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DATAPROTECT 182
JAI 963
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FREMP 221
RELEX 988

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Subject: Negotiations on the modernisation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of personal data (EST 108)
- Preparation of the the CAHDATA meeting on 1-3 December 2014 (Strasbourg)

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



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COVER NOTE

from: Commission Services

to: Delegations

Subject: Negotiations on the modernisation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of personal data (EST 108)

- Preparation of the the CAHDATA meeting on 1-3 December 2014 (Strasbourg)

Further to the DAPIX meeting on 13 November 2014 and taking into account the written comments by the Member States, delegations will find in the Annex a table with the proposed EU position in view of the CAHDATA meeting on 1-3 December 2014 (Strasbourg).

<p>Negotiations on the modernisation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of personal data (EST 108)</p>	<p>Information by the Commission with a view to the CAHDATA meeting on 1-3 December 2014 (Strasbourg)</p>
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Working Document

Convention 108 with Additional Protocol and Modernisation proposals

Note: the present document aims at making visible the modernisation proposals adopted by the Consultative Committee at its 29th Plenary meeting (27-30 November 2013), as well as proposals developed further to the 2nd meeting of the CAHDATA and aimed at facilitating discussions during the 3rd meeting of the CAHDATA of 1-3 December 2014 and the preliminary comments thereto.

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
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	Title : Convention for the Protection of Individuals with Regard to the Processing of Personal Data	Title : Convention for the Protection of Individuals with Regard to the Processing of Personal Data		
Preamble	Preamble	Preamble		
The member States of the Council of Europe, signatory hereto,	unchanged	unchanged	<i>Support</i>	
Considering that the aim of the Council of Europe is to achieve greater unity between its members, based in particular on respect for the rule of law, as well as human rights and fundamental freedoms;	unchanged	unchanged	<i>Support</i>	
Considering that it is desirable to extend the safeguards for everyone's rights and fundamental freedoms, and in particular the right to the respect for privacy, taking account of the increasing flow across frontiers of personal data undergoing automatic processing;	Considering that it is necessary, given the diversification, intensification and globalisation of data processing and exchanges of personal data, to guarantee human dignity and the protection of human rights and fundamental	Considering that it is necessary to secure human dignity and protection of the human rights and fundamental freedoms of every individual and, [given the diversification, intensification and globalisation of data processing and personal	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	freedoms of every person, in particular through the right to control one's personal data and the processing of such data.	data flows,] personal autonomy based on their right to control of their personal data and the processing of such data;		
Reaffirming at the same time their commitment to freedom of information regardless of frontiers;	Recalling that the right to protection of personal data is to be considered in respect of its role in society and that it has to be reconciled with other human rights and fundamental freedoms, including freedom of expression;	Recalling that the right to protection of personal data is to be considered in respect of its role in society and that it has to be reconciled with other human rights and fundamental freedoms, including freedom of expression;	<i>Support</i>	
	Considering that this Convention permits account to be taken, in the implementation of the rules laid down therein, of the principle of the right of public access to official documents ;	Considering that this Convention permits account to be taken, in the implementation of the rules laid down therein, of the principle of the right of (...) access to official documents;	<i>Support</i>	
Recognising that it is necessary to reconcile the fundamental values of the respect for privacy and the free flow of information between peoples,	Recognising that it is necessary to promote at the global level the fundamental values of respect for privacy and protection of personal data, thereby contributing to the free flow of information between peoples;	Recognising that it is necessary to promote at the global level the fundamental values of respect for privacy and protection of personal data, thereby contributing to the free flow of information between peoples;	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	Recognising the interest of a reinforcement of international cooperation between the Parties to the Convention.	Recognising the interest of a reinforcement of international cooperation between the Parties to the Convention.	<i>Support</i>	
Have agreed as follows:	unchanged	unchanged	<i>Support</i>	
Chapter I – General provisions	Chapter I – General provisions	Chapter I – General provisions		
Article 1 – Object and purpose	Article 1 – Object and purpose	Article 1 – Object and purpose		
The purpose of this Convention is to secure in the territory of each Party for every individual, whatever his nationality or residence, respect for his rights and fundamental freedoms, and in particular his right to privacy, with regard to automatic processing of personal data relating to him ("data protection").	The purpose of this Convention is to secure for every individual subject to the jurisdiction of the Parties , whatever their nationality or residence, the protection of their personal data when undergoing processing, thus contributing to respect for their rights and fundamental freedoms, and in particular their right to privacy.	The purpose of this Convention is to protect individuals with regard to the processing of their personal data, thereby contributing to respect for their human rights and fundamental freedoms, and in particular their right to privacy.	<i>Support subject to the addition below, as underlined</i> The purpose of this Convention is to protect, <u>in the territory of each Party, every individual, whatever their nationality or residence</u> with regard to the processing of their personal data, thereby contributing to respect for their human rights and fundamental freedoms, and in particular their right to privacy.	see existing Convention 108.
Article 2 – Definitions	Article 2 – Definitions	Article 2 – Definitions		
For the purposes of this	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
Convention:				
a "personal data" means any information relating to an identified or identifiable individual ("data subject");	unchanged	unchanged	<i>Support</i>	
b "automated data file" means any set of data undergoing automatic processing;	Deleted – see 3.1 below	Deleted – see 3.1 below	<i>Support</i>	
c "automatic processing" includes the following operations if carried out in whole or in part by automated means: storage of data, carrying out of logical and/or arithmetical operations on those data, their alteration, erasure, retrieval or dissemination;	c "data processing" means any operation or set of operations which is performed upon personal data, and in particular the collection, storage, preservation, alteration, retrieval, disclosure, making available, erasure or destruction of data, or the carrying out of logical and/or arithmetical operations on data;	c "data processing" means any operation or set of operations which is performed upon personal data, (...) such as the collection, storage, preservation, alteration, retrieval, disclosure, making available, erasure, or destruction of, or the carrying out of logical and/or arithmetical operations on such data;	<i>Support</i>	
	where no automated processing is used, data processing means the operations carried out within a structured set established according to	Where (...) automated processing is not used, data processing means an operation or set of operations performed upon personal data (...)	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	any criteria which allow to search for personal data ;	within a structured set of such data which are accessible or retrievable according to specific criteria (...);		
d "controller of the file" means the natural or legal person, public authority, agency or any other body who is competent according to the national law to decide what should be the purpose of the automated data file, which categories of personal data should be stored and which operations should be applied to them.	d "controller" means the natural or legal person, public authority, service, agency or any other body which alone or jointly with others has the decision-making power with respect to data processing.	d "controller" means the natural or legal person, public authority, service, agency or any other body which alone or jointly with others has the decision-making power with respect to data processing;	<i>Support</i>	
	e "recipient" means a natural or legal person, public authority, service, agency or any other body to whom data are disclosed or made available;	e "recipient" means a natural or legal person, public authority, service, agency or any other body to whom data are disclosed or made available;	<i>Support</i>	
	f "processor" means a natural or legal person, public authority, service, agency or any other body which processes personal data on behalf of the controller;	f "processor" means a natural or legal person, public authority, service, agency or any other body which processes personal data on behalf of the controller.	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
Article 3 – Scope	Article 3 – Scope	Article 3 – Scope		
1 The Parties undertake to apply this Convention to automated personal data files and automatic processing of personal data in the public and private sectors.	1 Each Party undertakes to apply this Convention to data processing subject to its jurisdiction, thereby protecting the right to protection of personal data of any person subject to its jurisdiction.	1 Each Party undertakes to apply this Convention to data processing subject to its jurisdiction in the public and private sectors, thereby securing individuals' right to protection of their personal data.	1 Each Party undertakes to apply this Convention to data processing subject to its jurisdiction in the public and private sectors, thereby securing every individual's right to protection of their personal data.	<i>clarification in consistency with Article 1.</i>
	1bis This Convention shall not apply to data processing carried out by a natural person for the exercise of purely personal or household activities.	1bis This Convention shall not apply to data processing carried out by an individual in the course of purely personal or household activities.	<i>EU position reserved.</i>	Council and EP still have to agree on scope of household exemption: EP's text limits exemption to processing of data in the course of exclusively personal or household activity while Council has deleted word "exclusively" (see Art. 2 (2) (d) of the draft Regulation).
2 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, give notice by a declaration addressed to the Secretary General of the Council of Europe:	delete	delete	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
a that it will not apply this Convention to certain categories of automated personal data files, a list of which will be deposited. In this list it shall not include, however, categories of automated data files subject under its domestic law to data protection provisions. Consequently, it shall amend this list by a new declaration whenever additional categories of automated personal data files are subjected to data protection provisions under its domestic law;	delete	delete	<i>Support</i>	
bthat it will also apply this Convention to information relating to groups of persons, associations, foundations, companies, corporations and any other bodies consisting directly or indirectly of individuals, whether or not such bodies possess legal personality;	delete	delete	<i>Support</i>	
cthat it will also apply this Convention to personal data files which are not processed automatically.	delete	delete	<i>Support</i>	
3Any State which has	delete	delete	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
extended the scope of this Convention by any of the declarations provided for in sub-paragraph 2.b or c above may give notice in the said declaration that such extensions shall apply only to certain categories of personal data files, a list of which will be deposited.				
4 Any Party which has excluded certain categories of automated personal data files by a declaration provided for in sub-paragraph 2.a above may not claim the application of this Convention to such categories by a Party which has not excluded them.	delete	delete	<i>Support</i>	
5 Likewise, a Party which has not made one or other of the extensions provided for in sub-paragraphs 2b and c above may not claim the application of this Convention on these points with respect to a Party which has made such extensions.	delete	delete	<i>Support</i>	
6 The declarations provided for in paragraph 2 above shall	delete	delete	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
<p>take effect from the moment of the entry into force of the Convention with regard to the State which has made them if they have been made at the time of signature or deposit of its instrument of ratification, acceptance, approval or accession, or three months after their receipt by the Secretary General of the Council of Europe if they have been made at any later time. These declarations may be withdrawn, in whole or in part, by a notification addressed to the Secretary General of the Council of Europe. Such withdrawals shall take effect three months after the date of receipt of such notification.</p>				
Chapter II – Basic principles for data protection	Chapter II – Basic principles for the protection of personal data	Chapter II – Basic principles for the protection of personal data		
Article 4 – Duties of the Parties	Article 4 – Duties of the Parties	Article 4 – Duties of the Parties		
1 Each Party shall take the necessary measures in its	1 Each Party shall take the necessary measures	1 Each Party shall take the necessary measures	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
domestic law to give effect to the basic principles for data protection set out in this chapter.	in its domestic law to give effect to the provisions set out in this Convention and ensure their effective application.	in its (...) law to give effect to the provisions set out in this Convention and secure their effective application.		
2 These measures shall be taken at the latest at the time of entry into force of this Convention in respect of that Party.	2 These measures shall be taken by each Party prior to ratification or accession to this Convention.	2 These measures shall be taken by each Party by the time of ratification or accession to this Convention.	<i>Support Subject to confirmation by TPD that "by the time" means "prior to".</i>	
	3 Each Party undertakes to allow the Convention Committee provided for in Chapter V to evaluate the observance of its engagements and to contribute actively to this evaluation, notably by submitting reports on the measures it has taken and which give effect to the provisions of the present Convention.	3 Each Party undertakes to allow the Convention Committee provided for in Chapter V to evaluate the effectiveness of the measures it has taken in its law to give effect to the provisions of this Convention (...) and to contribute actively to this evaluation process (...).	<i>Support</i>	
Article 5 – Quality of data	Article 5 – Legitimacy of data processing and quality of data	Article 5 – Legitimacy of data processing and quality of data		
	1 Data processing shall be proportionate in relation to the legitimate purpose pursued and reflect at all stages of the	1 Data processing shall be proportionate in relation to the legitimate purpose pursued and reflect at all stages of the	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	processing a fair balance between all interests concerned, be they public or private interests, and the rights and freedoms at stake.	processing a fair balance between all interests concerned, be they public or private interests, and the rights and freedoms at stake.		
	2 Each Party shall provide that data processing can be carried out on the basis of the free, specific, informed and [explicit, unambiguous] consent of the data subject or of some legitimate basis laid down by law.	2 Each Party shall provide that data processing can be carried out on the basis of the free, specific, informed and unambiguous (...) consent of the data subject or of some other legitimate basis laid down by law.	EU position reserved. 2 Each Party shall provide that data processing can be carried out on the basis of the free, specific, informed and [explicit], [unambiguous] consent of the data subject or of some legitimate basis laid down by law.	We need to duly take into account the ongoing reform of DP legislation. The explicit or unambiguous consent has not been decided yet by the colegislator.
Personal data undergoing automatic processing shall be:	3 Personal data undergoing automatic processing shall be :	3 Personal data undergoing (...) processing shall be :	EU position reserved 3 Personal data undergoing (...) processing shall <u>be processed lawfully and fairly.</u> <u>4 Personal data undergoing (...) processing shall be :</u>	Bridging proposal of Article 9(1). EP deleted article 5 of the list of articles subject to limitation. However, a number of MS insists on the possibility of exception from "fairness" Alternatively, "and fairly" can be deleted from para 3 and placed in para 4 (a)

