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

**Final document on the modernisation of Convention 108**

DG I – Human Rights and Rule of Law

## LATEST MODERNISATION PROPOSALS

### Title : Convention for the Protection of Individuals with Regard to the Processing of Personal Data

CURRENT TEXT OF THE CONVENTION	PROPOSALS
<b>Title : Convention for the Protection of Individuals with Regard to the Processing of Personal Data</b>	<b>Title : Convention for the Protection of Individuals with Regard to the Processing of Personal Data</b>
<b>Preamble</b>	<b>Preamble</b>
The member States of the Council of Europe, signatory hereto,	<u>unchanged</u> <del>The signatories of this Convention,</del>
Considering that the aim of the Council of Europe is to achieve greater unity between its members, based in particular on respect for the rule of law, as well as human rights and fundamental freedoms;	unchanged
Considering that it is desirable to extend the safeguards for everyone's rights and fundamental freedoms, and in particular the right to the respect for privacy, taking account of the increasing flow across frontiers of personal data undergoing automatic processing;	Considering that it is <b>necessary, given the diversification <u>and intensification</u> of processing <u>and exchanges</u> of personal data, to guarantee <u>human</u> dignity and <u>the</u> protection of <u>human</u> rights and <u>fundamental</u> freedoms of every person, in particular through the right to control one's own data and the use made of <u>such data</u>.</b>
Reaffirming at the same time their commitment to freedom of information regardless of frontiers;	<u>Reminding</u> that the right to protection <u>of personal data</u> is to be considered in respect of its role in society and that it has to be reconciled with other human rights and fundamental freedoms, including freedom of expression;
	<u>Considering that this Convention permits account to be taken, in the implementation of the rules laid down therein, of the principle of the right of access to public documents;</u>

Recognising that it is necessary to reconcile the fundamental values of the respect for privacy and the free flow of information between peoples,	Recognising that it is necessary <b>to promote at the global level</b> the fundamental values of respect for privacy and <b>protection of personal data</b> , <b>thereby contributing to</b> the free flow of information between peoples;
	<del>Recognising the interest of a reinforcement of international cooperation between the Parties to the Convention. Recognising that this Convention is to be interpreted with due regard to its explanatory report;</del>
Have agreed as follows:	unchanged
<b>Chapter I – General provisions</b>	<b>Chapter I – General provisions</b>
<b>Article 1 – Object and purpose</b>	<b>Article 1 – Object and purpose</b>
The purpose of this Convention is to secure in the territory of each Party for every individual, whatever his nationality or residence, respect for his rights and fundamental freedoms, and in particular his right to privacy, with regard to automatic processing of personal data relating to him (“data protection”).	The purpose of this Convention is to secure for every individual <b>subject to the jurisdiction of the Parties</b> , whatever their nationality or residence, <del>the right to the protection of personal data,</del> <b>thus contributing to</b> respect for their rights and fundamental freedoms, and in particular <b>their right to privacy, with regard to the processing of their personal data.</b>
<b>Article 2 – Definitions</b>	<b>Article 2 – Definitions</b>
For the purposes of this Convention:	unchanged
a “personal data” means any information relating to an identified or identifiable individual (“data subject”);	unchanged
b “automated data file” means any set of data undergoing automatic processing;	Deleted – see 3.1 below
c “automatic processing” includes the following operations if carried out in whole or in part by automated means: storage of data, carrying out of logical and/or arithmetical operations on those data, their alteration, erasure, retrieval or dissemination;	c “ <b>data processing</b> ” means any operation or set of operations which is performed upon <b>personal data</b> , and in particular the collection, storage, preservation, alteration, retrieval, disclosure, making available, erasure or destruction of data, or the carrying out of logical and/or arithmetical operations on data;

	where no automated processing is used, data processing means the operations carried out <u>within a structured set established</u> according to <u>any criteria which allows to search personal data</u> ;
d “controller of the file” means the natural or legal person, public authority, agency or any other body who is competent according to the national law to decide what should be the purpose of the automated data file, which categories of personal data should be stored and which operations should be applied to them.	d “controller” means the natural or legal person, public authority, agency or any other body <b>which alone or jointly with others has the decision-making power with respect to data processing.</b>
	e “recipient” means a natural or legal person, public authority, <del>agency service</del> or any other body to whom data are disclosed or made available;
	f “processor“ means a natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller;
<b>Article 3 – Scope</b>	<b>Article 3 – Scope</b>
1 The Parties undertake to apply this Convention to automated personal data files and automatic processing of personal data in the public and private sectors.	1 <b>Each Party</b> undertakes to apply this Convention to <b>data processing carried out by any controller subject to its jurisdiction.</b>  1bis This Convention shall not apply to data processing carried out by a natural person for the exercise of purely personal or household activities [, unless the data are made accessible to persons outside the personal <del>or household</del> sphere.]  <del>1ter Any Party may decide to apply this Convention to information on legal persons.</del>
2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, give notice by a declaration addressed to the Secretary General of the Council of Europe:	delete

