QUESTIONNAIRE
WITH A VIEW TO TAKE STOCK OF THE OPERATION OF
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/CE

QUESTIONS TO THE PRIVATE SECTOR (ISPs, TELECOM OPERATORS,
NETWORK AND CABLE OPERATORS)

4.A. Assessment of the application of Directive 2006/24/EC, taking into account further
developments in electronic communications technology and the statistics provided
pursuant to Article 10.

4.A.1. Does the implementation of the Directive have the effect of requiring communication
providers to retain data or a longer period than permitted for business purposes under
Directive 2002/58/EC?

No. Effectively, in consequence of the implementation of the Directive, communication
providers (Sonaecom) are obliged to retain data for a period of a year. On the other side, for
example, according with the Directive 2002/58/EC data can be retained for effects of invoicing
and collection, what in practical terms can happen in a period smaller than a year.

4.A.2. Do national authorities oblige communication providers to retain data, e.g.
regardless of size, customer type and number, type of service? If national authorities
differentiate between private sector stakeholders, please describe the criteria for such
differentiation.

The criterion of the Portuguese legislation regarding data retention is the type of the service
provided. Portuguese national authorities have defined several aspects that should be considered,
regarding the data retention by the communication providers, bearing in mind the need of investigation, detection and prosecution of serious crime.

4.A.3. Since when are data retention obligations in force, and, where relevant: since when is data retention applied in practice within a specific Member State with regard to specific communication providers?

Data retention is mandatory since the 4th of August 2009. Since then the Portuguese law that implemented the Directive is in force. Sonaecom retains data since that date.

4.A.4. Please provide details about the investment costs, if any, to fulfill their obligations on:

4.A.4.a. retaining the data for the period required by national law,

4.A.4.b. ensuring the security requirements imposed by the Directive,

4.A.4.c. responding to requests without “undue delay”, as defined by national law or in a service level agreement.

4.A.4.d. ensuring that data are only retained for the purposes defined in the Directive and separated from data used for business operations, as determined by national law and necessary.

Sonaecom addressed all obligations in the same technical solution. The actual development costs are € 500.000,00 (five hundred thousand Euros).

The operational cost to guarantee the service level for immediate response, providing the fulfillment of the Directive, are included in the daily work of Sonaecom collaborators.

4.A.5. Please provide details about the implementation of specific organizational measures and procedures, if any, by communication providers that are necessary to comply with the obligations identified in the previous question (a-d)?

A project team was created to implement the legal requirements, e.g. acquisition and installation of a data processing system, development of an electronic communication interface with law enforcement authorities;
All the requirements in the Directive concerning the specified utilization of the data retained are assured by the system implemented.

4.A.6. Is it possible to quantify financial impacts of the necessary measures? If so, please provide the relevant information to assess this impact.

Please see response to question 4.A.4.

4.A.7. Does the reimbursement by national authorities, if any, cover the expenditure necessary for compliance with the Directive?

Portuguese authorities do not foresee any reimbursement to cover all the necessary expenses to fulfill the demands of the Directive. Those expenses were entirely supported by the communication providers.

4.A.8. Does the relevant legislation and practice provide providers with the legal certainty regarding their obligations concerning the protection of data of their subscribers and users?

Yes, Portuguese legislation and practice provides Sonaecom legal certainty concerning the criteria and the concepts on protection of the personal data of our subscribers.

4.A.9. Have providers received direct requests from authorities in another Member State than that of their establishment? Were their any problems with these requests? If so, please provide for a description of these problems.

Until now Sonaecom did not yet received any requests from the Portuguese authorities or from authorities of another Member State.

4.A.10. Please provide information, differentiated by type of operator etc concerning the elements of section 1.A.1. of this questionnaire.

In Portugal the Directive implementation is in an experimental phase, therefore Sonaecom did not yet received any requests regarding this matter.

Exchange of information with law enforcements authorities will be done by an electronic system interface developed for this purpose. The information requests will be digitally signed by a judge in coordination with law enforcements authorities.
4.A.11. Which economic effect do providers observe

4.A.11.a. on competition,

4.A.11.b. investment in new infrastructures and services,

4.A.11.c. retail tariffs? Please provide quantitative information, and where such is not possible, qualitative indicators to allow assessment of the economic effect.

In the moment we have not registered other economic effects beside those resulting from the operating costs that Sonaecom had during the implementation of the system and all necessary processes to fulfill the Directive.

4.A.12. Centralized storage of retained data

4.A.12.a. Do operators store data at a centralized level outside of the country where the data are generated? If so, please provide details about the localization, size, and business impact of the centralized storage.

Sonaecom data store is centralized in the country where the data is generated, presently, in Portugal.

4.A.12.b. Do operators transfer retained data that are stored at centralized level to other countries that are bound by the Data Retention Directive or to third countries?

Sonaecom maintains all the data stored in the Portuguese territory.

4.B. Evaluation of the effectiveness of existing (non-)legislative measures or technical solutions to ensure traceability of users of communications services, in particular mobile phone lines, opened with prepaid SIM cards.

4.B.1. Please provide information about the number of cases where communication providers been requested to identify users of pre-paid SIM cards?

Sonaecom has no information available concerning the number of identification requests of users of pre-paid SIM cards.