



COUNCIL CONSEIL
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**CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC
PROCESSING OF PERSONAL DATA [ETS No. 108]**

(T-PD)

**Opinion of the T-PD on
Recommendation (1984)2011 of the Council of Europe's Parliamentary Assembly
on "the protection of privacy and personal data on the Internet and online media"**

Directorate General I - Human Rights and Rule of Law

1. The T-PD welcomes the adoption by the Parliamentary Assembly (7 October 2011) of Recommendation (1984)2011 on “the protection of privacy and personal data on the Internet and online media” which contributes to raising awareness of Parliamentarians on the question of privacy and personal data protection on the internet and in the new media environment.

2. The T-PD firstly wishes to acknowledge the open and inclusive approach taken by the Rapporteur (Ms Rihter) when preparing her report. A T-PD representative participated in hearings organised by the competent Committee of the Parliamentary Assembly (the Committee on Culture, Science and Education) during the Internet Governance Forum (IGF) in Vilnius (September 2010) and again in March 2011 in order to present the work of the T-PD and modernisation of the Convention for the protection of individuals with regard to the automatic processing of personal data (hereafter Convention 108). In April 2011, the Secretariat was heard during a meeting of the Subcommittee on the Media.

3. Concerning the Parliamentary Assembly’s recommendation, the T-PD fully subscribes to the call (paragraphs 2.1 and 2.2 of the Recommendation) for further states to become Parties to Convention 108, which is addressed to both Council of Europe member states (as four of the 47 member states remain to become parties to the Convention) and, in particular, to countries worldwide. In July 2011, Uruguay has become the first country outside Europe to be invited to accede to Convention 108. The accession by non-member states will strengthen the universal recognition of fundamental data protection principles called for since 2005 by the 27th International Conference of Data Protection and Privacy Commissioners (Montreux, 14-16 September 2005) and repeated in the Resolution adopted by the 32nd Edition (Jerusalem, 26-29 October 2010).

4. The T-PD furthermore considers as an absolute necessity that the call (paragraph 2.3. of the Recommendation) to provide adequate budgetary resources be followed of effects. Indeed, the constantly evolving normative work, the promotion of Convention 108 outside Europe (with the related capacity building activities) and the effective implementation of the Convention require adequate means. Data protection and privacy should continue to be priority areas for the Council of Europe.

5. As regards the European Union, the T-PD appreciates its support for the promotion of Convention 108, notably through the organisation of a series of conferences in 2011 organised by the Hungarian and Polish authorities. Data protection is a good example for complementarity between the activities of the Council of Europe and the European Union and it will be essential to ensure consistency also in the future. In line with the EU’s Stockholm Programme, Convention 108 should be included in EU co-operation programmes and activities worldwide.

6. Concerning the modernisation work, the T-PD is grateful for the substantial input and interesting proposals made by the Parliamentary Assembly. It agrees with the Assembly that existing standards must not be lowered and that the Convention’s follow-up mechanism needs to be strengthened notably to keep pace with the rapid development of ICT. The T-PD invites the Assembly to continue participating actively in the modernisation process, including by appointing a delegate to its meetings (in accordance with article 3 (4) of the T-PD’s rules of procedure).

7. Finally, the T-PD notes the invitation made to the Secretary General to ensure the protection of personal data processed by the Organisation, and to reinforce the position of the Council of Europe's Commissioner for Data Protection. It recalls that at its 26th Plenary meeting (1-4 June 2010), the T-PD adopted proposals for a revised draft Regulation outlining a data protection system for personal data files in the Council of Europe, which should cover personal data processed by all bodies and institutions of the Organisation.

8. Further to the elections carried out during the 27th Plenary meeting (29 November – 2 December 2011), the T-PD is pleased to inform the Assembly of the nomination of ... as the new Data Protection Commissioner of the Council of Europe and trust that this nomination will contribute to the strengthening of the protection of personal data within the Council of Europe.

APPENDIX

Parliamentary Assembly
Assemblée parlementaire



Provisional edition

The protection of privacy and personal data on the Internet and online media

Recommendation 1984 (2011)¹

1. Referring to its [Resolution 1843](#) (2011) on the protection of privacy and personal data on the Internet and online media, the Parliamentary Assembly welcomes and supports Resolution No. 3 on data protection and privacy in the third millennium adopted by the 30th Council of Europe Conference of Ministers of Justice (Istanbul, 24-26 November 2010) and calls for a plan of action for the promotion of common legal standards for the protection of privacy and personal data on ICT-based networks and services throughout Europe and beyond in the framework of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter "Convention No. 108").
2. The Assembly recommends that the Committee of Ministers:
 - 2.1. actively seek the signature and ratification of Convention No. 108 and its Additional Protocol (ETS No. 181) by the European Union and those member states which have not yet done so, and call on all Parties to Convention No. 108 which have not yet done so to accept the amendments enabling the European Union to accede to this convention;
 - 2.2. encourage and support, through their member states' Permanent Representations to the United Nations, the signature and ratification of Convention No. 108 by non-member states, in particular those states which are observers to the Council of Europe or are parties to enlarged partial agreements or signatories to other Council of Europe conventions;
 - 2.3. provide adequate budgetary resources within the secretariat of the Council of Europe for the further legal development of Convention No. 108 in line with Resolution No. 3 of the 30th Council of Europe Conference of Ministers of Justice, and call on member and observer states, as well as the European Union, to provide voluntary additional funding for such work;
 - 2.4. fully support, for that purpose, the work undertaken by the Consultative Committee of Convention No. 108, to reinforce the protection of everyone as regards the use and storage of personal data, to ensure an identical protection for everyone independently of the place of storage or the establishment of those responsible for the storage, and to avoid the risk of dumping in terms of protection;
 - 2.5. invite the Parties to Convention No. 108 to:
 - 2.5.1. take account of Assembly [Resolution 1843](#) (2011) when revising the convention,

- 2.5.2. not lower the established protection of privacy and personal data:
- 2.5.3. establish a mechanism for monitoring compliance of parties with their obligations under this convention;
- 2.5.4. bear in mind Assembly [Resolution 1744](#) (2010) on extra-institutional actors in the democratic system when consulting private stakeholders;
- 2.6. promote the signature and ratification of the Convention on Cybercrime (ETS No. 185) by all member states as well as by non-member states;
- 2.7. promote the signature and ratification of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201) by all member states as well as by non-member states;
- 2.8. ask its relevant instances dealing with bioethics to propose standards for the ICT-based processing of medical and health data under the Convention on Human Rights and Biomedicine (ETS No. 164) and its additional protocols;
- 2.9. ask the Secretary General of the Council of Europe to ensure, through specific internal rules and regulations, the protection of privacy and personal data of members of Council of Europe bodies as well as Council of Europe staff, and to reinforce the position of the Council of Europe's Commissioner for Data Protection;
- 2.10. bring this recommendation and [Resolution 1843](#) (2011) to the attention of the competent ministries and data protection authorities in member states.

¹ *Assembly debate* on 7 October 2011 (36th Sitting) (see [Doc. 12695](#), report of the Committee on Culture, Science and Education, rapporteur: Ms Rihter; [Doc. 12726](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Salles). *Text adopted by the Assembly* on 7 October 2011 (36th Sitting).