<p>a that it will not apply this Convention to certain categories of automated personal data files, a list of which will be deposited. In this list it shall not include, however, categories of automated data files subject under its domestic law to data protection provisions. Consequently, it shall amend this list by a new declaration whenever additional categories of automated personal data files are subjected to data protection provisions under its domestic law;</p>	<p>delete</p>
<p>b that it will also apply this Convention to information relating to groups of persons, associations, foundations, companies, corporations and any other bodies consisting directly or indirectly of individuals, whether or not such bodies possess legal personality;</p>	<p>delete</p>
<p>c that it will also apply this Convention to personal data files which are not processed automatically.</p>	<p>delete</p>
<p>3 Any State which has extended the scope of this Convention by any of the declarations provided for in sub-paragraph 2.b or c above may give notice in the said declaration that such extensions shall apply only to certain categories of personal data files, a list of which will be deposited.</p>	<p>delete</p>
<p>4 Any Party which has excluded certain categories of automated personal data files by a declaration provided for in sub-paragraph 2.a above may not claim the application of this Convention to such categories by a Party which has not excluded them.</p>	<p>delete</p>
<p>5 Likewise, a Party which has not made one or other of the extensions provided for in sub-paragraphs 2b and c above may not claim the application of this Convention on these points with respect to a Party which has made such extensions.</p>	<p>delete</p>

<p>6 The declarations provided for in paragraph 2 above shall take effect from the moment of the entry into force of the Convention with regard to the State which has made them if they have been made at the time of signature or deposit of its instrument of ratification, acceptance, approval or accession, or three months after their receipt by the Secretary General of the Council of Europe if they have been made at any later time. These declarations may be withdrawn, in whole or in part, by a notification addressed to the Secretary General of the Council of Europe. Such withdrawals shall take effect three months after the date of receipt of such notification.</p>	<p>delete</p>
<p><b>Chapter II – Basic principles for data protection</b></p>	<p><b>Chapter II – Basic principles for data protection</b></p>
<p><b>Article 4 – Duties of the Parties</b></p>	<p><b>Article 4 – Duties of the Parties</b></p>
<p>1 Each Party shall take the necessary measures in its domestic law to give effect to the basic principles for data protection set out in this chapter.</p>	<p>1 Each Party shall take the necessary measures in its domestic law to give effect to the provisions set out in <b>this Convention</b>.</p>
<p>2 These measures shall be taken at the latest at the time of entry into force of this Convention in respect of that Party.</p>	<p>2 These measures shall be taken <b>by each Party prior to ratification or accession to this Convention</b>.</p>
	<p>3 Each Party undertakes to allow the Convention Committee provided for in Chapter V to evaluate the observance of its engagements and to contribute actively to this evaluation, <u>notably by submitting reports on the measures it has taken and which give effect to the provisions of the present Convention</u>.</p>
<p><b>Article 5 – Quality of data</b></p>	<p><b>Article 5 – Legitimacy of data processing and quality of data</b></p>
	<p>1 Data processing shall be proportionate in relation to the legitimate purpose pursued and reflect <u>at all stages of the processing</u> a fair balance between <u>all interests concerned, be they</u><del>the protection of personal data and other</del> public or private interests, <u>and the</u> rights and freedoms at stake.</p>

	<p>2 Each Party shall provide that data processing can be carried out only if:</p> <p>a. the data subject has freely given his/her <del>explicit</del><u>non-ambiguous</u>, specific and informed consent, or</p> <p>b. this processing is provided by domestic law for an overriding legitimate interest or is necessary to comply with legal obligations or contractual obligations binding the data subject;</p>
Personal data undergoing automatic processing shall be:	3 Personal data undergoing <del>automatic</del> processing shall be :
a obtained and processed fairly and lawfully;	a <del>obtained and</del> processed lawfully and fairly.
b stored for specified and legitimate purposes and not used in a way incompatible with those purposes;	b <b>collected</b> for <b>explicit</b> , specified and legitimate purposes and not <b>processed</b> in a way incompatible with those purposes;
c adequate, relevant and not excessive in relation to the purposes for which they are stored;	c adequate, relevant, not excessive and limited to the <del>strict</del> -minimum <u>necessary</u> in relation to the purposes for which they are <b>processed</b> ;
d accurate and, where necessary, kept up to date;	unchanged
e preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored.	e preserved in a form which permits identification of data subjects for no longer than is necessary for the purposes for which those data are <b>processed</b> .
<b>Article 6 – Special categories of data</b>	<b>Article 6 – Processing of sensitive data</b>

<p>Personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions.</p>	<p>1 <del>The Personal data may neither be processed for the racial origin, political opinions, trade-union membership, religious or other beliefs they reveal, nor for the identifying biometric information they contain ; the processing of genetic data, data concerning health or sexual life, data concerning criminal offences or convictions, or related security measures is prohibited, as is the processing of data presenting a serious risk to the interests, rights and fundamental freedoms of the data subject, notably a risk of discrimination.</del></p> <p><del>__processing of certain categories of personal data shall be prohibited, whether such data are sensitive:</del></p> <p><del>by their nature, namely genetic data, data related to health or sexual life, data related to criminal offences or convictions, or security measures;</del></p> <p><del>by the use made of them, namely biometric data, data whose processing reveals racial origin, political opinions [or trade-union membership], religious or other beliefs, or;</del></p> <p><del>where their processing presents a serious risk to the interests, rights and fundamental freedoms of the data subject, notably a risk of discrimination.</del></p> <p>2 Such data may nevertheless be processed where <del>domestic</del> <u>applicable</u> law provides <u>additional</u> appropriate safeguards.</p>
<p><b>Article 7 – Data security</b></p>	<p><b>Article 7 – Data security</b></p>
<p>Appropriate security measures shall be taken for the protection of personal data stored in automated data files against accidental or unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination.</p>	<p>1 <b>Every Party shall provide that the controller, and, where applicable the processor,</b> takes the appropriate security measures against accidental or unauthorised <b>modification</b>, loss or destruction <del>accidental</del>, <u>of personal data</u>, as well as against unauthorised access, <del>or dissemination</del> <u>or divulcation</u> <b>of personal such data processed.</b></p>



