



Council of Europe
Conseil de l'Europe

Convention 108 – an update

Sophie Kwasny, 23 May 2016

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Protecting the data ? Protecting the persons ?

"Personal data" = any information relating to an identified or identifiable individual



Data protection : an enabling right

ECHR

Article 1 – Obligation to respect human rights

Article 8 – Right to private life

Article 9 – Freedom of thought, conscience
and religion

Article 10 – Freedom of expression

Article 11 – Freedom of assembly and
association

Convention 108

35 years old: 47/48 Parties (including Uruguay) + observers (USA, Canada, Australia and non-state actors)

Pending : Morocco, Mauritius, Senegal, Tunisia

Cape Verde ?

Convention 108 - Modernisation

Current modernisation to:

- reinforce the individuals' protection
- strengthen the follow-up mechanism

Modernisation trends :

- **promote** as a universal standard
- **preserve** general, simple, flexible and pragmatic character
- **ensure coherence** with other relevant frameworks (EU, OECD, APEC)

Convention 108 modernised

- “protect every individual, **whatever** his or her nationality or residence”
- data processing in the **public** and private sectors
- declaration [...] that it will not apply [...] to certain categories of automated personal data files
- legitimacy of data processing and quality of data

Convention 108 modernised

- **Sensitive** data : genetic data, biometric data uniquely identifying a person
- notification of data **breaches** which may seriously interfere with the rights and fundamental freedoms of data subjects
- **transparency**
- **rights** of the data subjects

Convention 108 modernised

- **exceptions**, provided for by law, necessary and proportionate in a democratic society for:

the protection of national security, public safety, important economic and financial interests of the State, the impartiality and independence of the judiciary or the prevention, investigation and prosecution of criminal offences.

Convention 108 modernised

- **transborder flows of data :**

No prohibition of transfers to a recipient in a Party to the Convention.

Except if bound by “harmonised rules of protection shared by States belonging to a regional international organisation”.

Convention 108 - Modernisation

CAHDATA meeting (15-16 June)



Committee of Ministers

International Conference (17 June)

Other standard-setting work

Committee of Convention 108

33rd Plenary: 29 June - 1 July 2016

- Health data
- Data in the police sector
- Passenger Name Records (PNR)
- Big data



Thank you for your attention

www.coe.int/dataprotection

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