fundamental rights and personal data, and the reduction of unnecessary regulatory burdens for economic operators.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on ProtectEU: a European Internal Security Strategy, COM/2025/148 final: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025DC0148>.

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Roadmap for lawful and effective access to data for law enforcement, COM/2025/349 final: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025DC0349>.

³ Call for Evidence ‘Data retention by service providers for criminal proceedings – impact assessment’: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14680-Data-retention-by-service-providers-for-criminal-proceedings-impact-assessment_en.

⁴ Regulation (EU) 2023/1543 of the European Parliament and of the Council of 12 July 2023 on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings and for the execution of custodial sentences following criminal proceedings: <https://eur-lex.europa.eu/eli/reg/2023/1543/oj/eng>.