	<p>2 Each Party shall provide that the controller shall notify, without delay, at least the supervisory authorities within the meaning of Article 12 bis of this Convention of any <del>violation of data</del> <u>breach</u> which may seriously interfere with the rights and <u>fundamental</u> freedoms of data subjects.</p>
	<p><b>Article 7bis – Transparency of processing</b></p>
	<p>1 Each Party shall provide that every controller must ensure the transparency of data processing <del>and in particular provide informing</del> data subjects <del>with information</del> concerning at least his/her identity and habitual residence or establishment, the purposes of the processing carried out by him/her, the data processed, the recipients <u>or categories of recipients</u> of the personal data, <del>the preservation period</del> and the means of exercising the rights set <u>out</u> in Article 8, as well as any other information necessary to ensure <del>a fair</del> <u>and lawful</u> data processing.</p>
	<p>2. The controller shall nonetheless not be required to provide such information where <u>the processing is prescribed by law or</u> this proves to be impossible or involves disproportionate efforts.</p>
<p><b>Article 8 – Additional safeguards for the data subject</b></p>	<p><b>Article 8 – Rights of the data subject</b></p>
<p>Any person shall be enabled:</p>	<p>Any person shall be <b>entitled</b> <del>on request</del>:</p>
<p>a to establish the existence of an automated personal data file, its main purposes, as well as the identity and habitual residence or principal place of business of the controller of the file;</p>	<p>a not to be subject to a decision significantly affecting him/her <del>or producing legal effects relating to him/her</del>, based solely <u>on</u> <del>on the grounds of</del> an automatic processing of data without having <del>the right to express</del> his/her views <u>taken into consideration</u>;</p>
	<p>b to object at any time <del>for legitimate reasons</del> to the processing of personal data concerning him/her <u>unless such a processing is compulsory by virtue of the law or the controller can justify of prevailing legitimate grounds</u>;</p>

<p>b to obtain at reasonable intervals and without excessive delay or expense confirmation of whether personal data relating to him are stored in the automated data file as well as communication to him of such data in an intelligible form;</p>	<p>c to obtain, <u>on request</u>, at reasonable intervals and without excessive delay or expense confirmation <del>or not</del> of the <del>existence of data</del> processing <u>of personal data</u> relating to him/her, the communication in an intelligible form of the data processed, <b>all available information on their origin as well as any other information that the controller is required to provide to ensure the transparency of processing in accordance with Article 7bis;</b></p> <p>d to obtain, <u>on request</u>, knowledge of the reasoning underlying <del>in</del> the data processing, the results of which are applied to him/her ;</p>
<p>c to obtain, as the case may be, rectification or erasure of such data if these have been processed contrary to the provisions of domestic law giving effect to the basic principles set out in Articles 5 and 6 of this Convention;</p>	<p><u>e to obtain, upon request, as the case may be, rectification or erasure of such data if these have been processed contrary to the law giving effect to the provisions of this Convention;</u></p>
<p>d to have a remedy if a request for confirmation or, as the case may be, communication, rectification or erasure as referred to in paragraphs b and c of this article is not complied with.</p>	<p>See <u>f</u>e below</p>
	<p><u>ef</u> to have a remedy if no response is given to a request for confirmation, communication, rectification, erasure or to an objection, as referred to in this Article;</p>
	<p><u>gf</u> to benefit, whatever his/her residence, from the assistance of a supervisory authority within the meaning of Article 12 bis, in exercising the rights provided by this Convention.</p>
	<p><b>Article 8bis – Additional obligations</b></p>

1- ~~Each Party shall provide that the controller, or where applicable the processor, shall take at all stages of the processing all appropriate measures to implement the provisions giving effect to the principles and obligations of this Convention and to establish internal mechanisms to verify and demonstrate to the data subjects and to the supervisory authorities provided for in Article 12 bis of this Convention the compliance of the data processing for which he/she is responsible with the applicable law.~~

~~Each Party shall provide that the controller is responsible for ensuring respect for the right to the protection of personal data at all stages of the processing and for taking all appropriate measures to implement the domestic legal provisions giving effect to the principles and obligations of this Convention.~~

2- ~~Each party shall provide that~~ ~~the controller, or where applicable the processor,~~ shall carry out a risk analysis of the potential impact of the intended data processing on the rights and fundamental freedoms of the data subject and.

