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**BUREAU OF THE CONSULTATIVE COMMITTEE OF THE CONVENTION  
FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC  
PROCESSING OF PERSONAL DATA [ETS No. 108]**

23rd meeting  
22-24 March 2011  
Strasbourg, Agora Building, room G04

**Draft Opinion of the T-PD Bureau  
on the CODEXTER report on “false identity information as a challenge to  
immigration authorities”**

Document prepared by the  
Directorate General of Legal Affairs and Human Rights

1. Following the transmission to the Committee of Ministers by the Committee of Experts on Terrorism (CODEXTER) of its summary and analytical report on the questionnaire on the challenge that false travel and identity documents and information pose to immigration authorities, the Committee of Ministers, at its 1090<sup>th</sup> meeting (9 July 2010), decided to communicate it to the Consultative Committee (T-PD) of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) for information and any comments it might wish to make.
2. The Bureau of the T-PD has taken note of this report and decided to make the following observations, recalling the provisions of Convention 108 and its Additional Protocol, as well as those of Recommendation No. R (87) 15 regulating the use of personal data in the police sector.
3. It should first of all be noted that security, however necessary and desirable it might be, must be achieved with respect for the principles of data protection, especially where the data in question are sensitive, or indeed highly sensitive. Security and data protection must therefore coexist.
4. Exceptions provided for in Convention 108 and its Additional protocol may be applied in connection with access to and knowledge of data processing, as strictly required by investigations, with respect for the proportionality principle. No infringement of physical and/or psychological privacy can be justified in breach of the proportionality principle.
5. The Bureau of the T-PD also recalls that an invented identity (an alias) – which is common in surfing on Internet, especially on the social networks – serving solely to avoid using one’s real identity in contacts with other users, without preventing the controller from ascertaining the real identity of the person concerned (which means that the police can also ascertain it), cannot be considered criminal or treated as a false identity in such a scenario, and indisputably constitutes a personal data item.
6. In connection with transmitting personal data to third countries, the Bureau of the T-PD stresses that co-operation mechanisms must necessarily be based on a minimum bedrock of rules applicable in the field of personal data protection (Convention 108 and other relevant principles such as the Guidelines of the Organisation for Economic Co-operation and Development), and that compliance with these rules must be a sine qua non for co-operation. Derogations from the data protection principles can only occur in the strict framework of the exceptions provided for by Convention 108 (eg national defence requirements) and respect for the proportionality principle must be complete.

Procedures to assess the level of data protection proper destinations for personal data that reflect the specifics of criminal cooperation could be considered.

Harmonisation of national legislations might be useful, particularly in connection with Internet, with a view to securing a minimum number of common concepts.

7. The use of investigatory resources and tools (eg identification algorithms) should not be prevented, provided that they respect data protection principles.

8. The Bureau of the T-PD advocates reinforcing co-operation with CODEXTER, particularly so that both committees can pronounce on actual cases. The fight against terrorism and organised crime poses difficult challenges which, in the spirit of uncompromising respect for human rights, must be conducted in a spirit of teamwork, with respect for difference and the complementarity of all contributions.