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a obtained and processed fairly and lawfully;	a. processed lawfully and fairly.	a. processed lawfully, fairly and in a transparent manner.	a. processed (...) in a transparent manner;	
b stored for specified and legitimate purposes and not used in a way incompatible with those purposes;	b. collected for explicit , specified and legitimate purposes and not processed in a way incompatible with those purposes;	b. collected for explicit, specified and legitimate purposes and not processed in a way incompatible with those purposes;	<i>Support</i>	
c adequate, relevant and not excessive in relation to the purposes for which they are stored;	c. adequate, relevant, not excessive and limited to the minimum necessary in relation to the purposes for which they are processed ;	c. adequate, relevant and not excessive (...) in relation to the purposes for which they are processed;	<i>EU position reserved.</i>	Council and EP still have to agree on principle of data minimization: Council proposes to delete it while EP maintains it. EP also proposes to add principles of effectiveness and of accountability
d accurate and, where necessary, kept up to date;	unchanged	unchanged	<i>Support</i>	
e preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored.	e preserved in a form which permits identification of data subjects for no longer than is necessary for the purposes for which those data are processed .	e. preserved in a form which permits identification of data subjects for no longer than is necessary for the purposes for which those data are processed.	<i>Support</i>	
Article 6 – Special	Article 6 – Processing of sensitive data	Article 6 – Processing of sensitive data		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
categories of data				
<p>Personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions.</p>	<p>1 The processing of genetic data, of personal data concerning offences, criminal convictions and related security measures, the processing of biometric data uniquely identifying a person, as well as the processing of personal data for the information they reveal relating to racial origin, political opinions, trade-union membership, religious or other beliefs, health or sexual life, shall only be allowed where the applicable law provides appropriate safeguards, complementing those of the present Convention.</p>	<p>1 The processing of: - genetic data, - personal data relating to offences, criminal proceedings and convictions, and related security measures, - biometric data uniquely identifying a person, - personal data for the information they reveal relating to racial origin, political opinions, trade-union membership, religious or other beliefs, health or sexual life, shall only be allowed where (...) specific and additional appropriate safeguards are enshrined in law, complementing those of the previous Articles of the present Convention.</p>	<p><i>EU position reserved.</i></p>	<p>Council and EP still have to agree on list of sensitive data: by contrast to Council, EP proposes a longer list of sensitive data including for instance, gender identity, trade union activities, biometric data, administrative sanctions, judgements and criminal offences.</p>
	<p>2. Appropriate safeguards shall prevent the risks that the processing of such sensitive data may present to the interests, rights and</p>	<p>2. Such (...) safeguards shall guard against the risks that the processing of such sensitive data may present to the interests,</p>	<p><i>Support in the understanding that "guard" means "prevent".</i></p>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	fundamental freedoms of the data subject, notably a risk of discrimination.	rights and fundamental freedoms of the data subject, notably a risk of discrimination.		
Article 7 – Data security	Article 7 – Data security	Article 7 – Data security		
Appropriate security measures shall be taken for the protection of personal data stored in automated data files against accidental or unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination.	1 Every Party shall provide that the controller, and, where applicable the processor, takes the appropriate security measures against accidental or unauthorised access, destruction, loss, modification or dissemination of personal data.	1 Each Party shall provide that the controller, and, where applicable the processor, takes appropriate security measures against risks such as accidental or unauthorised access to, destruction, loss, use, modification or disclosure of personal data.	<i>Support.</i>	
	2 Each Party shall provide that the controller shall notify, without delay, at least the supervisory authorities within the meaning of Article 12 bis of this Convention of those data breaches which may seriously interfere with the rights and fundamental freedoms of data subjects.	2 Each Party shall provide that the controller shall notify, without delay (...) the competent supervisory authority within the meaning of Article 12 bis of this Convention of those data breaches which may seriously interfere with the rights and fundamental freedoms of data subjects.	2 Each Party shall provide that the controller shall notify, without delay at least the competent supervisory authority within the meaning of Article 12 bis of this Convention of those data breaches which may seriously interfere with the rights and fundamental freedoms of data subjects.	<i>Refer back to the T-PD proposals.</i>
	Article 7bis –	Article 7bis –		

