



**Secretary General's Regulation of 17 April 1989
instituting a system of data protection for personal data files
at the Council of Europe**

Secretariat document
prepared by the
Directorate General of Legal Affairs

REGULATION

outlining a data protection system for personal data files in the Council of Europe

The Secretary General of the Council of Europe,

Bearing in mind the provisions of the Convention for the protection of individuals with regard to automatic processing of personal data of 28 January 1981, concluded within the Council of Europe, and in particular its entry into force on 1 October 1985;

Determined to respect the principles of data protection contained in the Convention within the Council of Europe itself,

Decides as follows:

Article 1

The provisions of this Regulation shall apply to all personal data which are collected, stored and used by the Organisation automatically or manually, excepted personal data collected, stored and used in the framework of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols to that Convention.

Article 2

The collection, storage and use of personal data shall only take place for the performance of the necessary internal administrative tasks of the Organisation or for the discharge of the functions envisaged in the Statute.

Article 3

1. Personal data shall be collected, stored and used fairly and lawfully with the knowledge of the person concerned.
2. The collection, storage and use of personal data, including their communication to third parties, for purposes other than those stated in Article 2, may only take place with the express and written consent of the person concerned or in accordance with safeguards laid down in regulations already existing within the Organisation or to be adopted notably pursuant to Article 6 (b) and (c) of the Appendix to this Regulation.

Article 4

For the purpose of ensuring respect for the data protection principles set out in this Regulation, the function of an independent Data Protection Commissioner shall be established in accordance with the provisions in the Appendix to this Regulation.

Article 5

A list of all automated or manual files kept by the Organisation shall be deposited with the Data Protection Commissioner. The list shall specify the person or body responsible for each

particular file, the purpose of the file, the sort of data contained on the file, the persons or bodies to whom the data may be communicated and the purposes for which communication may legitimately take place.

Any proposal aimed at automating particular files or introducing new data processing techniques shall be communicated to the Data Protection Commissioner.

Article 6

The person or body responsible for a particular file shall, by means of periodic review, ensure that the personal data contained in the file are:

- (a) accurate;
- (b) up to date;
- (c) relevant and not excessive for the purpose for which they were collected and stored;
- (d) secure against accidental or unauthorised destruction or accidental loss as well as against unauthorised access, alteration or transfer;
- (e) stored for no longer than is necessary in a form which permits identification of persons concerned.

Article 7

Where the performance of the aims specified in Article 2 makes it absolutely necessary to collect, store or use personal data of a sensitive nature, such data may only be collected, stored and used with the express and written consent of the person concerned.

Article 8

1. Except where overriding reasons of confidentiality exist, any person shall, without charge, be entitled to have access to a file containing information relating to him and, as the case may be, to obtain rectification or erasure of the information where it is shown to be inaccurate, irrelevant, excessive or out of date.

2. In the event of a refusal of access for the reasons specified in the preceding paragraph, the Data Protection Commissioner shall, at the request of the person concerned, determine whether the grounds of refusal are well-founded. For this purpose, he/she shall be empowered to inspect the file and to decide whether access should be granted.

Article 9

This Regulation shall be brought to the attention of all members of staff of the Organisation.

Strasbourg, 17.4.89
(signed) Marcelino OREJA

A P P E N D I X

The Data Protection Commissioner

Article 1

The Data Protection Commissioner shall be elected by the Consultative Committee established under Article 18 of the Convention for the protection of individuals with regard to automatic processing of personal data of January 28, 1981, on the basis of his genuine independence as well as experience and knowledge of the problems connected with data protection.

Article 2

The Consultative Committee shall elect the Data Protection Commissioner from a list of names drawn up by the Secretary General of the Council of Europe.

Article 3

The term of office of the Data Protection Commissioner shall be three years, and may be renewed once.

Article 4

The operational costs of the Data Protection Commissioner shall be borne by the budget of the Council of Europe.

Article 5

The Data Protection Commissioner may draw up rules of procedure.

Article 6

In addition to ensuring respect for the principles set out in this Regulation, the Data Protection Commissioner shall

- (a) investigate complaints from individuals arising out of implementation of this Regulation after completion of the complaints procedure laid down in Article 59 of the Staff Regulation;
- (b) formulate opinions at the request of the Secretary General on any matter relating to implementation of this Regulation;
- (c) bring to the attention of the Secretary General any proposals for improvement of the system of data protection.

Article 7

In the performance of his functions, the Data Protection Commissioner shall be assured of the utmost co-operation from the Secretariat General.

Article 8

If he so wishes the Data Protection Commissioner may at all times make recommendations to the Secretary General.