~~3- The controller, or where applicable the processor, shall design data processing operations in such a way as to prevent or at least minimise the risk of interference with those rights to the protection of personal data and fundamental freedoms.~~

~~4- The controller shall establish internal mechanisms to verify and demonstrate to the data subjects and to the supervisory authorities provided for in Article 12 bis of this Convention the compliance of the data processing for which he/she is responsible with the applicable law.~~

~~35-~~ Each Party shall provide that the products and services intended for the data processing shall take into account the implications of the right to the protection of personal data from the stage of their design and ~~include easy-to-use functionalities which facilitate~~ the compliance of the processing with the applicable law ~~to be ensured~~.

~~46-~~ The obligations included in the domestic law on the basis of the provisions of the previous paragraphs may be adapted according to the size of ~~the controller~~ the processing entities, ~~or where applicable the processor,~~ the volume of data processed and the risks for the interests, rights and fundamental freedoms of the data subjects.

Article 9 – Exceptions and restrictions	Article 9 – Exceptions and restrictions
<p>1 No exception to the provisions of Articles 5, 6 and 8 of this Convention shall be allowed except within the limits defined in this article.</p>	<p>1 No exception to the principles expressed in this Chapter shall be allowed, except to the provisions of Articles 5.3, <del>6</del>–7.2, 7bis and 8 when such derogation is provided for by <u>an accessible and foreseeable</u> law and constitutes a necessary measure in a democratic society to:</p>
<p>2 Derogation from the provisions of Articles 5, 6 and 8 of this Convention shall be allowed when such derogation is provided for by the law of the Party and constitutes a necessary measure in a democratic society in the interests of:</p>	<p>delete</p>
<p>a protecting State security, public safety, the monetary interests of the State or the suppression of criminal offences;</p>	<p>a protect State security, public safety, <del>the</del> <u>important economic and financial</u> interests of the State or <del>the</del> <b>prevention and</b> suppression of criminal offences;</p>
<p>b protecting the data subject or the rights and freedoms of others.</p>	<p>b protect the data subject or the rights and freedoms of others, <b>notably freedom of expression and information.</b></p>
<p>3 Restrictions on the exercise of the rights specified in Article 8, paragraphs b, c and d, may be provided by law with respect to automated personal data files used for statistics or for scientific research purposes when there is obviously no risk of an infringement of the privacy of the data subjects.</p>	<p>2 Restrictions on the exercise of the provisions specified in Articles <del>6</del>, <del>7bis</del> and 8 may be provided by law with respect to <del>personal data</del> <b>processing for statistical purposes or for the purposes</b> of scientific research, when there is obviously no risk of <del>an</del> <b>infringement of the rights and</b> <u>fundamental freedoms</u> of <del>the</del> data subjects.</p>
Article 10 – Sanctions and remedies	Article 10 – Sanctions and remedies
<p>Each Party undertakes to establish appropriate sanctions and remedies for violations of provisions of domestic law giving effect to the basic principles for data protection set out in this chapter.</p>	<p>Each Party undertakes to establish appropriate <b>judicial and non-judicial</b> sanctions and remedies for violations of domestic law giving effect to the <b>provisions of this Convention.</b></p>
Article 11 – Extended protection	Article 11 Extended protection

<p>None of the provisions of this chapter shall be interpreted as limiting or otherwise affecting the possibility for a Party to grant data subjects a wider measure of protection than that stipulated in this Convention.</p>	<p>unchanged</p>
<p><b>Chapter III – Transborder data flows</b></p>	<p><b>Chapter III – Transborder data flows</b></p>
<p><b>Article 12 – Transborder flows of personal data and domestic law</b></p>	<p><b>Article 12</b></p>
<p>1 The following provisions shall apply to the transfer across national borders, by whatever medium, of personal data undergoing automatic processing or collected with a view to their being automatically processed.</p>	<p>1 <u>The following provisions shall apply to the disclosure or making available of data. Each Party shall ensure that personal data will only be disclosed or made available to a recipient who is not subject to its the jurisdiction of the Party from where data originate on condition that an adequate level of data protection is ensured.</u></p>
<p>2 A Party shall not, for the sole purpose of the protection of privacy, prohibit or subject to special authorisation transborder flows of personal data going to the territory of another Party.</p>	<p>2 <u>A Party shall not, for the sole purpose of the protection of privacy, prohibit or subject to special authorisation the disclosure or making available of data to a recipient who is subject to the jurisdiction of another Party to the Convention, unless that Party applies more stringent protection rules or the disclosure or making available of data follows paragraph 4.b.</u>  <del>When the recipient is subject to the jurisdiction of a Party to the Convention, the law applicable to this recipient is presumed to provide an adequate level of protection and a Party shall not, for the sole purpose of data protection, prohibit or subject to special authorisation the disclosure or making available of data. The Conventional Committee may nevertheless conclude that the level of protection is not adequate.</del></p>

