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

Reply to Recommendation[1]: Recommendation 1984 (2011)
Committee of Ministers

1. The Committee of Ministers has examined with interest Parliamentary Assembly Recommendation 1984 (2011) on "The protection of privacy and personal data on the Internet and online media" which it has forwarded to a number of intergovernmental bodies[2] for information and possible comments. This recommendation has been brought to the attention of the governments of member States for transmission to the competent ministries and data protection authorities.

2. The Committee of Ministers welcomes the Parliamentary Assembly's initiative to promote common legal standards guaranteeing the protection of privacy and personal data in networks and services based on information and communications technologies (ICTs) throughout Europe and beyond. While they are remarkable tools for expressing, communicating and promoting the enjoyment of human rights, it is also important to point out that they present multiple opportunities for human rights violations, which is why this question is of paramount importance.

3. Consequently, the Committee of Ministers calls on member States which have not already done so, to explore the possibility of signing and ratifying the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its Additional Protocol regarding supervisory authorities and transborder data flows (ETS No. 181). It also wishes to draw attention to its Recommendation CM/Rec(2011)7 on a new notion of media, which offers a reference framework for ensuring the protection of the right to freedom of expression and access to information in connection with new media stakeholders.

4. Furthermore, being firmly convinced that the accession of non-member States of the Council of Europe will reinforce the universal recognition of the fundamental principles of the protection of personal data, the Committee of Ministers assures the Assembly that it will pursue its efforts to encourage and support the signature and ratification of the Convention by States beyond the Council of Europe's borders.

5. With regard to the provision of adequate budgetary resources within the Secretariat of the Council of Europe for the further legal development of Convention No. 108, the Committee of Ministers would inform the Assembly that appropriate resources have been allocated in the Council of Europe's 2012-2013 budget. It wishes nevertheless to reiterate the need for voluntary contributions to continue promoting Convention No. 108 beyond the borders of Europe.

6. In addition, the Committee of Ministers draws the attention of States Parties to Convention No. 108 to the recommendations made in paragraph 2.5 of the Assembly's recommendation.

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1. 2012 - Third part-session
2. European Committee on Legal Co-operation (CDCJ), Steering Committee on the Media and New Communication Services (CDMC), Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD), Cybercrime Convention Committee (T-CY) and Steering Committee on Bioethics (CDBI).

7. With regard to paragraphs 2.6 and 2.7 of the Assembly's recommendation, the Committee of Ministers refers to the Council of Europe Strategy on Internet Governance adopted on 15 March 2012 which, amongst other things, focuses on promoting broader participation in the Budapest Convention (ETS No. 185). Moreover, the Committee encourages member States to sign and ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), promoted by the Council of Europe's ONE in FIVE campaign.

8. In respect of the recommendation made in paragraph 2.8, the Committee of Ministers would point out that these concerns have already been taken into account in the work of the Steering Committee on Bioethics (CDBI) in drafting the Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Genetic Testing for Health Purposes. They are also taken into account in all of the CDBI's current work, particularly discussions concerning the processing of health-related data for insurance purposes, as well as those concerning biobanks. Given that this problem arises in other spheres of medicine, consideration is also being given to the question of access to data contained in medical files, and particularly in electronic files.

9. Lastly, the Committee of Ministers takes note of the invitation to the Secretary General to ensure the protection of privacy and personal data processed by the Organisation and to strengthen the position of the Council of Europe's Data Protection Commissioner. It points out that the T-PD has adopted a revised draft Regulation outlining a data protection system for personal data files in the Council of Europe, which should cover personal data processed by all bodies and institutions of the Organisation. The Committee also welcomes the appointment of Ms Eva Souhrada-Kirchmayer as Data Protection Commissioner and trusts that this appointment will contribute to the strengthening of the protection of personal data within the Council of Europe.