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	<p>Transparency of processing</p>	<p>Transparency of processing</p>		
	<p>1 Each Party shall see to it that the controller ensures the transparency of data processing by informing the data subjects, unless they have already been informed, of at least the identity and habitual residence or establishment of the controller, the purposes of the processing carried out, the data processed, the recipients or categories of recipients of the personal data, and the means of exercising the rights set out in Article 8, as well as any other information necessary to ensure fair and lawful data processing.</p>	<p>1 Each Party shall provide that the controller informs the data subjects of the controller's identity and habitual residence or establishment, the purposes of the intended processing (...) and, where applicable, the recipients or categories of recipients of the personal data (...) as well as providing them with any necessary additional (...) information in order to ensure fair and transparent processing of the personal data.</p> <p>1bis Paragraph 1 shall not apply where the data subject already has the relevant information.</p>	<p><i>Support subject to the addition of "the categories of personal data processed"</i></p> <p>1 Each Party shall provide that the controller informs the data subjects of the controller's identity and habitual residence or establishment, <u>the legal basis and</u> the purposes of the intended processing (...), <u>the categories of personal data processed,</u> and, <u>(...) if any,</u> the recipients or categories of recipients of the personal data (...) as well as providing them with any necessary additional (...) information in order to ensure fair and transparent processing of the personal data <u>and the means of exercising the rights set out in Article 8, as well as any other information necessary to ensure fair and lawful</u></p>	<p><i>"if applicable" might suggest that there are cases where there are such recipients, and yet the obligation to inform the data subject would not apply.</i></p>

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			<p><u>data processing.</u></p> <p>1bis Paragraph 1 shall not apply where the data subject already has the relevant information.</p>	
	<p>2. Where the personal data are not collected from the data subjects, the controller shall nonetheless not be required to provide such information where the processing is expressly prescribed by law or this proves to be impossible or involves disproportionate efforts.</p>	<p>2. Where the personal data are not collected from the data subjects, the controller shall nonetheless not be required to provide such information where the processing is expressly prescribed by law or this proves to be impossible or involves disproportionate efforts.</p>	<p><i>Support</i></p>	
<p>Article 8 – Additional safeguards for the data subject</p>	<p>Article 8 – Rights of the data subject</p>	<p>Article 8 – Rights of persons with regard to personal data protection</p>		
<p>Any person shall be enabled:</p>	<p>Any person shall be entitled:</p>	<p>A data subject shall have a right:</p>	<p><u>Every person</u> shall have a right:</p>	<p><i>Currently the Convention refers to "every person" in Art. 8, even if it refers to "every individual" in Art. 1. The protection of Art. 8 should not be limited to data subjects; as data subject may be understood (under Art. 2 (a)) as an identified or</i></p>

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				<p><i>identifiable individual whose data are being or have been processed. Therefore a person would not be a data subject before the processing takes place, while certain rights apply already at this stage.</i></p>
<p>a to establish the existence of an automated personal data file, its main purposes, as well as the identity and habitual residence or principal place of business of the controller of the file;</p>	<p>a not to be subject to a decision significantly affecting him/her, based solely on an automatic processing of data without having their views taken into consideration;</p>	<p>a not to be subject to a decision significantly affecting him/her, based solely on an automated processing of data without having their views taken into consideration;</p>	<p><i>Support</i></p>	
	<p>b to object at any time to the processing of personal data concerning him/her unless the controller demonstrates compelling legitimate grounds for the processing which override their interests or rights and fundamental freedoms ;</p>	<p>b (...) (moved to new d.)</p>	<p><i>Support</i></p>	
<p>b to obtain at reasonable intervals and without excessive delay or expense confirmation of whether</p>	<p>c to obtain, on request, at reasonable intervals and without excessive delay or</p>	<p>b to obtain, on request, at reasonable intervals and without excessive delay or expense, confirmation of</p>	<p><i>Support with a reservation on the "free of charge"</i> b to obtain, on request, at</p>	<p>.</p> <p><i>The issue of a possible abuse of reference to "free</i></p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
personal data relating to him are stored in the automated data file as well as communication to him of such data in an intelligible form;	expense confirmation of the processing of personal data relating to him/her, the communication in an intelligible form of the data processed, all available information on their origin, on the preservation period as well as any other information that the controller is required to provide to ensure the transparency of processing in accordance with Article 7bis paragraph 1;	the processing of personal data relating to him/her, the communication in an intelligible form of the data processed, all available information on their origin, on the preservation period as well as any other information that the controller is required to provide to ensure the transparency of processing in accordance with Article 7bis paragraph 1;	reasonable intervals and without excessive delay and free of charge , confirmation of the processing of personal data relating to him/her, the communication in an intelligible form of the data processed, all available information on their origin, on the preservation period as well as any other information that the controller is required to provide to ensure the transparency of processing in accordance with Article 7bis paragraph 1;	<i>of charge" shall be addressed in the Explanatory Memorandum.</i>
	d to obtain, on request, knowledge of the reasoning underlying the data processing, the results of which are applied to him/her ;	c to obtain, on request, knowledge of the reasoning underlying the data processing, the results of which are applied to him/her ;	<i>Support</i>	
		d to object at any time to the processing of personal data concerning him/her unless the controller demonstrates	<i>EU position reserved.</i>	Council and EP still have to agree on the scope of right to object. Right to object under

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		<p>compelling legitimate grounds for the processing which override their interests or rights and fundamental freedoms ;</p>		<p>proposed text of the CoE is wider than under draft Regulation: it applies in all cases (unless controller proves compelling legitimate grounds for the processing overriding rights and fundamental freedoms) while EP limits it to processing necessary to protect data subject's vital interests or for performance of task carried out in the public interest Council limits right to object to processing necessary for the purposes of the controller's legitimate interests.</p>
<p>cto obtain, as the case may be, rectification or erasure of such data if these have been processed contrary to the provisions of domestic law giving effect to the basic principles set out in Articles 5 and 6 of this Convention;</p>	<p>e to obtain, upon request, as the case may be, rectification or erasure of such data if these have been processed contrary to the provisions of this Convention;</p>	<p>e to obtain, on request, and without excessive delay or expense, rectification or erasure, as the case may be, of such data if these are being processed contrary to the law giving effect to this Convention;</p>	<p>e to obtain, on request, rectification or erasure, as the case may be, of such data if these are being processed or have been processed contrary to this Convention;</p>	<p><i>Consistency with acquis and with current Convention 108.</i></p>
<p>dto have a remedy if a request for confirmation or, as the case may be, communication, rectification</p>	<p>See f below</p>	<p>See f below</p>	<p><i>Support</i></p>	

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<p>or erasure as referred to in paragraphs b and c of this article is not complied with.</p>				
	<p>f to have a remedy if a decision significantly affecting them has been taken without taking into consideration their views or no response is given to a request for confirmation, communication, rectification, erasure or to an objection, as referred to in this Article;</p>	<p>f to have a remedy under Article 10, (...) where rights under the law giving effect to this Convention have been violated;</p>	<p>f to have a remedy under Article 10, <u>where person's rights have been violated.</u></p>	<p><i>More precise formulation.</i></p>
	<p>g to benefit, whatever their residence, from the assistance of a supervisory authority within the meaning of Article 12 bis, in exercising the rights provided by this Convention.</p>	<p>g to benefit, whatever his or her nationality or residence, from the assistance of a supervisory authority within the meaning of Article 12 bis, in exercising their rights under the law giving effect to this Convention.</p>	<p>g to benefit, whatever his or her nationality or residence, from the assistance of a supervisory authority within the meaning of Article 12 bis, in exercising their rights <u>set out in this Convention.</u></p>	<p><i>More precise formulation.</i></p> <p><i>Mention of the "law giving effect" could be interpreted as limiting future judicial control of this provision to application of (possibly erroneous or incomplete) implementing provisions. Moreover, it does not take into account the diversity of ways in which the international law applies in the legal systems of various Parties.</i></p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	Article 8bis – Additional obligations	Article 8bis – Additional obligations		
	1- Each Party shall provide that the controller, or where applicable the processor, shall take at all stages of the processing all appropriate measures to implement the provisions giving effect to the principles and obligations of this Convention and to establish internal mechanisms to verify and be able to demonstrate at least to the supervisory authorities provided for in Article 12 bis of this Convention the compliance with the applicable law.	1- Each Party shall provide that controllers and (...) processors take (...) all appropriate measures (...) to apply the law giving effect to this Convention and be able to demonstrate (...) to the competent supervisory authority provided for in Article 12 bis that the data processing under their control is in compliance with the law of this Convention the applicable law.	1- Each Party shall provide that controllers and (...) processors take (...) all appropriate measures (...) to apply <u>(...) the obligations set out in this Convention or in the law giving effect to it</u> and be able to demonstrate <u>in particular</u> to the competent supervisory authority provided for in Article 12 bis that the data processing under their control is in compliance with <u>the applicable law.</u>	See above Controllers should be able to demonstrate, as applicable, also to everybody, including the courts.
	2- Each Party shall provide that the controller, or where applicable the processor, shall carry out a risk analysis of the potential impact of the intended data processing on the rights and	2- Each Party shall provide that controllers and, where applicable, processors, undertake a risk analysis of the likely impact of intended data processing on the rights and fundamental freedoms	<i>EU position reserved</i>	Council and EP still have to agree on provisions related to risk based approach: while EP requires risk analysis prior to impact assessment and defines types of risks triggering such IA, Council

