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European Union

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6365/14
ADD 1 REV 2 DCL 1

DATAPROTECT 25
JAI 80
MI 145
FREMP 24
RELEX 114

DECLASSIFICATION

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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 CAHDATA meeting on 28-30 April 2014
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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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Brussels, 25 April 2014

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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 CAHDATA meeting on 28-30 April 2014

Delegations will find in the Annex the EU proposed position drawn up by the Commission taking into consideration comments made by Member States, in view of the CAHDATA meeting on 28-30 April 2014.

<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>Update 24/04/14</p> <p>Information by the Commission with a view to the CAHDATA meeting on 28-30 April 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 current text of the Convention and Additional Protocol (1st column from the left to the right), the modernisation proposals adopted by the Consultative Committee ("T-PD") at its 29th Plenary meeting (2nd column), the text for discussion at the second CAHDATA meeting that was developed further to the 1st meeting of the CAHDATA and circulated on 25/3 (3rd column), the EU proposed position to the 25/3 proposed text (4th column) as well as the comments received by Member States and clarifications by COM (5th column).

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	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	The member States of the Council of Europe and other signatories hereto,	<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	Considering that the aim of the Council of Europe is to achieve greater unity between countries , based in particular on respect for the rule of law, as well as human rights and fundamental freedoms;	<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 freedoms of every person,	Considering that it is necessary, given the diversification, intensification and globalisation of data processing and exchanges of personal data flows, to secure human dignity and the protection of human rights and fundamental freedoms of every person,	<i>Support</i>	DE asks how the right to control one's personal data is understood.

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	in particular through the right to control one's personal data and the processing of such data.	in particular the right to personal autonomy, exercised through the right to control of one's personal data and of 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 public 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	Recognising that it is necessary to promote at the global level the fundamental values of respect for privacy and protection of personal data at the global level, thereby contributing to the free flow of information	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	between peoples;	between peoples;		
	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.	Support	
Have agreed as follows:	unchanged	unchanged	Support	
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 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.	EU position reserved subject to further discussion.	CZ prefers "territory" over "jurisdiction", finding the latter to be confusing. ES considers use of term "jurisdiction" to be essential. COM: In view of further coordination, see background information at the following document on the reasons for introducing the concept of jurisdiction into Article 1 draft modernised text by T-PD of Convention 108: http://www.coe.int/t/dghl/standardsetting/dataprotection/TPD_documents/Memo

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				random%20on%20introducing%20the%20conc%20%20of%20jurisdiction%20(J-PH%20Moiny)%20E.pdf
Article 2 – Definitions	Article 2 – Definitions	Article 2 – Definitions		
For the purposes of this Convention:	unchanged	unchanged	<i>Support</i>	
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, and in particular – such as 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 such data;	<i>Support subject to addition of the word “destruction”</i> c “ data processing” means any operation or set of operations which is performed upon personal data, and in particular – such as the collection, storage, preservation, alteration, retrieval, disclosure, making available, erasure, or <u>destruction</u> of data, or the carrying out	LT and BE prefer “erasure” over „destruction of data” („erasure” to incorporate any kind of data destruction); BE would like to cover both authorised and unauthorised destruction. <i>COM comment: Both authorised or unauthorised destruction of data should be covered as a data processing operation (cf.</i>

