

Milan, March 21, 2025

To:

Cybersecurity and Digital Privacy Policy

European Commission - Directorate-General for
Communications Networks, Content and Technology -
Deputy Director-General in charge of Directorates A-
C-E-H - Digital Society, Trust and Cybersecurity -
Cybersecurity and Digital Privacy Policy
(CNECT.H.2)European Commission - Directorate-
General for Communications Networks, Content and
Technology - Deputy Director-General in charge of
Directorates A-C-E-H - Digital Society, Trust and
Cybersecurity - Cybersecurity and Digital Privacy
Policy (CNECT.H.2)

e-mail: cnect-desk@ec.europa.eu

Object: Complaint.

Dear Sir,

Please consider the attached complaint.

Best Regards

Dr. Renato Ongania

Att: Complaint.

COMPLAINT

1. Information about the Originator of the Complaint

Name and Surname: Renato Ongania, Legal Representative and President of COMITATO ALBERTO

COMITATO ALBERTO

Established on November 22, 2022, as a “Comitato di Scopo” (Purpose Committee) to reform privacy law in relation to the search for missing persons, following the case of “Alberto Ongania” (born in Lecco on March 29, 1969, found dead on December 3, 2022).

Head office located at the residence of Alberto Ongania, Via per Esino 49 – Perledo (LC)

Email: comitato.alberto@gmail.com

Phone: +39 331.9410396

Comitato Alberto joined the **National Consultation** (Consulta Nazionale) of the Government Commissioner for Missing Persons by note from the Extraordinary Government Commissioner, Prefect Dr. Maria Luisa Pellizzari, received on June 10, 2024.

- **Citizenship:** Italian

Contacts

Comitato Alberto

Via per Esino, 49

23828 PERLEDO (LC), Italy

Email: comitato.alberto@gmail.com

Legal Representative: Dr. Renato Ongania (same address), born in Milan on Feb. 22, 1978.

Resident in Vimodrone (MI), Via Luigi Cadorna, 61. Italian Tax Code (CF):

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2. Authority Subject to the Complaint

- **European Commission**

Specifically, the Directorates/Services responsible for personal data protection and electronic communications, which — according to the Applicant — have not adequately prepared or revised EU rules to ensure an effective balance between privacy protection and the right to life in emergencies, such as a person’s disappearance.

3. Subject of the Complaint

- This complaint alleges **maladministration** on the part of the European Commission concerning the EU regulatory framework (GDPR, Directive 2002/58/EC “e-Privacy,” etc.) which, as interpreted and applied in Member States, **would hinder rapid access to telephone data** for missing persons in the absence of suspected criminal activity.

4. Facts and Grounds for the Complaint

1. Emblematic Case: The Disappearance of “Alberto”

- The Applicant refers to the **Informal Hearing of Renato Ongania** (July 18, 2024, before the II Justice Committee of the Chamber of Deputies in the Italian Parliament, Draft Bill 1074 by Bagnai et al.), describing the case of his brother Alberto, who disappeared in Perledo (LC, Italy) in November 2022.
- **Context:** Alberto was carrying his smartphone, yet law enforcement could not access phone records or dynamically track his device in the absence of any alleged crime.
- **Outcome:** Alberto was found dead three weeks later in a ravine, with his phone only a few centimeters from his hand. Timely access to telephone data could have guided the search more effectively.

2. Written Statements by the Minister of Justice, Hon. Carlo Nordio, in Response to an Interpellation by Hon. Benzoni

- Through a written reply under parliamentary oversight procedures (written question no. 4-00822 by Hon. Fabrizio BENZONI), Minister NORDIO pointed out that a national government **cannot unilaterally deviate** from the EU privacy framework (GDPR and e-Privacy Directive), highlighting the minimal room for maneuver.
- This implies that, although legislative proposals are under consideration in Italy (such as Draft Bill 1074 by BAGNAI et al.) to allow access to telephone data in emergencies (missing persons), these initiatives are constrained by EU requirements and cannot undermine the general principle of data protection enshrined at EU level.

3. Legal Paradox

- Excessive protection of privacy potentially prevents saving human lives, **in direct conflict** with the principle of proportionality and with the value hierarchy that places the protection of life as a primary good.
- Law enforcement cannot access the telephone data of a missing person unless a serious crime is suspected (entry in the criminal register, “Mod. 44”). If the disappearance is deemed “voluntary” (thus “Mod. 45”), privacy prevails over the possibility of a life-saving intervention.