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	<p>fundamental freedoms of the data subject and design data processing operations in such a way as to prevent or at least minimise the risk of interference with those rights and fundamental freedoms.</p>	<p>of data subjects prior to the commencement of such processing, and shall structure the data processing operations in such a manner as to prevent or minimise the risk of interference with those rights and fundamental freedoms.</p>		<p>does not impose risk analysis and subjects IA to specific type of risk, taking into account the nature, scope, context and purposes of the processing, which is likely to result in a high risk.</p>
	<p>3- Each Party shall provide that the products and services intended for the data processing shall take into account the implications of the right to the protection of personal data from the stage of their design and facilitate the compliance of the processing with the applicable law.</p>	<p>3- Each Party shall provide that controllers, and where applicable processors, implement technical and organisational measures which take into account the implications of the right to the protection of personal data at all stages of the data processing operations.</p>	<p><i>Support</i></p>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	4- Each Party can take the measures needed to adapt the application of the provisions of the previous paragraphs, according to the size of the controller, or where applicable the processor, the volume or nature of data processed and, more generally, in light of the risks for the interests, rights and fundamental freedoms of the data subjects.	4- Each Party may, having regard to the risks arising for the interests, rights and fundamental freedoms of the data subjects,— adapt application of the provisions of paragraphs 1, 2 and 3 in the law giving effect to the provisions of this Convention according to the nature and volume of the data, the nature, scope and purpose of the processing and, where appropriate, the size of the controller or processor.	<i>Support</i>	
Article 9 – Exceptions and restrictions	Article 9 – Exceptions and restrictions	Article 9 – Exceptions and restrictions		
1No exception to the provisions of Articles 5, 6 and 8 of this Convention shall be allowed except within the limits defined in this article.	1 No exception to the principles expressed in this Chapter shall be allowed, except to the provisions of Articles 5.3, 7.2, 7bis and 8 when such derogation is provided for by law and constitutes a necessary measure in a democratic society for:	1 No exception to the provisions set out in this Chapter shall be allowed, except to the provisions of Articles 5.3, 7.2, 7bis and 8 when such derogation is provided for by law and constitutes a necessary and proportionate measure in a democratic society for:	1 No exception to the provisions set out in this Chapter shall be allowed, except to the provisions of Articles 5.4, 7.2, 7bis <u>paragraph 1</u> and 8 when such derogation is provided for by law and constitutes a necessary and proportionate measure in a democratic society for:	<i>Support subject to bridging proposal. EP deleted article 5 of the list of articles subject to limitation.</i>
2Derogation from the	delete	delete	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
provisions of Articles 5, 6 and 8 of this Convention shall be allowed when such derogation is provided for by the law of the Party and constitutes a necessary measure in a democratic society in the interests of:				
aprotecting State security, public safety, the monetary interests of the State or the suppression of criminal offences;	a the protection of national security, public safety, important economic and financial interests of the State or the prevention and suppression of criminal offences;	a the protection of national security, public safety, important economic and financial interests of the State, the impartiality and independence of the judiciary or the prevention, investigation and prosecution of criminal offences;	<i>Support</i>	
bprotecting the data subject or the rights and freedoms of others.	b the protection of the data subject or the rights and freedoms of others, notably freedom of expression.	b the protection of the data subject or the rights and fundamental freedoms of others, notably freedom of expression.	<i>Support</i>	
	2 Restrictions on the exercise of the provisions specified in Article 12 may also admitted where they	2- (moved to Article 12)	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	are provided by law and constitute a necessary measure in a democratic society for the freedom of expression.			
3 Restrictions on the exercise of the rights specified in Article 8, paragraphs b, c and d, may be provided by law with respect to automated personal data files used for statistics or for scientific research purposes when there is obviously no risk of an infringement of the privacy of the data subjects.	3 Restrictions on the exercise of the provisions specified in Articles 7bis and 8 may be provided by law with respect to data processing for statistical purposes or for the purposes of scientific research, when there is obviously no risk of infringement of the rights and fundamental freedoms of data subjects.	3 2. Restrictions on the exercise of the provisions specified in Articles 7bis and 8 may be provided by law with respect to data processing for statistical and scientific purposes or for the purposes of scientific research , when there is obviously recognisable risk of infringement of the rights and fundamental freedoms of data subjects.	<i>EU position reserved</i>	Council and EP still have to agree on the scope of restrictions with regard to processing for scientific purposes.
Article 10 – Sanctions and remedies	Article 10 – Sanctions and remedies	Article 10 – Sanctions and remedies		
Each Party undertakes to establish appropriate sanctions and remedies for violations of provisions of domestic law giving effect to the basic principles for data protection set out in this chapter.	Each Party undertakes to establish appropriate judicial and non-judicial sanctions and remedies for violations of domestic law giving effect to the provisions of this Convention.	Each Party undertakes to establish appropriate judicial and non-judicial sanctions and remedies for violations of (...) the law giving effect to the provisions of this Convention.	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
Article 11 – Extended protection	Article 11 Extended protection	Article 11 Extended protection		
None of the provisions of this chapter shall be interpreted as limiting or otherwise affecting the possibility for a Party to grant data subjects a wider measure of protection than that stipulated in this Convention.	unchanged	unchanged	<i>Support</i>	
Chapter III – Transborder data flows	Chapter III – Transborder flows of personal data	Chapter III – Transborder flows of personal data		
Article 12 – Transborder flows of personal data and domestic law	Article 12 - Transborder flows of personal data	Article 12 - Transborder flows of personal data		
1 The following provisions shall apply to the transfer across national borders, by whatever medium, of personal data undergoing automatic processing or collected with a view to their being automatically processed.	Delete	Delete	<i>Support</i>	
2 A Party shall not, for the sole purpose of the protection of privacy, prohibit or subject to special authorisation	1. A Party shall not, for the sole purpose of the protection of personal data, prohibit or subject to	1. A Party shall not, for the sole purpose of the protection of personal data, prohibit or subject to	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
transborder flows of personal data going to the territory of another Party.	special authorisation the transfer of data to a recipient who is subject to the jurisdiction of another Party to the Convention, unless the Party referred to at the beginning of the present paragraph is regulated by binding harmonised rules of protection shared by States belonging to a regional international organisation and the transfer of data is not governed by measures provided for in paragraph 3.b.	special authorisation the transfer of such data to a recipient who is subject to the jurisdiction of another Party to the Convention. Such a Party may however do so if bound by (...) harmonised rules of protection shared by States belonging to a regional international organisation (...).		
3 Nevertheless, each Party shall be entitled to derogate from the provisions of paragraph 2:	2. When the recipient is subject to the jurisdiction of a State or international organisation which is not Party to the Convention, the transfer of data can only occur where an appropriate level of personal data protection based on the principles of the Convention is guaranteed.	2. When the recipient is subject to the jurisdiction of a State or international organisation which is not Party to this Convention, the transfer of personal data can only take place where an appropriate level of (...) protection based on the provisions of this Convention is secured.	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	<p>3. An appropriate level of protection can be ensured by:</p> <p>a) the law of that State or international organisation, including the applicable international treaties or agreements, or</p> <p>b) ad hoc or approved standardised safeguards provided by legally binding and enforceable instruments adopted and implemented by the persons involved in the transfer and further processing.</p>	<p>3. An appropriate level of protection can be secured by:</p> <p>a) the law of that State or international organisation, including the applicable international treaties or agreements, or</p> <p>b) ad hoc or approved standardised safeguards provided by legally binding and enforceable instruments adopted and implemented by the persons involved in the transfer and further processing.</p>	<i>Support</i>	
<p>a) insofar as its legislation includes specific regulations for certain categories of personal data or of automated personal data files, because of the nature of those data or those files, except where the regulations of the other Party provide an equivalent protection;</p>	<p>4. Notwithstanding the provisions of the previous paragraphs, each Party may provide that the transfer of data may take place, if :</p> <p>a) the data subject has given his/her specific, free and [explicit, unambiguous] consent, after being informed of risks arising in the</p>	<p>4. Notwithstanding the provisions of the previous paragraphs, each Party may provide that the transfer of personal data may take place, if :</p> <p>a) the data subject has given his or her specific, free and (...) unambiguous consent, after being informed of risks arising in the absence of appropriate</p>	<p>4. Notwithstanding the provisions of the previous paragraphs, each Party may provide that the transfer of personal data may take place, if :</p> <p>a) the data subject has given his or her specific, free and (...) explicit</p>	<p><i>Partial general approach has agreed on use of term explicit (see Art. 44 (1) (a) of draft Regulation) EP also accepts notion of explicit consent. Hence, term unambiguous should be replaced with explicit and reservation may be lifted.</i></p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	absence of appropriate safeguards, or b) the specific interests of the data subject require it in the particular case, or c) prevailing legitimate interests, in particular important public interests, are provided by law and constitute a necessary measure in a democratic society.	safeguards, or b) the specific interests of the data subject require it in the particular case, or c) prevailing legitimate interests, in particular important public interests, are provided for by law and constitute a necessary and proportionate measure in a democratic society.	safeguards, or b) the specific interests of the data subject require it in the particular case, or c) prevailing legitimate interests, in particular important public interests, are provided for by law and constitute a necessary and proportionate measure in a democratic society.	
	5. Each Party shall provide that the competent supervisory authority within the meaning of Article 12 bis of the Convention be informed of the modalities regulating the transfers of data provided for in paragraphs 3.b when ad hoc safeguards are set up, 4.b and 4.c. It shall also provide that the supervisory authority be entitled to request that the person who transfers data, or the recipient, demonstrate the quality and effectiveness of actions taken and that the	5. Each Party shall provide that the competent supervisory authority within the meaning of Article 12 bis of this Convention is provided with all relevant information concerning the (...) safeguards applying in the case of transfers of data referred to in paragraphs 3.b (...), 4.b and 4.c.	5. Each Party shall provide that the competent supervisory authority within the meaning of Article 12 bis of this Convention is provided with all relevant information concerning the (...) safeguards applying in the case of transfers of data referred to in paragraphs 3.b (...), 4.b and 4.c.	<i>Text too restrictive.</i>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	supervisory authority be entitled to prohibit, suspend or subject to condition such transfers of data.	<p>6. Each Party shall also provide that the supervisory authority be entitled to request that the person who transfers data (...)—demonstrate the effectiveness of the safeguards or the existence of prevailing legitimate interests (...)and that the supervisory authority be entitled to prohibit, suspend or subject to condition such transfers where the safeguards are not deemed appropriate (...).</p>	<p>6. Each Party shall also provide that the supervisory authority be entitled to request that the person who transfers data (...)—demonstrate the effectiveness of the safeguards or the existence of prevailing legitimate interests (...)and that the supervisory authority be entitled to prohibit, suspend or subject to condition such transfers where the safeguards are not deemed appropriate or the legitimate interests are invalid(...).</p>	
b when the transfer is made from its territory to the territory of a non Contracting State through the intermediary of the territory of another Party, in order to avoid such transfers resulting in	Delete	<p>7 Exceptions to the provisions specified in this Article may be allowed where they are provided for by law and constitute a necessary and proportionate measure in</p>	<p>7 Exceptions to the provisions specified in this Article <u>A Party may prohibit or subject to special authorisation the transfer of personal data to a recipient who is</u></p>	The text of paragraph 7 is unclear and prejudicial to legal certainty, as it is too broad. Moreover, it is not clear what provisions of this Article may be subject to exceptions, given that

