

Octopus Panel: Article 15 - Protecting you and your rights in cyberspace

Key messages:

- 1. Relevance of the European Convention on Human Rights (“ECHR”) and the Strasbourg Court’s case-law to conditions and safeguards limiting investigative powers (Article 15 Convention on Cybercrime);**
- 2. Most pertinent ECHR articles: Articles 8 (protection and retention of personal data falling within private life) and Article 10 (right to hold opinion without interference, right to freedom of expression, freedom to seek, receive and impart information)**
- 3. Structured approach to Article 8 and 10 provides key safeguards against State interference (cf: Court’s classic case-law on surveillance and secret files). Interference breaches Article 8 or 10 unless it is “in accordance with the law”, pursues one or more of the legitimate aims referred to in § 2 and is “necessary in a democratic society”, including “pressing social need”, procedural safeguards and relevant and sufficient reasons for any decisions involved;**
- 4. Positive obligations on States to combat violence and other criminal or unlawful activities on the internet;**
- 5. In the interests of national security – secret surveillance and the importance of procedural guarantees.**