

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 16 June 2017

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**CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE
PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC
PROCESSING OF PERSONAL DATA**

DRAFT WORK PROGRAMME
FOR THE 2018-2019 BIENNIUM

Directorate General Human Rights and Rule of Law

WORK PROGRAMME FOR 2018 AND 2019

Since 2012, the programme of activities of the Council of Europe is defined by periods of two years.

The Committee is invited to examine the proposals discussed by the Bureau and approve the work programme at its 34th Plenary meeting (19-21 June 2017).

The programme aims at ensuring the greatest quality and productivity in the work of the Committee, with concrete results and outputs, in relation to the means available (two plenary meetings and three bureau meetings per year, Secretariat of two staff members and one seconded staff).

Key areas of work

- Follow-up to the modernisation of the Convention
- Promotion of the Convention
- Principle based guidance on genomics and genetics, artificial intelligence, big data, ICANN policies, the articulation between data protection and freedom of expression and information.

1 - Follow-up to the modernisation of the Convention

In the context of the modernisation process 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'), new functions will be assigned to the Committee regarding the follow-up and the evaluation mechanism. To this end, reference should be made to the information document on the modalities and procedures of the evaluation and follow-up mechanism ([T-PD-BUR\(2013\)02rev5](#)) prepared by the Secretariat and the draft questionnaire on the evaluation and follow-up mechanism ([T-PD\(2016\)1](#)).

In addition, in the context of the modernisation, it will be necessary to provide guidance notes, which represent the common understanding of the Parties on specific provisions of the Convention to facilitate the implementation of new provisions and notions as per the decision of the Committee on priority topics (e.g. examination of the notion of jurisdiction, of the likely impact foreseen in Article 8bis.2, of the qualification of the appropriate level of protection of Article 12, etc.).

Objective: The procedure of evaluation and follow-up aims at ensuring the credibility and effective implementation of the modernised data protection Convention by supporting the

ratification exercise and by establishing a genuine dynamic of harmonised protection. Guidance notes will aim at facilitating the implementation of the Convention.

Working methods: A questionnaire will be approved. Furthermore, the structure of the working groups as well as the necessity, purpose and order of visits will be defined and the corresponding draft provisions of the rules of procedure of the Committee will be prepared. The Committee will consider the need for specific guidance on particular provisions of the Convention.

2 - Promotion of the Convention

The implementation of the Convention will be enhanced through capacity-building and outreach activities, aiming at pursuing the expansion of the application of the Convention at global level.

Objective: The enhancement of the implementation of the Convention for member states of the Council of Europe and for other parties to the Convention, as well as countries interested in acceding.

Working methods: Involvement in various cooperation projects to provide guidance and assistance and active participation in a variety of networks to ensure visibility of the Convention and of the work of its Committee.

3 - Delivery of principle-based guidance on challenges to privacy and data protection

This notably includes addressing some of the challenges mentioned in the Council of Europe Internet Governance Strategy¹ 2016-2019 which states that:

“There are increasing risks to the human rights of Internet users as it becomes easier to connect or to be connected to the Internet and information and communication technologies (ICTs) using every day (household) devices and objects, for example, cars, often referred to as the “Internet of things”. Digital tracking and surveillance, the collection of personal data, including sensitive data related to health, for the purposes of profiling pose a threat to privacy and the general enjoyment of human rights including freedom of expression and access to information. Anonymity and encryption tools can help Internet users protect themselves against these threats although respecting their will not to disclose their identities should not prevent member States from taking measures and co-operating in order to trace those responsible for criminal acts”.

¹ [Council of Europe Internet Governance Strategy 2016-2019](#)

The Committee will pursue or undertake standard-setting work on the following priority topics:

- **2018**

3.1 Genomics and genetics (with particular focus on children)

Objective: Address, in cooperation with the Committee on Bioethics (DH-BIO) the human rights issues raised by new technologies and developments in the field of genomics and genetics (direct-to-consumer genetic testing in particular). The work will furthermore endeavor to ensure that the rights of particularly vulnerable groups such as children are better protected.

Working methods: Organisation of a round-table and preparation of a report in cooperation with the DH-BIO. This work will be based on the outcomes of the conference organised by the DH-BIO, under the auspices of the Czech Chairmanship of the Committee of Ministers, on the occasion of the 20th anniversary of the Convention on Human Rights and Biomedicine (Oviedo Convention) on 24-25 October 2017.

3.2 ICANN policies

Objective: To continue the work initiated² in cooperation with ICANN constituencies by providing guidance regarding the application of the rights to privacy and data protection to ICANN policies and thus concretely responding to a number of concerns expressed for the past decade by data protection experts, and which become increasingly relevant in light of the reform of the applicable data protection legal frameworks.

Working methods: Preparation of a guide, on the basis of previous reports prepared by the Council of Europe, whereby the Committee will make proposals aimed at enhancing the compliance of ICANN policies with data protection standards (purpose limitation, data minimisation, access to data, proportionality, data accuracy, etc.).

3.3 Artificial intelligence

Objective: To address emerging challenges to human rights arising in the context of technological convergence and artificial intelligence, to provide further in-depth analysis of their potential data protection implications, following up on Recommendation 2102(2017) of the Parliamentary Assembly on Technological convergence, artificial intelligence and human rights³.

Working methods: Preparation of a report on the data protection implications of artificial intelligence with recommendations regarding possibilities to limit their impact on dignity and individual freedoms and the importance of taking into account the ethical dimension of the use of such technologies.

² More information on the Council of Europe work in ICANN regarding data protection is available [here](#).

³ [Recommendation 2102\(2017\)](#).

• **2019**

3.4 – Articulation of data protection with freedom of expression and access to information

Objective: To reduce the tension between those mutually reinforcing rights with a view to ensuring their effective protection, by spelling out areas of articulation and the admissible limits which prevail in such situations.

Working methods: Study on the articulation of those rights, containing guidance based on concrete examples and the case-law of the European Court of Human Rights. The contribution of the Steering Committee on Media and Information Society (CDMSI) will bring an added-value to this work.

3.5 Big data

Objective: Given the expanding breadth of Big Data in various sector-specific applications, the Guidelines adopted by the Committee on 23 January 2017 to provide a general guidance should be complemented by further tailored guidance on the protection of individuals within specific fields of application of Big Data (e.g. health sector, financial sector, public sector such as law enforcement, Internet of Things and Smart cities, etc.).

Working methods:

4 - Other work

The Consultative Committee will continue to promote the yearly celebration of data protection day and ensure that raising awareness and educating to data protection remains a priority for the various stakeholders.

It will continue to provide its unique expertise to other Council of Europe instances, and external stakeholders, where their activities have a link with data protection issues.

Finally, the Committee should, where necessary, be able to adapt the working programme to new needs, in order to be able to address other emerging and urgent challenges.