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circumvention of the legislation of the Party referred to at the beginning of this paragraph.		a democratic society for the freedom of expression.	subject to the jurisdiction of another Party to the Convention may be allowed where such prohibition is provided are provided for by law and constitutes a necessary and proportionate measure in a democratic society for the freedom of expression.	e.g. para 1 sets a principle, while para 2 constitutes an exception to this principle.
Article 2 – Transborder flows of personal data to a recipient which is not subject to the jurisdiction of a Party to the Convention (Additional Protocol)	<i>(Article 12 above replaces the old Article 12 and Article 2 of the Additional Protocol)</i>	<i>(Article 12 of the modernisation proposals would replace Article 12 and Article 2 of the Additional Protocol)</i>	Support	
1 Each Party shall provide for the transfer of personal data to a recipient that is subject to the jurisdiction of a State or organisation that is not Party to the Convention only if that State or organisation ensures an adequate level of protection for the intended data transfer.	Delete	Delete	Support	
2 By way of derogation from paragraph 1 of Article 2 of this Protocol, each Party may allow for the transfer of personal data:	Delete	Delete	Support	
a if domestic law	Delete	Delete	Support	

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provides for it because of:				
– specific interests of the data subject, or	Delete	Delete	<i>Support</i>	
– legitimate prevailing interests, especially important public interests, or	Delete	Delete	<i>Support</i>	
b if safeguards, which can in particular result from contractual clauses, are provided by the controller responsible for the transfer and are found adequate by the competent authorities according to domestic law.	Delete	Delete	<i>Support</i>	
Additional Protocol	Chapter III bis Supervisory authorities	Chapter III bis Supervisory authorities		
Article 1	Article 12bis Supervisory authorities	Article 12bis Supervisory authorities		
1 Each Party shall provide for one or more authorities to be responsible for ensuring compliance with the measures in its domestic law giving effect to the principles stated in Chapters II and III of the Convention and in this Protocol.	1 Each Party shall provide for one or more authorities to be responsible for ensuring compliance with the measures in its domestic law giving effect to the principles of this Convention .	1 Each Party shall provide for one or more authorities to be responsible for ensuring compliance with the (...) law giving effect to the provisions of this Convention.	<i>Support</i>	
2 a To this end, the said authorities shall have, in	2 To this end, such authorities:	2 To this end, such authorities:	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
<p>particular, powers of investigation and intervention, as well as the power to engage in legal proceedings or bring to the attention of the competent judicial authorities violations of provisions of domestic law giving effect to the principles mentioned in paragraph 1 of Article 1 of this Protocol.</p>	<p>a. shall have powers of investigation and intervention;</p> <p>a'. are consulted when drawing up legislative and administrative measures relating to the protection of individuals with regard to the processing of personal data;</p> <p>b. shall perform the functions relating to transfers of data provided for under Article 12, notably the approval of standardised safeguards;</p> <p>c. shall have the power to issue decisions with respect to domestic law giving effect to the provisions of this Convention and may in particular sanction administrative offences;</p> <p>d. shall have the power to engage in legal proceedings or to bring to</p>	<p>a. shall have powers of investigation and intervention;</p> <p>a'—(see new paragraph 2bis below)</p> <p>b. shall perform the functions relating to transfers of data provided for under Article 12, notably the approval of standardised safeguards;</p> <p>c. shall have powers to issue decisions with respect to violations of the law giving effect to the provisions of this Convention and may in particular impose administrative sanctions;</p> <p>d. shall have the power to engage in legal proceedings or to bring to the attention of the competent judicial authorities violations of (...) the law giving effect to the provisions of this Convention;</p>		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	<p>the attention of the competent judicial authorities violations of provisions of domestic law giving effect to the provisions of this Convention;</p> <p>e. shall be responsible for raising awareness of and providing information on data protection;</p>	<p>e. shall promote public awareness of the rights of data subjects and the exercise of such rights, and the awareness of controllers and processors of their responsibilities under this Convention; specific attention shall be given to the data protection rights of children;</p>		
		<p>2bis. The competent supervisory authorities shall be consulted on proposals for any legislative or administrative measures involving the processing of personal data which may severely affect data subjects by virtue of the nature, scope and purpose of such processing.</p>	<p>2bis. The competent supervisory authorities shall be consulted on proposals for any legislative or administrative measures which provide for involving the processing of personal data which may severely affect data subjects by virtue of the nature, scope and purpose of such processing.</p>	<p><i>More precise formulation.</i></p>
<p>b. Each supervisory authority shall hear claims lodged by any person concerning the protection of his/her rights and fundamental</p>	<p>3 Each supervisory authority can be requested by any person to investigate a claim concerning the protection of his/her rights and</p>	<p>3 Each competent supervisory authority shall deal with requests and complaints lodged by data subjects concerning their data protection rights and</p>	<p>3 Each competent supervisory authority shall deal with requests and complaints lodged by data subjects concerning their (...) rights and shall keep</p>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
freedoms with regard to the processing of personal data within its competence.	fundamental freedoms with regard to the data processing within its competence and shall inform the data subject of the follow-up given to such a claim.	shall keep data subjects informed of progress.	data subjects informed of progress.	
3 The supervisory authorities shall exercise their functions in complete independence.	4 The supervisory authorities shall perform their duties and exercise their powers in complete independence. They shall neither seek nor accept instructions from anyone in the performance of their duties and exercise of their powers.	4 The supervisory authorities shall act with complete independence and impartiality in performing their duties and exercising their powers and in doing so shall neither seek nor accept instructions (...).	<i>Support</i>	
	5 Each Party shall ensure that the supervisory authorities have adequate human, technical and financial resources and infrastructure necessary to perform their functions and exercise their powers independently and effectively. 5bis The supervisory authorities shall draw up	5 Each Party shall ensure that the supervisory authorities are provided with the resources necessary for the effective performance of their functions and exercise of their powers (...). 5bis Each supervisory authorities shall prepare	<i>Support</i> <i>Support</i>	