<p>3 Nevertheless, each Party shall be entitled to derogate from the provisions of paragraph 2:</p>	<p>3 When the recipient is subject to the jurisdiction of a State or international organisation which is not Party to the Convention, <u>the disclosure or making available of data can only occur where an appropriate level of personal data protection is guaranteed.</u></p> <p><del>4. a) An adequate appropriate level of protection can be ensured by:</del></p> <p>a) the law of that State or <u>international</u> organisation, in particular by applicable international treaties or agreements, or</p> <p>b) <u>approved</u> standardised <u>legal measures</u> or ad hoc legal measures, such as contract clauses, internal rules or similar measures that are <u>implemented by the person who discloses or makes data accessible and by the recipient; internal rules or similar measures having to be</u> binding, effective and capable of effective remedies.<sub>7</sub></p> <p><del>The competent supervisory authority within the meaning of Article 12 bis of the Convention [shall] [may] be informed of the ad hoc measures implemented and may request that the person who discloses or makes data available, or the recipient, demonstrate the quality and effectiveness of actions taken. This authority may suspend, prohibit or subject to condition the disclosure or making available of data.</del></p>
<p>a insofar as its legislation includes specific regulations for certain categories of personal data or of automated personal data files, because of the nature of those data or those files, except where the regulations of the other Party provide an equivalent protection;</p>	<p><del>54.</del> Notwithstanding paragraphs 2, <u>3</u> and <u>34</u> , each Party may provide that the disclosure or making available of data may take place, <u>if in a particular case:</u></p> <p>a) the data subject has given his/her specific, free and <u>explicit-non-ambiguous</u> consent, after being informed of risks arising in the absence of appropriate safeguards, or</p> <p>b) the specific interests of the data subject require it in the particular case, or</p> <p>c) legitimate interests protected by law and meeting the criteria of Article 9, prevail.</p>

	<p><del>56.</del> Each party may provide that <del>the</del> competent supervisory authority within the meaning of Article 12 bis of the Convention <del>be informed of the modalities regulating the data flow, such as ad hoc measures foreseen in paragraph 3.b. It may also provide that the supervisory authority be entitled to request that the person who discloses or makes data available, or the recipient, demonstrate the quality and effectiveness of actions taken or entitled to,</del> may suspend, prohibit or subject to condition the disclosure or making available of data within the meaning of <u>paragraphs 4.b. or 5 [a and b]</u> .</p>
<p>b when the transfer is made from its territory to the territory of a non Contracting State through the intermediary of the territory of another Party, in order to avoid such transfers resulting in circumvention of the legislation of the Party referred to at the beginning of this paragraph.</p>	<p><del>76.</del> Each Party may provide <del>in its domestic law</del> derogations to the provisions set out in this Chapter, providing they constitute a measure necessary in a democratic society for the purpose of the protection of freedom of expression <del>and information.</del></p>
<p>Article 2 – Transborder flows of personal data to a recipient which is not subject to the jurisdiction of a Party to the Convention (Additional Protocol)</p>	<p><i>(Article 12 above replaces the old Article 12 and Article 2 of the Additional Protocol)</i></p>
<p>1 Each Party shall provide for the transfer of personal data to a recipient that is subject to the jurisdiction of a State or organisation that is not Party to the Convention only if that State or organisation ensures an adequate level of protection for the intended data transfer.</p>	
<p>2 By way of derogation from paragraph 1 of Article 2 of this Protocol, each Party may allow for the transfer of personal data:</p>	
<p>a if domestic law provides for it because of:</p>	
<p>– specific interests of the data subject, or</p>	
<p>– legitimate prevailing interests, especially important public interests, or</p>	
<p>b if safeguards, which can in particular result from contractual clauses, are provided by the controller responsible for the transfer and are found adequate by the competent authorities according to domestic law.</p>	

	<b>Chapter III bis Supervisory authorities</b>
	<b>Article 12bis Supervisory authorities</b>
1 Each Party shall provide for one or more authorities to be responsible for ensuring compliance with the measures in its domestic law giving effect to the principles stated in Chapters II and III of the Convention and in this Protocol.	1 Each Party shall provide for one or more authorities to be responsible for ensuring compliance with the measures in its domestic law giving effect to the principles <b>of this Convention.</b>
2 a To this end, the said authorities shall have, in particular, powers of investigation and intervention, as well as the power to engage in legal proceedings or bring to the attention of the competent judicial authorities violations of provisions of domestic law giving effect to the principles mentioned in paragraph 1 of Article 1 of this Protocol.	2 To this end, such authorities: a. <b>are responsible for raising awareness of and providing information on data protection;</b> b. have, <del>in particular,</del> powers of investigation and intervention; c. <b>may pronounce decisions necessary with respect to domestic law measures giving effect to the provisions of this Convention and in particular to sanction administrative offences;</b> d. <del>are able</del> <u>have power</u> to engage in legal proceedings or <u>to</u> bring to the attention of the competent judicial authorities violations of provisions of domestic law giving effect to the provisions of this Convention.
b. Each supervisory authority shall hear claims lodged by any person concerning the protection of his/her rights and fundamental freedoms with regard to the processing of personal data within its competence.	3 Each supervisory authority <b>can be seized</b> by any person concerning the protection of his/her rights and fundamental freedoms with regard to the data processing <del>of personal data</del> within its competence <b>and shall inform the data subject of the follow-up given to such a claim.</b>
3 The supervisory authorities shall exercise their functions in complete independence.	4 The supervisory authorities shall <b>accomplish perform</b> their duties and exercise their powers in complete independence. <del>They shall neither seek nor accept instructions from anyone.</del>
	5 Each Party shall ensure that the supervisory authorities have adequate human, technical and financial resources and infrastructure necessary to <del>accomplish perform</del> their mission and exercise their powers <u>autonomously independently</u> and effectively.
4 Decisions of the supervisory authorities, which give rise to complaints, may be appealed against through the courts.	6 <u>Decisions of the supervisory authorities, which give rise to complaints, may be appealed against through the courts.</u> <del>Decisions of the supervisory authorities which give rise to complaints shall be subject to judicial remedies.</del>