4. Need for EU-Level Intervention

- The obstacle highlighted by Minister Nordio confirms that **only** an intervention by the European Commission aimed at amending or clarifying EU rules would allow Member States to introduce derogations or emergency procedures for the search of missing persons.
- Member States cannot deviate from the rules set forth by the GDPR and Directive 2002/58/EC on their own, under penalty of infringing EU law.

5. Breach of Good Administration Principles

1. Lack of Proportionality

- The Applicant believes that the Commission, by not providing (or not promoting) specific derogations for missing-person cases, has created an imbalance between the right to privacy (Arts. 7–8 of the EU Charter) and the right to life (Art. 2 of the EU Charter).
- The EU framework as currently interpreted prevents timely intervention absent a crime, even where there is an urgent need to save human lives.

2. Inability of Member States to Assume Responsibility

- Minister Nordio’s written response to Hon. Benzoni confirms that a national government cannot introduce derogations to EU privacy law on its own, leaving it without tools to balance privacy and the protection of life in missing-person scenarios.
- This creates a “normative paralysis” that leaves citizens unprotected in emergencies.

3. Maladministration

- By failing to act at the regulatory level, the Commission does not ensure a balance between fundamental rights, nor does it offer Member States effective instruments for locating missing persons.
- The Applicant deems such inaction to be **maladministration**, as the Commission fails to fulfill its duty to update or adapt EU rules where the protection of life should prevail over absolute privacy.

6. Requests to European Commission

1. Assessment

- The Applicant requests that the European Commission to provide possibilities of derogation or emergency procedure for “non-criminal” missing-person cases, thereby supporting the effective protection of life.

2. Recommendations

- The Applicant urges the European Commission to:
 1. **Propose a revision** of the EU legal framework (GDPR and Directive 2002/58/EC) to introduce “exception” mechanisms for emergencies, allowing rapid access to telephone data in life-threatening situations.
 2. **Consult the Member States**, legal experts, associations such as “Comitato Alberto,” law enforcement, and local authorities to develop procedures that balance privacy with saving lives, in line with necessity and proportionality principles.
 3. **Coordinate** with the European Parliament and the Council to reach a shared reform, addressing the difficulties reported by national governments and confirmed by Minister Nordio’s written response.

3. Referral

- If it finds a genuine lack of EU tools to address missing-person cases, the Ombudsman should notify the European Parliament and the Council of the urgent need for legislative action to resolve the conflict between privacy protection and safeguarding life.

7. ADDENDUM: Other Cases Similar to That of Alberto Ongania

(Compiled with the collaboration of the Penelope Association.)

1. Tafuri Lupinacci Giovanni

- **Date of disappearance:** August 26, 2011, Verona (Borgo Roma)
- **Found:** September 10, 2011, drowned
- **Details:** Complaint filed August 27, 2011, supplemented on September 4. The missing woman carried a purse and phone, but no positioning or phone records were ever requested. The case was filed as a suicide. She was supposed to appear in court soon thereafter for an alleged misappropriation of funds involving her brother-in-law (they co-managed a restaurant). About two years later, her mother received an anonymous phone call: “I heard screaming, then silence; I saw her being dragged and loaded into a car.” Possible cover-up? Murder or suicide? The body, at the spouse’s request, was cremated after a simple external inspection.

2. Addante Gaetano

- **Date of disappearance:** October 15, 2019, Bari
- **Outcome:** never found
- **Details:** Subject with psychiatric disorders, geology graduate. Complaint filed on the same day. He carried his phone; the family managed to contact him, but he said he did not know where he was and was in the company of a woman and a man who refused to speak on the phone. Neither he nor the phone was ever located. Hypothesis of voluntary departure or homicide for robbery; phone records were requested too late.

3. Leone Francesco

- **Date of disappearance:** June 4, 2023, Corato (BA)
- **Outcome:** never found
- **Details:** Worker, complaint filed June 8, 2023. He carried a phone (later found switched off) but had no documents. Phone records were obtained by the magistrate only later, under pressure from an association and after numerous public appeals. The family suspects homicide, though there is no official confirmation.

