



**Doc. 12726**

27 September 2011

## The protection of privacy and personal data on the Internet and online media

### Opinion<sup>1</sup>

Committee on Legal Affairs and Human Rights

Rapporteur: Mr Rudy SALLES, France, Group of the European People's Party

### A. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights commends the rapporteur of the Committee on Culture, Science and Education, Ms Andreja Rihter (Slovenia, Socialist Group), for her excellent report and broadly supports the proposed draft resolution and recommendation.
2. The committee wishes, however, to make some changes intended to enhance the draft resolution from the legal and human rights standpoint.

### B. Proposed amendments

#### to the draft resolution

##### *Amendment A (to the draft resolution)*

In the draft resolution, at the end of paragraph 3, replace the words “outer space from a legal point of view” with the following words:

*“a space where law, in particular human rights, does not apply”.*

##### *Amendment B (to the draft resolution)*

In the draft resolution, paragraph 9, second sentence, between the words “proceedings” and “before”, insert the following words:

*“before the national courts and, at last instance,”.*

##### *Amendment C (to the draft resolution)*

In the draft resolution, replace the first two sentences of paragraph 21.2 with the following sentence:

*“make sure that the broad use of ICT within the Council of Europe and its extraterritorial legal status do not compromise the protection of privacy and personal data.”*

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## **to the draft recommendation**

### *Amendment D (to the draft recommendation)*

In the draft recommendation, after paragraph 2.3., insert the following sub-paragraph:

*“fully support, for that purpose, the work undertaken by the Consultative Committee of Convention No. 108 to reinforce the protection of everyone as regards the use and storage of personal data, to ensure an identical protection for everyone independently of the place of storage or the establishment of those responsible for the storage, and to avoid the risk of dumping in terms of protection”.*

## **C. Explanatory memorandum by Mr Salles, rapporteur for opinion**

1. I can only congratulate Ms Rihter on her excellent report. The exponential development of the new technologies can constitute a real threat to individual freedoms. Use of personal data by the new technologies, and especially their interaction, that is the use of different technologies in combination, can result in the tracking of an individual's life and pursuits without his knowledge. Promotion of high-standard protection will make it possible to avoid restricting competition as regards the development of these applications. To prevent this reinforced protection from turning into a dearth of competitiveness in relation to the world at large, it is important to promote a European model of personal data protection.

2. The Council of Europe, having regard to its level of expertise and its pan-European scope, is the best placed to stipulate a high standard of data protection. I therefore particularly welcome the fact that the draft resolution and recommendation are dedicated to the future of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, “Convention No. 108”).

3. I should like, however, to propose some amendments to the draft resolution and draft recommendation in order to enhance them from the legal and human rights standpoint.

### **In the draft resolution:**

#### *Amendment A*

This amendment is intended to emphasise the law's universal applicability, cyberspace included.

#### *Amendment B*

It is proposed to specify that in the system of the European Convention on Human Rights (ETS No. 5), under Article 35, the European Court of Human Rights can only be petitioned after exhaustion of domestic remedies.

#### *Amendment C*

It is proposed to replace the first two sentences of paragraph 21.2 to avoid repetition in this paragraph, in so far as the call to strengthen the internal regulatory framework already appears in the last sentence of the paragraph.

### **In the draft recommendation:**

#### *Amendment D*

This amendment seeks to heighten and underline the importance of a revision and modernisation of Convention No. 108, by accentuating the important role of the Consultative Committee of Convention No. 108.