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**CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE
PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC
PROCESSING OF PERSONAL DATA
(T-PD)**

WORK PROGRAMME OF THE T-PD

FOR 2012 AND 2013

Directorate General I - Human Rights and Rule of Law

WORK PROGRAMME OF THE T-PD FOR 2012 AND 2013

1 – Modernisation of the Convention¹

The Consultative Committee will pursue the modernisation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (hereafter referred to as 'Convention 108'). This modernisation work was initiated following a decision of the Ministers' Deputies (1079th meeting of 10 March 2010), supported by Resolution No. 3 on data protection and privacy in the third millennium which was adopted at the 30th Council of Europe Conference of Ministers of Justice (Istanbul, 24-26 November 2010).

Objective: the modernisation work aims on the one hand at addressing the challenges resulting from the technological developments and the use of new information and communication technologies, and on the other hand at strengthening Convention 108's follow-up mechanism.

Working methods: the T-PD Bureau will examine the modernisation proposals jointly prepared by the national experts, the consultants and the Secretariat and will proceed to the necessary consultations (Steering committees concerned, national delegations and relevant stakeholders) in order to submit to the 27th Plenary meeting of the T-PD (19-22 June) for second reading of a draft containing both the modification proposals and an explanatory document.

Partner (s): CRIDS, national experts and CoE experts

Calendar: Finalisation of the draft proposal of modernisation of the Convention at the 27th Plenary meeting of the T-PD (19-22 June 2012) with a view to its transmission to the Committee of Ministers.

Rank of priorities: Top

¹ Activities carried out according to Article 21 of Convention 108.

2 - Revision of "old" Recommendations²

2.1 Recommendation (87) 15 regulating the use of personal data in the police sector

According to the T-PD's previous priorities and to the elements contained in the terms of reference of the Steering Committee on Media and Information Society (CDMSI), the T-PD will pursue the work of revision of this Recommendation.

Objective: maintain the relevance and strength of this text with the taking into account of the development of new concepts and techniques for processing of personal data necessary for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal sanctions.

Working methods: subject to a decision of the 27th Plenary in that respect, the T-PD Bureau will examine a preliminary draft of the revised Recommendation proposed by the consultants on the basis of their report on the implementation of the Recommendation in member states. This report is aimed at determining the principles to be developed in order to cover adequately the emerging issues of data protection in the field of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal sanctions.

Partner (s): CoE experts and Data Protection Authorities

Calendar: end of 2012

Rank of priorities: Top

2.2 Recommendation (89) 2 on the protection of personal data used for employment purposes

According to the T-PD's previous priorities and to the elements contained in the terms of reference of the Steering Committee on Media and Information Society (CDMSI), the T-PD will pursue the work of revision of this Recommendation.

Objective: to update this instrument 2 in light of the technological developments as well as of other texts of the Council of Europe containing provisions on the processing of data in the employment field.

Working methods: the Bureau of the T-PD will finalise the draft revised Recommendation on the basis of the work submitted by the consultant and of the comments formulated by the various parties consulted.

Partner (s): CoE expert

Calendar: end of 2012

Rank of priorities: Top

² Activities mentioned under this section are reflected in the terms of reference of the Steering Committee on Media and Information Society (CDMSI).

3 - Other work³

The Consultative Committee will reexamine in 2013 its Progress report on the application of the principles of Convention 108 to the collection and processing of biometric data (report of 2005) as well as Recommendation (97) 5 on the protection of medical data with a view to recommending, where necessary, an update. It is also proposed that the implications of nanotechnologies on data protection be considered.

The Consultative Committee will assess the need and added value of a fundamental right to data protection, distinct of Article 8 of the European Convention on Human Rights.

The Consultative Committee will contribute to the development of measures and tools for children and their families to better manage their privacy and personal data, in particular in the internet environment. The Committee will in that respect contribute to a review of Council of Europe standards on anonymity⁴ as well as the work concerning the deletion of content produced by children.

Finally, the Consultative Committee will examine the need to develop sectorial guidelines for states, the private sector and civil society on trends and challenges posed by the new technologies (this concerns for example “privacy by design” “Internet of Things”, requesting the removal of personal data from the Internet, geo-location tracking, understanding the notion of “consent” to terms and conditions of service).

4 – Promotion of Convention 108

The Consultative Committee will contribute to the work of promotion of the Convention as well as the obtention of new accessions to it, by member states as well as non-member states of the Council of Europe.