4. **Giulia Cecchettin**

- **Date of incident:** November 11, 2023, Venice province
- **Outcome:** body found November 18, 2023
- **Details:** Giulia, 22, about to graduate in biomedical engineering. Left home with her ex-boyfriend to buy a dress, never returned. Searched for a week; her body, bearing multiple stab wounds, was found in a ravine wrapped in plastic bags. The ex-partner fled abroad and confessed to the murder upon arrest in Germany. The case sparked widespread outrage in Italy, with protests and calls to reform telephone-data access to prevent femicides. In the early hours after her disappearance, the family tried in vain to contact her; there was also debate about law enforcement delays in tracking her phone in real time. The ex-partner was sentenced to life in prison. The case led her father to found the **Fondazione Giulia Cecchettin** to combat violence against women and promote prevention.

5. **Marianna Cedron**

- **Date of disappearance:** February 27, 2013, Castelfranco Veneto (TV)
- **Outcome:** never found
- **Details:** She was 18 and worked as an assistant cook in a Golf Club. She left work intending to meet her boyfriend at his dorm, but never arrived. The phone(s) (she also had one borrowed from someone) was not located in real time, and phone records were requested too late. Authorities investigated for kidnapping, then the case was filed. Several leads emerged (including possible flight abroad), none conclusive. The family denounced the inability to quickly obtain phone data due to strict privacy laws, similar to other missing-person cases. She remains missing to this day; in 2023, she was declared legally dead, though her parents still hope to find her alive.

6. **Emiliano Lesti**

- **Date of disappearance:** (unspecified; missing for over 5 years)
- **Outcome:** never found
- **Details:** Complaint was initially obstructed and filed incompletely. Although phone-data requests were made immediately, the records were provided “a long time later.” This undermined targeted, in-depth searches. The individual remains missing; the case file is missing many documents, and authorities treated it as “voluntary departure” despite possible indications of criminal activity (kidnapping, worse).

7. **Massimo Sapianti**

- **Date of disappearance:** (unspecified)
- **Outcome:** never found
- **Details:** Complaint filed by the partner at the Carabinieri station in Cave (RM). Phone-traffic data were obtained **15 days later**, losing the chance for timely cell-based searches. Only after a request from Attorney Nicodemo Gentile (President of Penelope Italia), once investigations were closed, did they gain access to the case file. The file lacked phone records and other investigative steps. When phone records finally arrived (45 days post-request), crucial calls from the preceding week emerged—data that would have been pivotal if acquired earlier. A crime was also suspected (the individual was a victim of loan-sharking), but authorities classified the disappearance as voluntary. Over a year and a half later, neither he nor his car have been found.

8. **Cristian Cannone**

- **Date of disappearance:** Night between April 12–13 (year not specified)
- **Outcome:** never found
- **Details:** Under involuntary psychiatric treatment (TSO) at Policlinico Tor Vergata in Rome. His mother was asked to return the next day, reassured he would be sedated.

That night, the man left the ward with the IV still in his arm and vanished. The family was not immediately notified, and his phone data were never retrieved. The case was treated as a voluntary departure; no liability was ascribed to the hospital or security staff, and the family received no clear explanation.

As demonstrated by the case of Alberto Ongania and the additional examples provided (including those from the Penelope Association), the lack of or delayed acquisition of phone data (call logs and real-time location) frequently hinders or postpones search efforts, leaving families without answers and, in certain cases, undermining the possibility of saving lives or clarifying the true course of events. In many of these cases, the absence of a criminal case (Mod. 44) and the subsequent classification as a “voluntary departure” (Mod. 45), coupled with the constraints imposed by privacy regulations, prevented timely interventions. This has fueled a broad debate on the need to revise the legislative framework to more effectively reconcile the right to privacy with the protection of human life and personal safety.

8. Conclusion

The Applicant contends that the European Commission, by leaving Member States without the means to balance privacy and life protection in emergencies, has effectively undermined the safeguarding of human lives. The written response from Minister Nordio to Hon. Benzoni confirms the impossibility of unilaterally derogating from EU law.

The Applicant relies on the

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intervention to urge the Commission toward a legislative reform that may prevent further tragedies and reestablish the proper value hierarchy among fundamental rights.