Integrity: using the undefined
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Abstract
On the 14th of December 2005 the European Parliament adopted the proposal on the retention of data processed in connection with the provisions of public electronic communication services and amending Directive 2002/58/EC (further to be referred to as the “Data Retention Directive”) as an expedient in the fight against terrorism. The directive has been the subject of a lot of discussion, not only by the Parliament that rejected the former proposals on this directive, but also by a lot of interest groups (internet providers, privacy- and human rights watchers, consumer groups, etcetera).

At the same time several states of the USA have been adopting laws that have to secure people’s personal data. These laws are the result of recent scandals where private data collection companies reported breaches in their computer systems which opened the risk of identity theft for hundred thousands of people.

Both the Directive and the American laws on the protection of privacy use the terms data security and especially data confidentiality and data integrity. What is to be understood by data confidentiality is often not under discussion, because the term confidentiality is clear to most people. Data integrity on the other hand is still subject to a lot of discussion. “Still” because the term integrity has been subject of discussion for almost two decades and with still no uniform definition on integrity; neither in the computer security community nor in the legal field.

This paper will look at the various understandings of the term integrity from the time it was introduced by computer scientists. It will research the different definitions and how these have been adopted by lawyers. One problem that will arise is that no legislator has ever defined the term integrity. As article 6 of the Data Retention Directive attends consequences to not ensuring the integrity of the communication data, it is important for providers to know the legal meaning of integrity, in order to secure their systems.

Further this paper will examine what legislators (in both the European Union and United States) have intended by using the word integrity. It will look at some legal cases where integrity was subject of discussion. Finally it will discuss and provide some legal elements that could or should be part of a definition of integrity.