



Strasbourg, 18 September 2019

T-PD(2019)WP2020-2021final

**CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE  
PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC  
PROCESSING OF PERSONAL DATA**

**CONVENTION 108**

**WORK PROGRAMME**  
**FOR THE 2020-2021 BIENNIUM**

Directorate General Human Rights and Rule of Law

## **WORK PROGRAMME FOR 2020 AND 2021**

The program aims to ensure the highest level of quality and productivity for the work of the Committee of Convention 108, with concrete achievements and results, depending on the resources available (two plenary meetings and three Bureau meetings per year, subject to an annual budget equivalent to the one of the previous exercise) and the Secretariat<sup>1</sup>.

New working methods (use of electronic share points and remote participation instruments for instance) of the Committee and its Bureau should aim at facilitating participation of interested delegations, reactivity and rationalisation of the time and resources.

### **Key areas of work**

- Follow-up to the modernisation of the Convention
- Promotion of the Convention
- Specific guidance based on the principles of the Convention, concerning facial recognition, the processing of personal data in the context of education systems and profiling (Recommendation (2010)13)
- Cooperation with other committees on issues related to the manipulation of sports competitions (the Macolin Convention), cybercrime (the Budapest Convention), bioethics (Oviedo Convention), elections (Venice Commission) and the children's rights (CAHENF)
- Data protection day, Stefano Rodotà award and other awareness raising initiatives

### **1 - Follow-up to the modernisation of the Convention**

In the context of the modernisation of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (hereinafter 'Convention 108' and 'Convention 108+' in its modernised form), new functions will be entrusted to the Committee with regard to the evaluation and follow-up mechanism.

The Committee of Convention 108 will finalise the information document and the questionnaire that will serve as a basis for the implementation of the evaluation and follow-up mechanism, in an objective, fair and transparent manner.

---

<sup>1</sup> The data protection unit currently comprises four members: a manager, a senior administrative assistant, an administrative assistant and an official seconded by his national administration (Hungary).

In addition, the Rules of Procedure of the Convention Committee will need to be reviewed and a revised version of the Rules (in the light of, among other things, new functions, working methods and provisions on the right to vote) will be prepared.

**Objectives:** The procedure of evaluation and follow-up 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. Guidance notes will aim at facilitating the implementation of the Convention.

**Deliverables:** A working group of delegations interested in this work will prepare proposals for the Bureau and Plenary of the Committee, for the finalisation of the applicable procedure and questionnaire, which will serve as a basis for the evaluation and follow-up of the implementation of the Convention.

## **2 - Promotion of the Convention**

The implementation of the Convention will be enhanced through consolidation and communication activities aimed at further expanding the implementation of the Convention at the global level.

The 40<sup>th</sup> anniversary of Convention 108, on 28 January 2021, will be the occasion of special celebrations involving all stakeholders.

With regard to Convention 108+, the dynamics of signatures and ratifications aimed at enabling the entry into force of the amending protocol will continue to be the subject of targeted actions of promotion.

**Objectives:** Enhancing the implementation of the Convention for member states of the Council of Europe and for other parties to the Convention, as well as countries interested in acceding to Convention 108+, support for the development of a compliant legislative framework, and capacity-building of the competent authorities.

**Deliverables:** Increased number of State Parties, number of observers to the Committee and greater participation in various cooperation projects as well as a series of regional networks to ensure the visibility of Convention 108+ and the work of the Committee. High level celebration of the 40<sup>th</sup> anniversary of Convention 108.

### **3 - Delivery of specific guidance responding to privacy and data protection challenges**

This notably includes the response of the Committee to some of the challenges shared by its delegations, by providing guidance and detailed explanations of the application of the principles of the Convention to areas identified by the Committees as priorities.

The Committee will continue or undertake normative work on the following priority themes:

#### **3.1 Facial Recognition**

**Objectives:** Facial recognition technology is exponentially used, its use is becoming more widespread (mobile phones, financial services, automobiles, etc.) while the processing of biometric personal data on which it is based can represent serious risks for privacy and the right to the protection of personal data of individuals. While the reasonable and lawful use of this processing technology can certainly contribute to the development of new technologies and new daily uses, the risks and challenges are not to be overlooked.

**Deliverables:** An expert report highlighting the issues related to the use of this technology and on the basis of which the Committee will decide on the form to be given to a normative guidance on the use of facial recognition with regard to the right to data protection, in order to avoid an inappropriate interference of this technology with the privacy of individuals or infringement of the right to the protection of personal data.

#### **3.2 Data Protection in Educational Systems**

**Objectives:** Considering that a large amount of personal data of minors and young adults is dealt with in the context of educational system activities for the purpose of administration of public services provided to pupils, but which is also entrusted or managed with the help of or by external providers, often private companies, the question of the application of the principles and rules of data protection becomes extremely important and topical. In order to give guidance to stakeholders (both public and private) and especially to safeguard the high level of protection of children's data, the issues of data processing in and connections to education systems deserve to be addressed.

