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## Council of Europe

## Privacy and Internet

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# Data protection

Council of Europe  
Convention 108



# Convention 108

- Convention 108 of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data
- Opened for signature on 28 January 1981
- Only legally binding international instrument with worldwide relevance on data protection
- Currently 46 Parties
- Open for accession by any country in the world



# European Convention on Human Rights

- *Article 8* → *right to respect for private life*
- *Article 10* → *fundamental right to freedom of expression*

  
**Complementarity**



# Convention 108

## Its potential

- Reference text
- First international legally binding treaty
- Universal basic principles of data protection
- Drafted in a simple, general and technologically-neutral way
- Cross-cutting scope of application covering all data processing in the public and private sector



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- Provide a high level of protection and the free flow of information between the Parties + requirement of ensuring an adequate level of protection for data transfers to not Parties
  - Framework for multilateral cooperation through a conventional consultative committee
  - Not a purely « European » instrument
  - Open to the accession of States not member of the



# Modernisation of the Convention

## Main objectives

- To fully address the challenges posed by new technologies: reinforce the protection of data while addressing new challenges, resulting from the use of information and communication technologies (ICTs)
- To strengthen the evaluation and follow-up mechanism: facilitate greater consensus between governments and other stakeholders on global technology-neutral privacy standards



# Modernisation process

- Public consultation in 2011 by all stakeholders
- Technical phase: Adoption of the Proposals by the Consultative Committee in 2012
- Inter-governmental level – ad hoc Committee CAHDATA to discuss the draft
  - representatives of member states as well as non-European ones
  - Meeting in November 2013, continuation 2014
- Committee of Ministers: adoption



## Other relevant instruments

- Recommendation on social networking services - 2012
- Recommendation on search engines - 2012
- Recommendation on profiling - 2010
- Declaration of the Committee of Ministers on Digital Tracking and other Surveillance Technologies – June 2013





# Council of Europe Internet Governance Strategy 2012-2015

- A coherent vision for a sustainable long-term approach to the Internet
- Adopted by all 47 member states in March 2012
- Identifies priorities and sets goals to advance the protection and respect for human rights, the rule of law and democracy on the Internet
- 6 main objectives, more than 40 action lines
- Among its objectives: maximising rights and freedoms for Internet users, and advancing data protection and privacy



# Advancing privacy and data protection

- Freedom, dignity and privacy of Internet users must be a central concern and priority
- Modernisation of the Convention 108
- Strengthen the implementation of Convention 108 through the Council of Europe Consultative Committee (T-PD), and assistance programmes
- promoting accession to Convention 108 by member states as well as non-member states of the Council of Europe;
- reviewing and, where necessary, updating recommendations of the Committee of Ministers of the



# Advancing privacy and data protection

- Review/update CoE recommendations on the protection of personal data used for employment purposes, the use of personal data in the police sector and the protection of medical data
- Secure the right to privacy of citizens, including children and vulnerable persons
- Develop human rights-based data protection guidelines for states, the private sector and civil society in the light of trends and challenges posed by the Internet (biometric data, “cloud computing”, “privacy by design”, “Internet of things”, etc)



# Maximising rights and freedoms for Internet users

- A tool to enable users to fully exercise their human rights and fundamental freedoms online.
- Ensure that existing human rights and fundamental freedoms apply equally to the Internet
- Examine restrictions to the exercise of rights and freedoms on the Internet with regard to the European Convention on Human Rights.
- Compendium of human rights for Internet users
- States' obligation to guarantee that fundamental rights and freedoms are protected, thus endorsement by Committee of Ministers in the form of a recommendation.



# Guide on human rights for Internet users

- Freedom of expression and information
- Freedom of assembly and association
- Privacy and data protection\*
- Children and young people
- Rule of law, and protection from cybercrime
- Education
- Effective remedies



# Guide on human rights for Internet users

## Privacy and data protection

- Right to respect for private life → personal data protection
- Interception and monitoring/surveillance → illegal unless exceptional circumstances: national security and criminal offences
- Possibility to correct and/or erase data
- Right of access



# The future

- Reform
- Technological developments
- New challenges



# Council of Europe: Human Rights at centre

- In a democratic society the interferences with the rights of individuals – must meet a number of conditions:
  - they must be prescribed by law
  - pursue a legitimate aim
  - must be necessary - must respond to a pressing social need in a democratic society and be proportionate
  - must allow for effective remedies
  - must be subject to guarantees against abuse.







# Thank you for your attention!

For further information and relevant documents  
please visit our website:

**[www.coe.int/dataprotection](http://www.coe.int/dataprotection)**