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	<p>a public report of their activities and shall see to it that transparency on their activities be ensured.</p> <p>5ter Members and staff of the supervisory authorities shall be bound by obligations of confidentiality with regard to confidential information they have access to or have had access to in the performance of their duties.</p>	<p>and publish a periodical (...) report outlining its activities and shall ensure transparency in respect of such activities.</p> <p>5ter Members and staff of the supervisory authorities shall be bound by obligations of confidentiality with regard to confidential information they have access to or have had access to in the performance of their duties and exercise of their powers.</p>	<i>Support</i>	
4 Decisions of the supervisory authorities, which give rise to complaints, may be appealed against through the courts.	6 Decisions of the supervisory authorities, which give rise to complaints, may be appealed against through the courts.	6 Decisions of the supervisory authorities (...) may be appealed against through the courts.	<i>Support</i>	
5 In accordance with the provisions of Chapter IV, and without prejudice to the provisions of Article 13 of the Convention, the supervisory authorities shall co-operate with one another to the extent necessary for the performance of their duties, in particular by	7 In accordance with the provisions of Chapter IV, the supervisory authorities shall co-operate with one another to the extent necessary for the performance of their duties, in particular by:	7 In accordance with the provisions of Chapter IV, the supervisory authorities shall co-operate with one another to the extent necessary for the performance of their duties and exercise of their powers, in particular	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
exchanging all useful information.		by:		
	a exchanging all useful information, in particular by taking, under their domestic law and solely for the protection of personal data, all appropriate measures to provide factual information relating to specific processing carried out on its territory, with the exception of personal data undergoing this processing, unless such data is essential for co-operation or that the data subject has previously agreed to in an unambiguous, specific, free and informed manner;	a providing mutual assistance by exchanging relevant and useful information and cooperating with each other;	a providing mutual assistance by exchanging relevant and useful information and cooperating with each other, <u>under the condition that, as regards the protection of personal data, all the rules and safeguards of this Convention are complied with;</u>	<i>Clarification of the applicability of the Convention provisions in cases of mutual assistance.</i>
	b coordinating their investigations or interventions or conducting joint actions;	b coordinating their investigations or interventions, or conducting joint actions;	<i>Support</i>	
	c providing information on their law and administrative practice relating to data protection.	c providing information and documentation on their law and administrative practice relating to data protection.	<i>Support</i>	
8	In order to organise their co-operation and to	8 In order to organise their co-operation and to	8 In order to organise their co-operation and to	<i>Risk of heavy financial impact.</i>

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	perform the duties set out in the preceding paragraph, the supervisory authorities of the Parties shall form a conference/network.	perform the duties set out in the preceding paragraph, the supervisory authorities of the Parties shall form a conference/network.	perform the duties set out in the preceding paragraph, the supervisory authorities of the Parties shall may form a conference/network.	
	9 The supervisory authorities shall not be competent with respect to processing carried out by entities acting in their judicial capacity.	9 The supervisory authorities shall not be competent with respect to processing carried out by bodies acting in their judicial capacity.	<i>Support</i>	
			<u>10 The information referred to in paragraph 7 shall not include personal data undergoing processing unless such data are essential for co-operation, or where the data subject concerned has given [explicit] [unambiguous], specific, free and informed consent to its provision.</u>	<i>New placing of Article 13 paragraph 4 to keep it in the article on cooperation between supervisory authorities.</i>
Chapter IV – Mutual assistance	Chapter IV – Mutual assistance	Chapter IV – Mutual assistance		
Article 13 – Co-operation between Parties	Article 13 – Co-operation between Parties	Article 13 – Co-operation between Parties		
1 The Parties agree to render each other mutual	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
assistance in order to implement this Convention.				
2 For that purpose:	unchanged	unchanged	<i>Support</i>	
a each Party shall designate one or more authorities, the name and address of each of which it shall communicate to the Secretary General of the Council of Europe;	a each Party shall designate one or more supervisory authorities within the meaning of Article 12bis of this Convention, the name and address of each of which it shall communicate to the Secretary General of the Council of Europe;	a each Party shall designate one or more supervisory authorities within the meaning of Article 12bis of this Convention, the name and address of each of which it shall communicate to the Secretary General of the Council of Europe;	<i>Support</i>	
b each Party which has designated more than one authority shall specify in its communication referred to in the previous sub-paragraph the competence of each authority.	b each Party which has designated more than one supervisory authority shall specify in its communication referred to in the previous sub-paragraph the competence of each.	b each Party which has designated more than one supervisory authority shall specify in its communication referred to in the previous sub-paragraph the competence of each.	<i>Support</i>	
3 An authority designated by a Party shall at the request of an authority designated by another Party:	Incorporated into Article 12bis	3 A supervisory authority designated by a Party shall at the request of a supervisory authority designated by another Party exchange all useful information, in particular, and solely for the protection of personal data, by taking all appropriate measures	3 A supervisory authority designated by a Party shall at the request of a supervisory authority designated by another Party exchange all useful information, in particular, and solely for the protection of personal data, by taking all appropriate measures	<i>Already provided in Article 12bis paragraph 7</i>

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		<p>under its law to provide factual information relating to specific processing carried out on its territory.</p> <p>4. The information referred to in paragraph 3 shall not include personal data undergoing processing unless such data are essential for co-operation, or where the data subject concerned has given unambiguous, specific, free and informed consent to its provision.</p>	<p>under its law to provide factual information relating to specific processing carried out on its territory.</p> <p><u>Move paragraph 4 to Article 12bis (10).</u></p>	
a furnish information on its law and administrative practice in the field of data protection;	Delete	Delete (see 12bis 7b)	Support	
b take, in conformity with its domestic law and for the sole purpose of protection of privacy, all appropriate measures for furnishing factual information relating to specific automatic processing carried out in its territory, with the exception however of the personal data being processed.	Delete	See above	Support	
Article 14 – Assistance to	Article 14 – Assistance	Article 14 – Assistance	Article 14 – Assistance	<i>Practical consequence of Article 1.</i>