<p>5 In accordance with the provisions of Chapter IV, and without prejudice to the provisions of Article 13 of the Convention, the supervisory authorities shall co-operate with one another to the extent necessary for the performance of their duties, in particular by exchanging all useful information.</p>	<p>7 In accordance with the provisions of Chapter IV, the supervisory authorities shall co-operate with one another to the extent necessary for the performance of their duties, in particular by:</p>
	<p>a exchanging all useful information, in particular by taking, under their domestic law and solely for the protection of personal data, all appropriate measures to provide factual information relating to specific processing carried out on its territory, with the exception of personal data undergoing this processing, unless such data is essential for co-operation or that the data subject has previously <del>explicitly</del> agreed to <u>in a non-ambiguous, specific, free and informed manner</u>;</p>
	<p>b coordinating their investigations or interventions or conducting joint actions;</p>
	<p>c providing information on their law and administrative practice in data protection.</p>
	<p>8 In order to organise their co-operation and to perform the duties set out in the preceding paragraph, the supervisory authorities of the Parties shall form a conference.</p>
	<p>9 The supervisory authorities shall not be competent with respect to processing carried out by judicial bodies in the exercise of their judicial functions.</p>
<p><b>Chapter IV – Mutual assistance</b></p>	<p><b>Chapter IV – Mutual assistance</b></p>
<p><b>Article 13 – Co-operation between Parties</b></p>	<p><b>Article 13 – Co-operation between Parties</b></p>
<p>1 The Parties agree to render each other mutual assistance in order to implement this Convention.</p>	<p>unchanged</p>
<p>2 For that purpose:</p>	<p>unchanged</p>
<p>a each Party shall designate one or more authorities, the name and address of each of which it shall communicate to the Secretary General of the Council of Europe;</p>	<p>a each Party shall designate one or more <b>supervisory</b> authorities within the meaning of Article 12bis of this Convention, the name and address of each of which it shall communicate to the Secretary General of the Council of Europe;</p>

b each Party which has designated more than one authority shall specify in its communication referred to in the previous subparagraph the competence of each authority.	b each Party which has designated more than one <b>supervisory</b> authority shall specify in its communication referred to in the previous subparagraph the competence of each authority.
3 An authority designated by a Party shall at the request of an authority designated by another Party:	Incorporated into Article 12bis
a furnish information on its law and administrative practice in the field of data protection;	
b take, in conformity with its domestic law and for the sole purpose of protection of privacy, all appropriate measures for furnishing factual information relating to specific automatic processing carried out in its territory, with the exception however of the personal data being processed.	
<b>Article 14 – Assistance to data subjects resident abroad</b>	<b>Article 14 – Assistance to data subjects resident abroad</b>
1 Each Party shall assist any person resident abroad to exercise the rights conferred by its domestic law giving effect to the principles set out in Article 8 of this Convention.	delete
2 When such a person resides in the territory of another Party he shall be given the option of submitting his request through the intermediary of the authority designated by that Party.	delete
3 The request for assistance shall contain all the necessary particulars, relating inter alia to:	delete
a the name, address and any other relevant particulars identifying the person making the request;	delete
b the automated personal data file to which the request pertains, or its controller;	delete
c the purpose of the request.	delete
<b>Article 15 – Safeguards concerning assistance rendered by designated authorities.</b>	<b>Article 15 – Safeguards concerning assistance rendered by designated supervisory authorities</b>

1 An authority designated by a Party which has received information from an authority designated by another Party either accompanying a request for assistance or in reply to its own request for assistance shall not use that information for purposes other than those specified in the request for assistance.	1 A <b>supervisory</b> authority designated by a Party which has received information from an authority designated by another Party either accompanying a request for assistance or in reply to its own request for assistance shall not use that information for purposes other than those specified in the request for assistance.
2 Each Party shall see to it that the persons belonging to or acting on behalf of the designated authority shall be bound by appropriate obligations of secrecy or confidentiality with regard to that information.	2 Each Party shall see to it that the persons belonging to or acting on behalf of the designated <b>supervisory</b> authority shall be bound by appropriate obligations of secrecy or confidentiality with regard to that information.
3 In no case may a designated authority be allowed to make under Article 14, paragraph 2, a request for assistance on behalf of a data subject resident abroad, of its own accord and without the express consent of the person concerned.	3 In no case may a designated <b>supervisory</b> authority be allowed to make under <del>Article 14, paragraph 2,</del> a request for assistance on behalf of a data subject [ <del>resident abroad</del> ], of its own accord and without the express consent of the person concerned.
<b>Article 16 – Refusal of requests for assistance</b>	<b>Article 16 – Refusal of requests for assistance</b>
A designated authority to which a request for assistance is addressed under Articles 13 or 14 of this Convention may not refuse to comply with it unless:	A designated <b>supervisory</b> authority to which a request for assistance is addressed under Articles 13 <del>or 14</del> of this Convention may not refuse to comply with it unless:
a the request is not compatible with the powers in the field of data protection of the authorities responsible for replying;	unchanged
b the request does not comply with the provisions of this Convention;	unchanged
c compliance with the request would be incompatible with the sovereignty, security or public policy (ordre public) of the Party by which it was designated, or with the rights and fundamental freedoms of persons under the jurisdiction of that Party.	unchanged
<b>Article 17 – Costs and procedures of assistance</b>	<b>Article 17 – Costs and procedures of assistance</b>