³ Activities mentioned under this section are reflected in the terms of reference of the Steering Committee on Media and Information Society (CDMSI) and the draft Internet governance Strategy of the Council of Europe for 2012-2015.

⁴ See principle 7 on anonymity of the 2003 Declaration of the Committee of Ministers on freedom of communication on the Internet : <https://wcd.coe.int/ViewDoc.jsp?Ref=Decl-28.05.2003&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>

Appendix - Steering Committee on Media and Information Society (CDMSI)

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods

Terms of reference valid from: **1 January 2012 until 31 December 2013**

Main tasks

Under the authority of the Committee of Ministers, the CDMSI will oversee the Council of Europe's work in the field of media, information society and data protection, and advise the Committee of Ministers on all questions within its area of competence, focusing on human rights protection and promotion, taking due account of relevant transversal perspectives and of the activities of other international organisations. For this purpose, the CDMSI is instructed to facilitate co-operation among the Council of Europe member states and assist them in the development of common policies, as well as fulfil any other activity which might be assigned to it by the Committee of Ministers. In particular, the CDMSI will:

- (i) oversee the implementation of a Council of Europe Internet Governance Strategy, focusing on the right to freedom of expression on the Internet and the right to impart and receive information regardless of frontiers;
- (ii) develop co-operation at pan-European level, extend this co-operation to its neighbouring regions and engage other relevant stakeholders, preparing instruments with a view to promoting and protecting human rights, the rule of law and pluralist democracy in the Information Society and Internet Governance;
- (iii) review, consolidate and update existing instruments and conduct, where necessary, additional standard-setting work in respect of freedom of the media, paying due attention to professional journalism standards, supporting independence, pluralism and diversity in the media, including public service media;
- (iv) contribute to the implementation of the Committee of Ministers' Declaration of 13 January 2010 on measures to promote the respect of Article 10 of the European Convention on Human Rights;
- (v) co-ordinate to standard-setting work in respect of the protection of personal data and the right to private life, in close association with other relevant Council of Europe bodies (e.g. T-PD, CDCJ);
- (vi) prepare the 1st Council of Europe Conference of Ministers responsible for Media and Information Society (Serbia, 2013) and ensure the follow-up of any decision taken by the Committee of Ministers.

Pillar / Sector / Programme

Pillar: Rule of Law

Sector: Common standards and policies

Programme: Information society and Internet governance

Expected results

Expected results 2012-2013:

(i) Proposed activities to be decided upon by the Committee of Ministers:

- follow-up to specific instruments on the Internet adopted by the Committee of Ministers (2012 and 2013);
- compilation of existing rights for Internet users (2013);
- instrument on cross-border flow of Internet traffic (2013).

Any pending CDMC work is finalised in respect of draft instruments on:

- search engines (2012);
- social networks (2012);

(ii) freedom of expression and freedom of the media are better protected, taking due account of gender equality, youth and children's issues; to this end:

- a. a draft recommendation is prepared on gender equality and media, in particular on a gender equality dimension in the media coverage of election campaigns, in consultation with relevant Council of Europe bodies, as well as UN Women (2013);
- b. a draft convention on broadcasters' neighbouring rights is prepared in 2012 if a standstill persists within WIPO and on condition that the European Commission obtains a mandate to negotiate such a convention within a Council of Europe framework;
- c. proposals are made to the Committee of Ministers, as appropriate, for follow-up to specific media-related instruments adopted by the Committee of Ministers (e.g. in respect of public service media, public service value of the Internet, or a new notion of media) (2012 and 2013);
- d. a contribution is made from a media and freedom of expression perspective to Council of Europe work addressing the problem of libel tourism;

(iii) intergovernmental expert input is given to the implementation of CM Declaration of 13 January 2010 (improved collection and sharing of information and enhanced co-ordination within the secretariat on freedom of expression and freedom of the media in member states), having due regard to other relevant non-binding instruments adopted by the Committee of Ministers;

(iv) personal data and the right to private life are better protected in the Information society. To this end the CDMSI offers, in consultation with the CDCJ, an intergovernmental setting at 47 for negotiation and finalisation of draft instruments prepared by the Consultative Committee of the Convention for the Protection of Individuals with regard to automatic processing of personal data (T-PD):

- a. modernising Convention 108 (2012);
- b. data protection and employment (2012);
- c. data protection and the police (2012);
- d. biometrics (2013);
- e. data protection and children (2013).