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data subjects resident abroad	to data subjects resident abroad	to data subjects resident abroad	to data subjects resident abroad	
1 Each Party shall assist any person resident abroad to exercise the rights conferred by its domestic law giving effect to the principles set out in Article 8 of this Convention.	bis	1 Each Party shall assist any data subject resident abroad to exercise his or her rights under the law which gives effect to Article 8 of this Convention.	Support	
2 When such a person resides in the territory of another Party he shall be given the option of submitting his request through the intermediary of the authority designated by that Party.	Incorporated into Article 12bis	2 Where a data subject resides in the territory of another Party, he or she shall be given the option of submitting the request through the intermediary of the authority designated by that Party.	2 Where a data subject resides in the territory of another Party, he or she shall be given the option of submitting the request through the intermediary of the supervisory authority <u>[within the meaning of Article 12bis of this Convention]</u> designated by that Party.	
3 The request for assistance shall contain all the necessary particulars, relating inter alia to:	Incorporated into Article 12bis	3 The request for assistance shall contain all the necessary particulars, relating inter alia to:	Support	
a the name, address and any other relevant particulars identifying the person making the request;	Incorporated into Article 12bis	a the name, address and any other relevant particulars identifying the data subject making the request;	Support	
b the automated	Incorporated into Article	b the processing to	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
personal data file to which the request pertains, or its controller;	12bis	which the request pertains, or its controller;		
c the purpose of the request.	Incorporated into Article 12bis	c the purpose of the request.	<i>Support</i>	
Article 15 – Safeguards concerning assistance rendered by designated authorities.	Article 15 – Safeguards concerning assistance rendered by designated supervisory authorities	Article 15 – Safeguards concerning assistance rendered by designated supervisory authorities		
1 An authority designated by a Party which has received information from an authority designated by another Party either accompanying a request for assistance or in reply to its own request for assistance shall not use that information for purposes other than those specified in the request for assistance.	1 A supervisory authority designated by a Party which has received information from an authority designated by another Party either accompanying a request for assistance or in reply to its own request for assistance shall not use that information for purposes other than those specified in the request for assistance.	1 A supervisory authority designated by a Party which has received information from a supervisory authority designated by another Party either accompanying a request for assistance or in reply to its own request for assistance shall not use that information for purposes other than those specified in the request for assistance.	<i>Support</i>	
2 Each Party shall see to it that the persons belonging to or acting on behalf of the designated authority shall be bound by appropriate obligations of secrecy or confidentiality with regard to that information.	Delete	Delete	<i>Support</i>	
3 In no case may a	2 In no case may a	2 In no case may a	2 In no case may a	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
designated authority be allowed to make under Article 14, paragraph 2, a request for assistance on behalf of a data subject resident abroad, of its own accord and without the express consent of the person concerned.	designated supervisory authority be allowed to make a request for assistance on behalf of a data subject of its own accord and without the express consent of the person concerned.	designated supervisory authority be allowed to make a request for assistance on behalf of a data subject of its own accord and without the express consent of the data subject concerned.	designated supervisory authority be allowed to make a request for assistance on behalf of a data subject of its own accord and without the express mandate of the data subject concerned, <u>without prejudice to Article 12bis.</u>	
Article 16 – Refusal of requests for assistance	Article 16 – Refusal of requests for assistance	Article 16 – Refusal of requests for assistance		
A designated authority to which a request for assistance is addressed under Articles 13 or 14 of this Convention may not refuse to comply with it unless:	A designated supervisory authority to which a request for assistance is addressed under Article 13 of this Convention may not refuse to comply with it unless:	A designated supervisory authority to which a request for assistance is addressed under Article 13 of this Convention may not refuse to comply with it unless:	<i>Support</i>	
a the request is not compatible with the powers in the field of data protection of the authorities responsible for replying;	unchanged	unchanged	<i>Support</i>	
b the request does not comply with the provisions of this Convention;	unchanged	unchanged	<i>Support</i>	
c compliance with the request would be incompatible with the	compliance with the request would be incompatible with the	compliance with the request would be incompatible with the	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
sovereignty, security or public policy (ordre public) of the Party by which it was designated, or with the rights and fundamental freedoms of persons under the jurisdiction of that Party.	sovereignty, national security or public order of the Party by which it was designated, or with the rights and fundamental freedoms of persons under the jurisdiction of that Party.	sovereignty, national security or public order of the Party by which it was designated, or with the rights and fundamental freedoms of persons under the jurisdiction of that Party.		
Article 17 – Costs and procedures of assistance	Article 17 – Costs and procedures of assistance	Article 17 – Costs and procedures of assistance		
1 Mutual assistance which the Parties render each other under Article 13 and assistance they render to data subjects abroad under Article 14 shall not give rise to the payment of any costs or fees other than those incurred for experts and interpreters. The latter costs or fees shall be borne by the Party which has designated the authority making the request for assistance.	1 Mutual assistance which the Parties render each other under Article 13 and assistance they render to data subjects [abroad] under Article 14 shall not give rise to the payment of any costs or fees other than those incurred for experts and interpreters. The latter costs or fees shall be borne by the Party which has designated the supervisory authority making the request for assistance.	1 Mutual assistance which the Parties render each other under Article 13 and assistance they render to data subjects [abroad] under Articles 8 and 14 shall not give rise to the payment of any costs or fees other than those incurred for experts and interpreters. The latter costs or fees shall be borne by the Party which has designated the supervisory authority making the request for assistance.	<i>Support</i>	
2 The data subject may not be charged costs or fees in connection with the steps taken on his behalf in the	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
territory of another Party other than those lawfully payable by residents of that Party.				
3 Other details concerning the assistance relating in particular to the forms and procedures and the languages to be used, shall be established directly between the Parties concerned.	unchanged	unchanged	<i>Support</i>	
Chapter V – Consultative Committee	Chapter V – Convention Committee	Chapter V – Convention Committee		
Article 18 – Composition of the committee	Article 18 – Composition of the committee	Article 18 – Composition of the committee		
1 A Consultative Committee shall be set up after the entry into force of this Convention.	1 A Convention Committee shall be set up after the entry into force of this Convention.	1 A Convention Committee shall be set up after the entry into force of this Convention.	<i>Support</i>	
2 Each Party shall appoint a representative to the committee and a deputy representative. Any member State of the Council of Europe which is not a Party to the Convention shall have the right to be represented on the committee by an observer.	unchanged	unchanged	<i>Support</i>	
3. The Consultative Committee may, by unanimous decision, invite any	3 The Convention Committee may, by a decision taken by a	3 The Convention Committee may, by a decision taken by a	<i>Support text as proposed by T-PD</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
non-member State of the Council of Europe which is not a Party to the Convention to be represented by an observer at a given meeting.	majority of two-thirds of the representatives of the Parties entitled to vote, invite an observer to be represented at its meetings.	majority of two-thirds of the representatives of the Parties (...), invite an observer to be represented at its meetings.		
	4 Any Party which is not a member of the Council of Europe shall contribute to the funding of the activities of the Convention Committee according to the modalities established by the Committee of Ministers in agreement with that Party.	4 Any Party which is not a member of the Council of Europe shall contribute to the funding of the activities of the Convention Committee according to the modalities established by the Committee of Ministers in agreement with that Party.	<i>Support</i>	
Article 19 – Functions of the committee	Article 19 – Functions of the committee	Article 19 – Functions of the committee		
The Consultative Committee:	The Convention Committee:	The Convention Committee:	<i>Support</i>	
a may make proposals with a view to facilitating or improving the application of the Convention;	a may make recommendations with a view to facilitating or improving the application of the Convention;	a may make recommendations with a view to facilitating or improving the application of the Convention;	<i>Support</i>	
b may make proposals for amendment of this Convention in accordance with Article 21;	unchanged	unchanged	<i>Support</i>	
c shall formulate its opinion on any proposal for amendment of this Convention which is referred to it in	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
accordance with Article 21, paragraph 3;				
d may, at the request of a Party, express an opinion on any question concerning the application of this Convention.	d may express an opinion on any question concerning the interpretation or application of this Convention;	d may express an opinion on any question concerning the interpretation or application of this Convention;	<i>Support</i>	
	e shall prepare, before any new accession to the Convention, an opinion for the Committee of Ministers relating to the level of data protection of the candidate for accession;	e shall prepare, before any new accession to the Convention, an opinion for the Committee of Ministers relating to the level of personal data protection of the candidate for accession and where necessary recommend measures to take to reach compliance with the provisions of this Convention;	<i>Support</i>	
	f may, at the request of a State or an international organisation or on its own initiative, evaluate whether the level of data protection the former provides is in compliance with the provisions of this Convention;	f may, at the request of a State or an international organisation (...), evaluate whether the level of personal data protection the former provides is in compliance with the provisions of this Convention and where necessary recommend measures to take to reach such compliance;	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	g may develop or approve models of standardised safeguards referred to in Article 12;	g may develop or approve models of standardised safeguards referred to in Article 12;	<i>Support</i>	
	h shall periodically review the implementation of this Convention by the Parties in accordance with the provisions of Article 4.3 and decide upon measures to take where a Party is not in compliance with the Convention;	h shall (...) review the implementation of this Convention by the Parties (...) and recommend measures to take where a Party is not in compliance with this Convention;	<i>Support</i>	
	i shall facilitate, where necessary, the friendly settlement of all difficulties related to the application of this Convention.	i shall facilitate, where necessary, the friendly settlement of all difficulties related to the application of this Convention.	<i>Support</i>	
		19bis The specific modalities of exercise by the Convention Committee of the functions foreseen in this Article shall be defined in the Rules of Procedure adopted by the Committee in accordance with Article 20.5 which shall regulate, inter alia, the procedures of evaluation and review on the basis of objective criteria.	<i>Support</i>	
Article 20 – Procedure	Article 20 – Procedure	Article 20 – Procedure		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3 rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
<p>1 The Consultative Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within twelve months of the entry into force of this Convention. It shall subsequently meet at least once every two years and in any case when one-third of the representatives of the Parties request its convocation.</p>	<p>1 The Convention Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within twelve months of the entry into force of this Convention. It shall subsequently meet at least once a year and in any case when one-third of the representatives of the Parties request its convocation.</p>	<p>1 The Convention Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within twelve months of the entry into force of this Convention. It shall subsequently meet at least once a year and in any case when one-third of the representatives of the Parties request its convocation.</p>	<p><i>Support</i></p>	