<p>1 Mutual assistance which the Parties render each other under Article 13 and assistance they render to data subjects abroad under Article 14 shall not give rise to the payment of any costs or fees other than those incurred for experts and interpreters. The latter costs or fees shall be borne by the Party which has designated the authority making the request for assistance.</p>	<p>1 Mutual assistance which the Parties render each other under Article 13 and assistance they render to data subjects [abroad] under Article 14 shall not give rise to the payment of any costs or fees other than those incurred for experts and interpreters. The latter costs or fees shall be borne by the Party which has designated the <b>supervisory</b> authority making the request for assistance.</p>
<p>2 The data subject may not be charged costs or fees in connection with the steps taken on his behalf in the territory of another Party other than those lawfully payable by residents of that Party.</p>	<p>unchanged</p>
<p>3 Other details concerning the assistance relating in particular to the forms and procedures and the languages to be used, shall be established directly between the Parties concerned.</p>	<p>unchanged</p>
<p><b>Chapter V – Consultative Committee</b></p>	<p><b>Chapter V – <u>Convention</u> Committee</b></p>
<p><b>Article 18 – Composition of the committee</b></p>	<p><b>Article 18 – Composition of the committee</b></p>
<p>1 A Consultative Committee shall be set up after the entry into force of this Convention.</p>	<p>1 A <b>Convention</b> Committee shall be set up after the entry into force of this Convention.</p>
<p>2 Each Party shall appoint a representative to the committee and a deputy representative. Any member State of the Council of Europe which is not a Party to the Convention shall have the right to be represented on the committee by an observer.</p>	<p>unchanged</p>
<p>3. The Consultative Committee may, by unanimous decision, invite any non-member State of the Council of Europe which is not a Party to the Convention to be represented by an observer at a given meeting.</p>	<p>3 The <b>Convention</b> Committee may, by a decision taken by <b>a majority of two-thirds of the representatives of the Parties [voting] [entitled to vote]</b>, invite <b>an observer to be represented at its meetings.</b></p>
<p></p>	<p>4 Any Party which is not a member of the Council of Europe shall contribute to the funding of the activities of the Convention Committee according to the modalities established by the Committee of Ministers in agreement with that Party.</p>
<p><b>Article 19 – Functions of the committee</b></p>	<p><b>Article 19 – Functions of the committee</b></p>

The Consultative Committee:	The <b>Convention</b> Committee:
a may make proposals with a view to facilitating or improving the application of the Convention;	a may make <b>recommendations</b> with a view to facilitating or improving the application of the Convention;
b may make proposals for amendment of this Convention in accordance with Article 21;	unchanged
c shall formulate its opinion on any proposal for amendment of this Convention which is referred to it in accordance with Article 21, paragraph 3;	unchanged
d may, at the request of a Party, express an opinion on any question concerning the application of this Convention.	d may, <del>at the request of a Party,</del> express an opinion on any question concerning the <b>interpretation or</b> application of this Convention;
	e <u>shall</u> prepares, before any new accession to the Convention, an opinion for the Committee of Ministers relating to the level of data protection of the candidate for accession;
	f may, at the request of a State or an international organisation, evaluate whether the rules of its domestic law <del>ensure an adequate level of protection for the purposes of</del> are in compliance <u>with the provisions of</u> this Convention;
	g may develop models of standardised legal measures referred to in Article 12;
	h <u>shall</u> [periodically] reviews the implementation of this Convention by the Parties in accordance with the provisions of Article 4.3;
	i <u>shall</u> provides its opinion on the adequate level of <del>data</del> protection <u>of personal data</u> foreseen by the provisions of paragraphs 2 and 3 of Article 12;
	j <u>shall</u> <del>does</del> whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of the implementation of this Convention.
<b>Article 20 – Procedure</b>	<b>Article 20 – Procedure</b>

