

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 1 September 2015

T-PD (2016)WP2016-2017

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

WORK PROGRAMME OF THE T-PD
FOR 2016 and 2017

Directorate General Human Rights and Rule of Law

WORK PROGRAMME OF THE T-PD FOR 2016 AND 2017

Key areas of work

- Implementation of the follow-up mechanism
- Promotion of Convention 108 to third countries
- Possible normative actions on Big Data and health data

1 - Follow-up to the modernisation proposals of Convention 108

In the context of the modernisation process of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (hereafter referred to as 'Convention 108'), new functions will be assigned to the Consultative Committee regarding the follow-up and the evaluation mechanism. To this end, reference should be made to the information document on the modalities and procedures of the "evaluation and follow-up mechanism" (T-PD-BUR(2013)02rev5) prepared by the Secretariat.

Objective: The follow-up procedure and evaluation mechanism aims at ensuring the credibility and effective implementation of Convention 108 by supporting the ratification exercise and by establishing a genuine dynamic of harmonised protection.

Working methods: A questionnaire will be prepared. Furthermore, the structure of the working groups as well as the necessity, purpose and order of visits will be defined.

2 - Promotion of Convention 108

The Consultative Committee will enhance the implementation of Convention 108 through capacity-building and outreach, aiming at enlarging the application of the Convention at global level.

Objective: The enhancement of the implementation of Convention 108 for member states of the Council of Europe and of other parties to the Convention as well as third countries.

Working methods: Primarily, through the involvement in various cooperation projects to provide guidance and assistance.

3 - Delivery of principle-based guidance on challenges to privacy and data protection

This notably includes the issues mentioned in the Internet Governance Strategies 2012-2015 and 2016-2019, identified in the 2013 report on "The use of the Internet and related services, private life and data protection: trends and technologies, threats and implications", such as internet of things, new generation of video-surveillance technologies, drones and surveillance.

The Committee will further continue its work on the revision of the Council of Europe existing Recommendations (notably, Recommendation No. R(85) 20 on the protection of personal data used for the purposes of direct marketing, Recommendation No. R(86) 1 on the protection of personal data for social security purposes, Recommendation No. R(90) 19 on the protection of personal data used for payment and other operations, Recommendation No. R (91) 10 on the communication to third parties of personal data held by public bodies, Recommendation No. R(95) 4 on the protection of personal data in the area of telecommunication services and Recommendation No. R(2002) 9 on the protection of personal data collected and processed for insurance purposes).

Furthermore, in the context of the modernisation of Convention 108, it will be necessary to provide guidance to facilitate the implementation of new provisions (e.g. examination of the likely impact foreseen in Article 8bis.2).

The Committee will pursue its work on the following:

3.1 - Guidance on challenges to data protection regarding “Big Data”

The Consultative Committee decided to take action as regards the topic of ‘big data’ during its 33rd Bureau meeting (30 September – 2 October 2014). It was agreed to start with the preparation of an experts report on the topic.

Objective: Providing guidance based on legal principles regarding the topic of “Big Data” and its challenges within the field of data protection to ensure that individuals are protected in the most appropriate way, in particular in view of the technological developments.

Working methods: A report on the topic of “Big Data” and its challenges on data protection are to be developed. Next step: possible normative action.

3.2 - Recommendation (87) 15 on data protection in the police sector

The Consultative Committee discussed the needs as well as the options regarding the topic of data protection in the police sector and decided to follow-up on its Recommendation (87) 15 regulating the use of personal data in the police sector during its 33rd T-PD Bureau meeting (30 September-2 October 2014). The Consultative Committee decided to propose the preparation of a practical guide on the use of personal data by the police. Furthermore work on the PNR and profiling in the context of counter-terrorism could be deemed necessary.

Objective: Ensuring the continued protection of the individuals’ personal data in case they are used within the police sector by providing for a concrete practical guidance for processing of personal data necessary for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal sanctions.

Working methods: Preparation of a practical guide, based on the principles of Recommendation (87) 15 in cooperation with a CoE expert.

3.3 – Recommendation (97) 5 on the protection of medical data

On the basis of Recommendation N° (97) 5 and in collaboration with the Bureau of the DH-Bio, the T-PD has been engaged in developing a questionnaire on the protection of medical data concerning emerging technologies as well as the development of tools, such as guidelines or codes of best practices to facilitate the implementation of existing principles in specific fields of common relevance.

Objective: The aim is to ensure the protection of medical data regarding new technologies and tools and assess whether the revision of the Recommendation N° (97) 5 will be deemed necessary.

Working methods: The delegations' responses to the questionnaire are to be evaluated in order to prepare an experts' report and a new recommendation on health data is to be prepared.

3.4 – Automatic Exchange of data

Further to the opinion adopted the T-PD on the data protection implications of mechanisms for automatic inter-state exchanges of personal data for administrative and tax purposes (31st Plenary meeting, 2-4 June 2014), the broad dissemination of this opinion at national level need to be ensured and followed-up.

Objective: The aim is to promote further guidance in the field, such as for instance seeking clarity on the notion of necessity or providing detailed information on applicable safeguards.

Working methods: In order to provide further orientation, various actions should be taken at national level and guidance notes on specific topics are to be drafted.

4 - Other work

The Consultative Committee will continue to promote the celebration of data protection day and ensure that raising awareness and educating to data protection remains a key aspect of the work of the various stakeholders.

It will continue to provide its unique expertise to other Council of Europe instances, and external fora, where their activities have a link with data protection questions.

The Committee will continue to cooperate closely with the Committee on Bioethics with a view to provide guidance on topical developments in the field of the use of data relating to health, notably in the sector of bio banks or more generally research (anonymisation of biological

samples of human origin and associated data) as well as with a view to identify priority human rights challenges raised by emerging technologies and their convergence.

Possible partners:

- T-PD delegations
- DH-Bio, T-CY and other CoE entities
- External experts
- EU, EDPS, concerned countries and other entities
- OECD, Interpol, Europol and Eurojust, UNESCO, UN, ICANN etc.