

**SPEAKING POINTS FOR THE DEPUTY SECRETARY GENERAL**  
**OPENING OF THE**  
**21<sup>st</sup> T-PD BUREAU MEETING**  
**15 November 2010, Agora Room G04**  
**Opening at 9.30 am**

- ⇒ I am happy to be opening your meeting, which will launch an important work in the field of privacy and data protection : the modernisation of Convention 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data.
  
- ⇒ Your future work follows a decision by the Committee of Ministers of last March and is in line with the Secretary General's priorities for 2011 which foresee the reviewing of our Conventions.
  
- ⇒ The call from the Committee of Ministers could not have been more timely. Data protection and privacy are at a cross-roads. Nowadays, information about us is constantly being recorded, communicated and analysed without our knowledge, let alone our consent. We easily overlook the fact that every action that involves using technology is recorded somewhere.

- ⇒ Some argue that it is no longer possible for individuals to decide in any meaningful way as to how information about them is gathered, shared and used by others. Speaking at the International Conference of Data protection Commissioners in Jerusalem last month, Ann Cavoukian, Information and Privacy Commissioner of Ontario, Canada, announced the 'death' of privacy by 2020.
  
- ⇒ We must not allow this to happen. That is the reason why the Council of Europe has taken up the double challenge of modernising and strengthening Convention 108 as well as promoting its implementation worldwide.
  
- ⇒ The modernisation will pursue two objectives:
  - to deal with challenges for privacy resulting from the use of new Information and Communication Technologies and;
  - to strengthen the Convention's follow-up mechanism.

- ⇒ The core principles contained in Convention 108 have stood the test of time. The technologically-neutral, principle-based approach constitutes a strength of Convention 108. But you will not only have to apply these principles to the new realities of the on-line world. You will have to consider new principles, such as accountability or the principle of data minimisation, which should guide the design of any system which involves the collection and storage of personal information. You will also have to consider new challenges for data protection in the context of cloud computing.
  
- ⇒ The increase in storage and processing capacities enables information concerning an individual to circulate within the network, even though it may no longer be valid. This makes the current principles of accuracy and proportionality of data obsolete. A new right to oblivion or automatic “data erasers” would enable individuals to take control over the use of their own personal data.
  
- ⇒ In your work, Article 8 of the European Convention on Human Rights which protects the right to respect for private and family life and the case-law of the European Court of Human Rights will be an obvious guideline. The Court held many times that mere storage of information about an individual’s private life is

an interference in the applicants' right for private life. The Court also held in the case *S. and Marper v. the United Kingdom* that the retention of the fingerprint and DNA data of the applicants, as persons suspected but not convicted of certain criminal offences, was an interference in the applicants' right for private life.

Ladies and Gentlemen,

- ⇒ it is of utmost importance to ensure a trusted Internet-based environment which offers protection to individuals, especially minors and other vulnerable groups.
  
- ⇒ The abuse of content on the Internet created by children is a growing concern, not to mention the horrible statistics concerning pedopornographic images which nobody seems to be able to erase from the net. I strongly believe that the new Convention 108 has to take these developments into account.

- ⇒ Other Council of Europe standards are already addressing the new challenges arising from the evolution of technology. The need to protect children from crimes committed through internet is tackled in both the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and in our Convention on Cybercrime.
  
- ⇒ On our modern information highways, it is not sufficient to have traffic codes. As with cars, we need in-built driver security. The design and implementation of procedures and systems in accordance with privacy and data protection, already at draft conception stage, should be encouraged, notably through the use of privacy enhancing technologies.
  
- ⇒ Back in the late 1970s, the Council of Europe already associated non-European countries such as Australia, Canada, Japan and the United States to the elaboration of what later became Convention 108. This is even more important nowadays, as the internet does not know any frontiers.

- ⇒ That is why I am very happy to see in the room participants from different Council of Europe members states, the representatives of International Conference of Data Protection Commissioners, the Association of French Speaking Data Protection Authorities, Interpol.
  
- ⇒ The current patchwork of different national legislations is an obstacle for the free flow of data and makes it almost impossible for individuals to enforce their rights. We need common core elements for personal data protection that can be applied worldwide. The call for internationally agreed privacy standards has never been louder. It comes from business and civil society communities alike, most forcefully in the Madrid privacy declaration "Global Privacy Standards for a Global World" of 3 November 2009.
  
- ⇒ Next week I shall address the 30<sup>th</sup> Council of Europe Conference of Ministers of Justice, which is expected to adopt a resolution supporting the modernisation process of Convention 108.

- ⇒ In the Council of Europe, we value a multi-stakeholder approach encompassing different regions of the world, civil society and business. A thorough and balanced instrument can only emerge if everyone contributes to the process, based on their specific experience and expertise.
  
- ⇒ I am convinced that you will produce a comprehensive, workable privacy framework that is efficient, consistent, flexible, robust and transparent.
  
- ⇒ You can count on all my support in your endeavours.
  
- ⇒ Finally, I look forward to the celebrations of the 30<sup>th</sup> anniversary of Convention 108 together with the European Commission on 28 January next year, where the Council of Europe will be able to show once again that we are a modern Organisation, capable of adjusting our work to the demands of present day society.