<p>1 The Consultative Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within twelve months of the entry into force of this Convention. It shall subsequently meet at least once every two years and in any case when one-third of the representatives of the Parties request its convocation.</p>	<p>1 The <b>Convention</b> Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within twelve months of the entry into force of this Convention. It shall subsequently meet at least once a year and in any case when one-third of the representatives of the Parties request its convocation.</p>
<p>2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the Consultative Committee.</p>	<p>2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the <b>Convention</b> Committee.</p>
	<p>3 <del>Every</del> <u>Each</u> Party has a right to vote. <del>Each State which is a Party to the Convention and</del> shall have one vote. On questions related to its competence, the European Union exercises its right to vote and casts a number of votes equal to the number of its member States that are Parties to the Convention and have transferred competencies to the European Union in the field concerned. In this case, those member States of the European Union do not vote. <del>When the Committee acts according to provisions of litera (h), (i) and (j) of Article 19, however, both the European Union and its Member States vote. The European Union does not vote when a question which does not fall within its competence is examined.</del></p>
<p>3 After each of its meetings, the Consultative Committee shall submit to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of the Convention.</p>	<p>4 After each of its meetings, the <b>Convention</b> Committee shall submit to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of the Convention.</p>
<p>4 Subject to the provisions of this Convention, the Consultative Committee shall draw up its own Rules of Procedure.</p>	<p>5. Subject to the provisions of this Convention, the <b>Convention</b> Committee shall draw up its own Rules of Procedure and establish the procedures <u>of evaluation set out in Article 4.3 and of for the examination of the adequate level of protection foreseen in the present Article on the basis of objective criteria.</u></p>
<p><b>Chapter VI – Amendments</b></p>	<p><b>Chapter VI – Amendments</b></p>
<p><b>Article 21 – Amendments</b></p>	<p><b>Article 21 – Amendments</b></p>
<p>1 Amendments to this Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the Consultative Committee.</p>	<p>1 Amendments to this Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the <b>Convention</b> Committee.</p>

<p>2 Any proposal for amendment shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of Europe and to every non-member State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 23.</p>	<p>2 Any proposal for amendment shall be communicated by the Secretary General of the Council of Europe to the <b>Parties to the Convention, to the other</b> member States of the Council of Europe, <u>to the European Union</u> and to every non-member State which has <del>acceded to or has</del> been invited to accede to this Convention in accordance with the provisions of Article 23.</p>
<p>3 Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the Consultative Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.</p>	<p>3 Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the <b>Convention</b> Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.</p>
<p>4 The Committee of Ministers shall consider the proposed amendment and any opinion submitted by the Consultative Committee and may approve the amendment.</p>	<p>4 The Committee of Ministers shall consider the proposed amendment and any opinion submitted by the <b>Convention</b> Committee and may approve the amendment.</p>
<p>5 The text of any amendment approved by the Committee of Ministers in accordance with paragraph 4 of this article shall be forwarded to the Parties for acceptance.</p>	<p>unchanged</p>
<p>6 Any amendment approved in accordance with paragraph 4 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.</p>	<p>unchanged</p>
	<p>7. Moreover, the Committee of Ministers may after consulting the Convention Committee, decide that a particular amendment shall enter into force at the expiration of a period of two years from the date on which it has been opened to acceptance, unless a Party notifies the Secretary General of the Council of Europe of an objection to its entry into force. If such an objection is notified, the amendment shall enter into force on the first day of the month following the date on which the Party to the Convention which has notified the objection has deposited its instrument of acceptance with the Secretary General of the Council Europe.</p>

	<p>8. If an amendment has been approved by the Committee of Ministers but has not yet entered into force in accordance with the provisions set out in paragraphs 6 or 7, a State or the European Union may not express its consent to be bound by the Convention without at the same time accepting the amendment.</p>
<b>Chapter VII – Final clauses</b>	<b>Chapter VII – Final clauses</b>
<b>Article 22 – Entry into force</b>	<b>Article 22 – Entry into force</b>
<p>1 This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.</p>	<p><u>1 This Convention shall be open for signature by the member States of the Council of Europe, the European Union and States not members of the Council of Europe which have taken part in the drafting of the amending protocol. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.</u></p>
<p>2 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.</p>	unchanged
<p>3 In respect of any member State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification, acceptance or approval.</p>	unchanged
<b>Article 23 – Accession by non-member States</b>	<b>Article 23 – Accession by non-member States <del>or the European Union</del></b>



<p>1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the committee.</p>	<p>1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, <u>after consulting the Parties to the Convention and obtaining their unanimous agreement and in light of the opinion prepared by the Convention Committee in accordance with Article 19.e</u>, invite any State not a member of the Council of Europe to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee <u>of Ministers</u>.</p>
<p>2 In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.</p>	<p>2 In respect of any State <u>acceding to the present Convention according to paragraph 1 above</u>, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.</p>
	<p><del>3 The European Union as well as States not members of the Council of Europe which have taken part in the drafting of the amending Protocol can accede to the Convention without prior invitation from the Committee of Ministers.</del></p>
<p><b>Article 24 – Territorial clause</b></p>	<p><b>Article 24 – Territorial clause</b></p>
<p>1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.</p>	<p>1 Any State <b>or the European Union</b> may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.</p>
<p>2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.</p>	<p>2 Any State <b>or the European Union</b> may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.</p>

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.	unchanged
<b>Article 25 – Reservations</b>	<b>Article 25 – Reservations</b>
No reservation may be made in respect of the provisions of this Convention.	unchanged
<b>Article 26 – Denunciation</b>	<b>Article 26 – Denunciation</b>
1 Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.	unchanged
2 Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.	unchanged
<b>Article 27 – Notifications</b>	<b>Article 27 – Notifications</b>
The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:	The Secretary General of the Council of Europe shall notify the member States of the Council and <b>any Party</b> to this Convention of:
a any signature;	unchanged
b the deposit of any instrument of ratification, acceptance, approval or accession;	unchanged
c any date of entry into force of this Convention in accordance with Articles 22, 23 and 24;	unchanged
d any other act, notification or communication relating to this Convention.	unchanged