

On 28 January 2020 throughout Europe and the world, we celebrate Data Protection Day for the 14th consecutive year. This day aims to raise public awareness of good data protection practices, informing people about their rights and how to implement them.

The choice of 28 January, it should be recalled, marks the opening for signature of the Convention for the Protection of Individuals with regard to the Processing of Personal Data (ETS 108) on 28 January 1981. This Convention remains, to date, the only legally binding international instrument on data protection which, because of its open character, is universal in scope. Today the Convention has been ratified by all Council of Europe member States (47 countries) and 8 non-CoE member states have acceded to it¹. It has been modernised and its amending protocol opened for signature on 10 October 2018. To date, 3 countries have ratified it (Bulgaria, Croatia and Lithuania) and 35 others have signed it. The "Convention 108+ " is no longer a European Convention but a global convention and a universal reference standard. It is intended to be a link with other legal instruments, in particular the General Data Protection Regulation (GDPR) of the European Union. These two texts ensure a high and strong data protection framework that serves as a reference for national data protection legislation worldwide. Currently some 130 states in the world have data protection legislation. In the United States of America there are also welcome legislative developments, for example with the recent entry into force of a data protection law in California. This legislative momentum must continue, and it is essential that all Parties to Convention 108 ratify the Amending Protocol without delay so that Convention 108+ can enter into force quickly, so that new States can accede to it and so that the right to data protection be truly universally recognised and protected.

However, if legal frameworks exist, they still need to be respected and effectively implemented. In Europe with the GDPR, data protection authorities have seen their functions and powers strengthened and have obtained additional means to exercise their powers more effectively, including sanctioning of violations and abuses, which unfortunately are still too numerous. We must, however, remain vigilant and constantly reassess our instruments in order to provide appropriate responses to the challenges of the digital world and of information and communication technologies. These technologies are increasingly invasive and intrusive in our private lives, as are the dazzling developments in the field of biometrics, facial recognition and artificial intelligence, and ever more sophisticated profiling techniques. The Clearview affair recently revealed by the New York Times, which allowed this start-up company to suck up billions of photos posted on the Internet and to offer its facial recognition services to various police authorities in the United States, is just one example of the many blunders that we have to witness day after day and which systematically nibble away at our private lives to the point of making them illusory if we do not react strongly and stop this march towards a generalised surveillance society, sounding the death knell for human rights and democracy.

28 January is an opportunity to call for a moratorium on the development and deployment of technologies that make it possible to monitor the actions of anyone anywhere, regardless of their activities or social position. This moratorium should enable us to launch a broad democratic debate on the contours of the digital society that we want to put in place for the well-being of humanity. The Council of Europe, which defends human rights, democracy and the rule of law, can and must play a central role in this reflection and continue to be a force for innovative proposals. The work in progress on a legal framework for artificial intelligence, the work on facial recognition and profiling

¹ https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/108/signatures?p_auth=cN6J4BCa

should contribute to this and enable us to create the conditions necessary for a digital society based on trust and respect for human dignity and the fundamental rights of all.