



Questionnaire re. the right to privacy in the digital age – Swedish response

Providers of electronic communications networks and services are regulated by the Swedish Electronic Communications Act (SFS 2003:389). The Act is mainly an implementation of the EU Electronic Communications Framework (2002/21/EC et al.). As the EU Directives have been revised (most recently in 2009), the Swedish Electronic Communications Act has also been amended. At the time of writing this note, negotiations on a new EU framework for electronic communications regulation (EU Electronic Communications Code, 'EECC') are on-going.

Concerning digital privacy and integrity, the following provisions in the Swedish Electronic Communications Act are of interest:

Providers of electronic communications networks (henceforth 'operators') must apply all reasonable measures to keep networks secure and robust. Incidents of security breaches are to be notified to the national competent authority. Operators must, as a rule, delete traffic data when that data is no longer needed for, e.g., billing purposes. Localisation of metadata may, as a rule, be processed only to the extent consent is obtained from the subscriber.

Operators must apply technical measures to enable law enforcement authorities to secretly monitor or intercept network communications. Moreover, operators that control fixed network elements enabling communications across the Swedish border must cooperate with the national signals intelligence agency in order to collect and monitor cross-border traffic.

There are provisions to the effect that operators must retain metadata about subscribers' use of the network for law enforcement purposes (Traffic Data Retention). The scope of application of these provisions is currently uncertain in the light of the ECJ judgments in the *Digital Rights Ireland* and *Tele2* cases, as well as national court judgments.