<p>2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the Consultative Committee.</p>	<p>2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the Convention Committee.</p>	<p>2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the Convention Committee.</p>	<p><i>Support</i></p>	
	<p>3 Each Party has a right to vote and shall have one vote. On questions related to its competence, the European Union exercises its right to vote and casts a number of votes equal to the number of its member States that are Parties to the Convention and have transferred competencies to the European Union in</p>	<p>3 Each Party has a right to vote and shall have one vote. On questions related to within its competence, the European Union exercises its right to vote and casts a number of votes equal to the number of its member States that are Parties to the Convention and have transferred competencies</p>	<p>3 Each Party has a right to vote and shall have one vote. On questions related to within its competence, the European Union exercises its right to vote and casts a number of votes equal to the number of its member States that are Parties to the Convention and that have transferred competencies</p>	<p><i>our proposed formulation aims at ensuring that the EU will always be able to cast the number of votes corresponding to the number of Member States which have transferred their competence to the EU (with this regard, see the interpretation of the CJEU in the C-137/12 judgment).</i></p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	the field concerned. In this case, those member States of the European Union do not vote.	to the European Union in the field concerned. In this case, those member States of the European Union do not vote.	to the European Union in the field concerned. In this case, those member States of the European Union do not vote.	
3 After each of its meetings, the Consultative Committee shall submit to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of the Convention.	4 After each of its meetings, the Convention Committee shall submit to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of the Convention.	4 After each of its meetings, the Convention Committee shall submit to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of this Convention.	<i>Support</i>	
4 Subject to the provisions of this Convention, the Consultative Committee shall draw up its own Rules of Procedure.	5. Subject to the provisions of this Convention, the Convention Committee shall draw up its own Rules of Procedure and establish in particular the procedures of evaluation set out in Article 4.3 and of examination of the level of protection provided for in Article 19, on the basis of objective criteria.	5. Subject to the provisions of this Convention, the Convention Committee shall draw up its own Rules of Procedure (...).	<i>Support</i>	
Chapter VI – Amendments	Chapter VI – Amendments	Chapter VI – Amendments		
Article 21 – Amendments	Article 21 – Amendments	Article 21 – Amendments		
1 Amendments to this	1 Amendments to	1 Amendments to	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the Consultative Committee.	this Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the Convention Committee.	this Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the Convention Committee.		
2 Any proposal for amendment shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of Europe and to every non-member State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 23.	2 Any proposal for amendment shall be communicated by the Secretary General of the Council of Europe to the Parties to the Convention, to the other member States of the Council of Europe, to the European Union and to every non-member State which has been invited to accede to this Convention in accordance with the provisions of Article 23.	2 Any proposal for amendment shall be communicated by the Secretary General of the Council of Europe to the Parties to this Convention, to the other member States of the Council of Europe, to the European Union and to every non-member State or international organisation which has been invited to accede to this Convention in accordance with the provisions of Article 23.	<i>Support</i>	
3 Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the Consultative Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.	3 Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the Convention Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.	3 Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the Convention Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.	<i>Support</i>	
4 The Committee of	4 The Committee of	4 The Committee of	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
Ministers shall consider the proposed amendment and any opinion submitted by the Consultative Committee and may approve the amendment.	Ministers shall consider the proposed amendment and any opinion submitted by the Convention Committee and may approve the amendment.	Ministers shall consider the proposed amendment and any opinion submitted by the Convention Committee and may approve the amendment.		
5 The text of any amendment approved by the Committee of Ministers in accordance with paragraph 4 of this article shall be forwarded to the Parties for acceptance.	unchanged	unchanged	<i>Support</i>	
6 Any amendment approved in accordance with paragraph 4 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.	unchanged	unchanged	<i>Support</i>	
	7. Moreover, the Committee of Ministers may after consulting the Convention Committee, decide that a particular amendment shall enter into force at the expiration of a period of two years from the date on which it has been opened to	7. Moreover, the Committee of Ministers may after consulting the Convention Committee, decide that a particular amendment shall enter into force at the expiration of a period of two years from the date on which it has been opened to	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	acceptance, unless a Party notifies the Secretary General of the Council of Europe of an objection to its entry into force. If such an objection is notified, the amendment shall enter into force on the first day of the month following the date on which the Party to the Convention which has notified the objection has deposited its instrument of acceptance with the Secretary General of the Council Europe.	acceptance, unless a Party notifies the Secretary General of the Council of Europe of an objection to its entry into force. If such an objection is notified, the amendment shall enter into force on the first day of the month following the date on which the Party to this Convention which has notified the objection has deposited its instrument of acceptance with the Secretary General of the Council Europe.		
	8. If an amendment has been approved by the Committee of Ministers but has not yet entered into force in accordance with the provisions set out in paragraphs 6 or 7, a State, the European Union, or an international organisation may not express its consent to be bound by the Convention without at the same time accepting the amendment.	8. If an amendment has been approved by the Committee of Ministers but has not yet entered into force in accordance with the provisions set out in paragraphs 6 or 7, a State, the European Union, or an international organisation may not express its consent to be bound by this Convention without at the same time accepting the amendment.	<i>Support</i>	
Chapter VII – Final clauses	Chapter VII – Final clauses	Chapter VII – Final clauses		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
Article 22 – Entry into force	Article 22 – Entry into force	Article 22 – Entry into force		
<p>1 This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.</p>	<p>1 This Convention shall be open for signature by the member States of the Council of Europe, the European Union and States not members of the Council of Europe which have been invited to accede to the Convention opened for signature on 28 January 1981. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.</p>	<p>1 This Convention shall be open for signature by the member States of the Council of Europe and by the European Union (...). It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.</p>	<i>Support</i>	
<p>2 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions</p>	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
of the preceding paragraph.				
3 In respect of any member State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification, acceptance or approval.	unchanged	3 In respect of any Party which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification, acceptance or approval.	<i>Support</i>	
Article 23 – Accession by non-member States	Article 23 – Accession by non-member States and international organisations	Article 23 – Accession by non-member States and international organisations		
1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the committee.	1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consulting the Parties to the Convention and obtaining their unanimous agreement and in light of the opinion prepared by the Convention Committee in accordance with Article 19.e, invite any State not a member of the	1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consulting the Parties to this Convention and obtaining their unanimous agreement and in light of the opinion prepared by the Convention Committee in accordance with Article 19.e, invite any State not a member of the Council of Europe or an	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
	Council of Europe or an international organisation to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.	international organisation to accede to this Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.		
2 In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.	2 In respect of any State or international organisation acceding to the present Convention according to paragraph 1 above, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.	2 In respect of any State or international organisation acceding to this Convention according to paragraph 1 above, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.	<i>Support</i>	
Article 24 – Territorial clause	Article 24 – Territorial clause	Article 24 – Territorial clause		
1 Any State may at the time of signature or when	1 Any State, the European Union or other	1 Any State, the European Union or other	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.	international organisation may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.	international organisation may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.		
2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.	2 Any State , the European Union or other international organisation may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.	2 Any State, the European Union or other international organisation may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.	<i>Support</i>	
3 Any declaration made under the two preceding paragraphs may, in respect of	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.				
Article 25 – Reservations	Article 25 – Reservations	Article 25 – Reservations		
No reservation may be made in respect of the provisions of this Convention.	unchanged	unchanged	<i>Support</i>	
Article 26 – Denunciation	Article 26 – Denunciation	Article 26 – Denunciation		
1 Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.	unchanged	unchanged	<i>Support</i>	
2 Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.	unchanged	unchanged	<i>Support</i>	
Article 27 – Notifications	Article 27 – Notifications	Article 27 – Notifications		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:	The Secretary General of the Council of Europe shall notify the member States of the Council and any Party to this Convention of:	The Secretary General of the Council of Europe shall notify the member States of the Council and any Party to this Convention of:	<i>Support</i>	
a any signature;	unchanged	unchanged	<i>Support</i>	
b the deposit of any instrument of ratification, acceptance, approval or accession;	unchanged	unchanged	<i>Support</i>	
c any date of entry into force of this Convention in accordance with Articles 22, 23 and 24;	unchanged	unchanged	<i>Support</i>	
d any other act, notification or communication relating to this Convention.	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 3rd CAHDATA MEETING	EU PROPOSED POSITION	COMMENTS
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Article ... of the Protocol: signature and entry into force

1. This protocol shall be open for signature by the Parties to the Convention. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This protocol shall enter into force on the first day of the month following the expiration of a period of [three] months after the date on which all Parties to the Convention have expressed their consent to be bound by the protocol in accordance with the provisions of paragraph 1 of this Article.

3. However, this protocol shall enter into force following the expiry of a period of [two] years after the date on which it has been opened to signature, unless a Party to the Convention has notified the Secretary General of the Council of Europe of an objection to its entry into force. The right to make an objection shall be reserved to those states which were Parties to the Convention at the date of opening for signature of this protocol.

4. Should such an objection be notified, the protocol shall enter into force on the first day of the month following the expiration of a period of [three] months after the date on which the Party to the Convention which has notified the objection has deposited its instrument of ratification, acceptance or approval with the Secretary General of the Council of Europe.

5. From the entry into force of this protocol, with respect to a Party having entered one or more declarations in pursuance of Article 2 of the unamended Convention, such declaration(s) will lapse.