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5 **Draft topical resolution**

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7 **Stop Data-Retention in Europe!**

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9 **Tabled by: Bündnis 90/Die Grünen, Germany**

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11 Supported by: ICV (Spain), déi gréng (Luxemburg), Miljöpartiet de gröna (Sweden), Die Grünen
12 (Austria)

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15 After the decision of the German Federal Constitutional Court on march 2nd 2010, a European
16 discussion started about the future of data retention in the EU. Commissioners Malmström and
17 Reding declared that they want a quick evaluation of the Directive. Since the European
18 Parliament and Council adopted Directive 2006/24/EC, on "the retention of data generated or
19 processed in connection with the provision of publicly available electronic communications
20 services or of public communications networks and amending Directive 2002/58/EC" in 2006,
21 protests and demonstrations demanding „Freedom not fear" have spoken out against this
22 directive. The protesters all over Europe stated that the surveillance of all European citizens and
23 the storage of personal telecommunication data for at least six months is a violation of human
24 rights, especially the right for privacy and the right of informational self-determination.

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26 Under current regulations on data retention, the telecommunications data of all 450 million EU
27 citizens are retained generally and without a prior suspicion, for the purpose of access for
28 security authorities in the case of severe crimes. This serious encroachment on fundamental
29 rights of all citizens was pushed through one of the fastest legislative procedures in the history of
30 the EU – it took less than three months from the presentation of the Commission's draft to the
31 vote in Parliament. There was no real debate with data protection bodies and the public, despite
32 Privacy International (PI) and European Digital Rights (EDRI) having collected more than 50.000
33 signatures against the proposal in a very short time. Additionally, last minute amendments in the
34 plenary by the big groups in the European Parliament sharpened the Committees proposal in
35 central points.

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37 Herewith the principle of the presumption of innocence is virtually on the brink of collapse.
38 Already, lawyers are talking about the emergence of a police state because of the fact that
39 private telecommunications networks and companies are forced to structure their technical
40 installations to suit security policies. The fact that there has been no real necessity is largely
41 ignored. According to the German Federal Criminal Police Office's own figures, a lack of
42 telecommunications data led to a crime not being solved in less than 0.01 % of cases. In
43 contrast, the ever-increasing accumulation of data is a disproportionate encroachment on the
44 individual's rights and gives rise to further security risks as the danger of misuse and
45 unauthorized disclosure is always lurking in these data stockpiles. The anti-terrorist strategy that
46 you can find a needle in a haystack by increasing the size of the haystack has long been proved
47 to be an illusion.

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49 Those interested in reducing the crime rate, and thus effectively combating serious crimes and
50 terrorism, must turn their backs on the symbolic gestures of experimental politicians and
51 concentrate on the difficult challenges posed by important societal problems. Therefore the
52 alternative security policy that the Greens are pursuing is aimed at combating all the dangers
53 faced by people and the environment in whatever area.

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55 As Greens – in Europe and worldwide – we know how important binding and enforceable citizens'
56 rights are for a functioning democracy. This holds true for the analogue world as well as for the
57 digital world. The German Court ruling stated that the German Implementation Act violates the

58 constitution and all data has to be deleted immediately. Not only the German Federal
59 Constitutional Court and a huge part of German civil society is against data retention. Due to
60 court rulings, the implementation of the data retention Directive was limited or even stopped in
61 other countries as well, like in Romania where the Constitutional Court stopped the Directive. This
62 is one reason that till now, six countries still have not implemented the Directive into national
63 law. The approach of Commissioners Malmström and Reding for an evaluation of data retention
64 affirms the broad criticism of data retention in Europe. We, as Greens, are calling on the EU-
65 Commission to really go for a comprehensive review of the Directive focussing on effectiveness,
66 necessity and proportionality, also in mind of the EU-Charter for Fundamental Rights. We want to
67 start a new approach to end this Directive now, not only in certain member states, but in the
68 whole EU. We want European politics to strengthen civil liberties and the value of privacy as laid
69 out in the European Convention of Human Rights and the EU-Charter for Fundamental Rights,
70 which is now binding due to the Lisbon Treaty.

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72 Since the coming into force of the Lisbon Treaty, we can see, that the European Parliament takes
73 responsibility of the EU-citizen rights in the several processes going on at EU level. From the so
74 called „SWIFT agreement“ with the United States, via the collection and exchange of Passengers
75 Name Records (PNR), to the secretly negotiated “Anti-Counterfeiting Trade Agreement” (ACTA) –
76 the Parliament made clear, that the protection of privacy and the rule of law is of utmost
77 importance. The policy of broad surveillance of private, social and work life has to end. We want
78 a Europe of freedom, that respects and defends civil liberties. For this, the European approach on
79 the struggle against the blanket retention of personal data has to be fought also in the member
80 states parliaments. In the new Europe of Lisbon we have to act together!

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82 The European Greens, together with other movements, want to lay the foundations for a policy
83 U-turn that will free us from the psyche of a society of fear and lead us into a Union where law is
84 supreme and there is recognition of the causes of danger and that with the engagement of the
85 people these can be minimized. In view of the present mood and the conservative parliamentary
86 majorities this will be an enormous challenge but we Greens are the right people to take this on.

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88 Therefore as European Greens, we want:

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- 90 – to abolish the blanket logging of our communications and locations (data retention)
- 91 – to strengthen the protests against data retention and new forms like PNR. We want to play
- 92 a vital role in cooperation with our civil society partners.
- 93 – that the EU-Commission stops data retention in Europe and make a turnaround in their
- 94 policies to more privacy and respect of civil liberties.
- 95 – to use the new power of the European Parliament after the Lisbon Treaty, to stop security
- 96 measures like the proposed PNR- and SWIFT-agreements, in which the whole population is
- 97 set under a general suspicion while data protection principles and juridical redress aren't
- 98 assured
- 99 – to strengthen the work and independence of the European Data Protection Supervisor and
- 100 focus on an EU approach for modern and binding European and international high
- 101 standards for data protection.
- 102 – to start a debate on the general question of fundamental rights in the field of police and
- 103 security measures in all parliaments in the EU – the European Parliament and the
- 104 parliaments in the EU member states
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