**Deliverables:** An expert report highlighting data protection issues in education systems and identifying actions to be taken, on the basis of which the Committee will decide on the form to be given to normative guidance (guidance in the form of guidelines or a practical guide) for the respect, protection and implementation of rights of the child in the digital environment (Recommendation CM / Rec (2018) 7).

### **3.3 Review of Recommendation (2010)13 on profiling**

**Objectives:** Following the massive and worrying proliferation of large-scale use of profiling techniques, it seems appropriate to re-examine the relevance and exhaustivity of Recommendation (2010)13 of the Committee of Ministers to member states on the protection of persons with regard to automated processing of personal data in the context of profiling. When reviewing the Recommendation, the work and documents produced by the Committee during the last ten years should be taken into consideration, notably its guidelines on big data and those on artificial intelligence. It will be appropriate for the Committee to establish the most important principles and mechanisms to be respected regarding the protection of privacy and personal data in relation to the use of this processing technique, which is now coupled with computing capacities and volumes of data which were hardly conceivable in 2010.

**Deliverables:** Experts' report aimed in particular at identifying the parts of the Recommendation which would need to be reviewed, the new areas to be integrated and, where appropriate, the proposal for revision or elaboration of a new Recommendation.

## **4 - Cooperation with other committees**

### **4.1. Budapest Convention Committee on Cybercrime**

**Objectives:** The main objective of this project for the Committee is to continue to assist the Cybercrime Committee and its delegations in the implementation of the specific data protection requirements in the context of the development (where necessary) and implementation of the second Additional Protocol to the Budapest Convention for an enhanced international cooperation and access to electronic evidence in the Cloud, particularly in the case of direct ("asymmetrical") cooperation between a criminal justice authority of a Party and a service provider in another Party.

**Deliverables:** The Convention 108 Committee will provide its expertise and its comments on all proposals concerning the protection of privacy and personal data in expert consultations and will, where necessary, formalise its final position in an opinion.

### **4.2. Macolin Convention Committee on the manipulation of sports competitions**

**Objectives:** Monitoring the implementation of the Committee's work conducted in 2019 on issues related to the exchange of personal data through cooperation systems established in accordance with the Macolin Convention and the protection of personal data. Encouraging and facilitating the process of ratification of the Macolin Convention by the parties to Convention 108 and Convention 108 by the parties to the Macolin Convention.

**Deliverables:** Providing technical assistance for the implementation of the Convention in national systems and legislation. Establishing working groups to address specific challenges, such as the

nature of the data to be shared, with the aim of enhancing mutual understanding between States Parties to the Convention. Facilitating the exchange of good practices between countries through regional seminars, study visits and expert missions. Providing technical assistance for capacity building (national betting authorities, national platforms, legislation, exchange of information with law enforcement, etc).

#### **4.3. Bioethics Committee**

**Objectives:** Allow developments in the biomedical field to continue to be carried on in full respect of human rights in general and the right to data protection in particular. Many challenges are emerging in the field and will have to be addressed. The fact that genomic data collected in a clinical setting are increasingly being used for research purposes, with enhanced combinations of volumes of biological and lifestyle data, makes the possibilities for re-identification greater, and therefore increases the risks for the concerned individuals.

**Deliverables:** participation in the work of the Bioethics Committee in order notably to evaluate the level of implementation of the Recommendation on biobanks and its relevance. Examination of practices relating to the use, storage, sharing and anonymisation of genomic data, and associated data related to the health of the concerned individuals.

#### **4.4. Venice Commission (European Commission for Democracy through Law)**

**Objectives:** Ensure that the use of digital tools and modern technologies in the political debate, campaigns and elections fully respects the rights to privacy and data protection, ultimately enabling the enjoyment of the right to fair elections.

**Deliverables:** provide a data protection expertise to the work carried out by the Venice Commission on digital technologies and elections. The Committee will work, where necessary autonomously, on the topic of the use of personal data in elections and their possible misuse in a political context with a view to highlighting data protection issues and providing guidance on that topic.

### **5 – Other activities**

#### **5.1. Data Protection Day**

The Committee will continue to promote Data Protection Day and ensure that data protection awareness and education remain a priority for various stakeholders, by organising events highlighting individuals and civil society. Raising awareness of data subjects and the public should be the focus of attention of all stakeholders.

#### **5.2. Stefano Rodotà Award**

The Stefano Rodotà Award, which is intended to be awarded annually on the occasion of Data Protection Day, rewards innovative and original academic research projects in the field of data protection. The prize is awarded in honor and in memory of Stefano Rodotà, an outstanding Italian lawyer and politician whose life has been devoted to the promotion of data protection.

### **5.3. Cooperation with stakeholders**

The Committee will continue to put its expertise at the service of other Council of Europe bodies, as well as external stakeholders, when their activities are related to issues concerning data protection.

### **5.4. Review of existing texts**

The Committee will examine the need, where appropriate, to revise the existing Recommendations adopted by the Committee of Ministers in the field of data protection.

### **5.5. Tackling new challenges**

Finally, the Committee should, if necessary, be able to adapt its work program to new needs in order to address other emerging and urgent challenges.