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			of logical and/or arithmetical operations on such data;	definition of processing contained at EU level in Article 2 (b) of Directive 95/46/EC; or at national level, e.g. in Section 1(1) of the Irish Data Protection Act 1988(revised).
	where no automated processing is used, data processing means the operations carried out within a structured set established according to any criteria which allow to search for personal data ;	where no automated processing is not used, data processing means an the operations or set of operations performed upon personal data carried out within a structured set of such data which are accessible and retrievable according to specific criteria established according to any criteria which allow to search for personal data ;	Support	
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	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.	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
stored and which operations should be applied to them.				
	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>	
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. 1bis This Convention shall not apply to data processing carried out by a natural person for the exercise of purely	1 Each Party undertakes to apply this Convention to data processing subject to its jurisdiction in the public and private sectors, thereby protecting the right to protection of personal data of any person subject to its jurisdiction. 1bis This Convention shall not apply to data processing carried out by	<i>EU position reserved; on first paragraph, support text as proposed by T-PD.</i>	IE reckons that "thereby protecting the right to protection of personal data of any person subject to its jurisdiction" should go to the Explanatory Report but not in the text (cf. Art. 1). NL would like to have the last part of sentence deleted and suggests instead to add "whatever his nationality or residence".

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	personal or household activities.	a natural person for the exercise of purely personal or household activities.		CZ suggests deleting the adjective "purely". DE places a reservation on the household exception against the difficulties of finding purely personal or household activities e.g. in the internet; DE suggests to further concretise this concept.
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>	
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	delete	delete	<i>Support</i>	

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declaration whenever additional categories of automated personal data files are subjected to data protection provisions under its domestic law;				
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 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.	delete	delete	<i>Support</i>	

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4Any 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	Support	
5Likewise, 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	Support	
6The declarations provided for in paragraph 2 above shall 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	delete	delete	Support	

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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.				
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 domestic law to give effect to the basic principles for data protection set out in this chapter.	1 Each Party shall take the necessary measures in its domestic law to give effect to the provisions set out in this Convention and ensure their effective application.	1 Each Party shall take the necessary measures in its domestic law to give effect to the provisions set out in this Convention and secure their effective application.	<i>Support text as proposed by T-PD.</i>	CZ considers paragraphs 1 and 2 to be superfluous and suggests to delete them. ES suggests either keeping "ensure" or replacing "secure" by "guarantee". <i>COM: T-PD text seems more straight forward (why should the adjective</i>

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				"domestic" be deleted?). To ensure is to make something happen, which is stronger than 'secure' (which only requires best efforts).
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 prior to ratification or accession to this Convention.	Support	
	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 measures it has taken in its law to give effect to the provisions of this Convention observance of its engagements and to contribute actively to this evaluation process, notably by submitting reports on the measures it has taken and which give effect to the provisions of the present Convention.	Support	
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	1 Data processing shall be proportionate in	Support	IE raises questions on

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	relation to the legitimate purpose pursued and reflect at all stages of the processing a fair balance between all interests concerned, be they public or private interests, and the rights and freedoms at stake.	relation to the legitimate purpose pursued and reflect at all stages of the processing a fair balance between all interests concerned, be they public or private interests, and the rights and freedoms at stake.		how proportionality would be transposed into national law giving effect to the Convention.
	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 [explicit, unambiguous] consent of the data subject or of some legitimate basis laid down by law.	EU position reserved	FR, LT in favour of "explicit consent". ES, RO, SI in favour of "unambiguous consent". NL raises questions on other legal basis of processing (beyond consent).
Personal data undergoing automatic processing shall be:	3 Personal data undergoing automatic processing shall be :	3 Personal data undergoing automatic processing shall be :	Support	
a obtained and processed fairly and lawfully;	a. processed lawfully and fairly.	a. processed lawfully, and fairly and in a transparent manner.	Support	NL is wondering whether "transparent" is clear in this context (cf. Art. 7bis).
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	b. collected for explicit , specified and legitimate purposes and not processed in a way	Support	

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	incompatible with those purposes;	incompatible with those purposes;		
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] and [limited to the minimum necessary] in relation to the purposes for which they are processed ;	<i>Partial reservation: "not excessive" is to be included in all cases; possibility to refer back to the text proposed by the T-PD.</i>	ES, IE prefer keeping "not excessive" (along with the other adjectives) while deleting "limited to the minimum necessary". LT would like to keep "limited to the minimum necessary". SI to keep "not excessive". COM prefers to maintain both "not excessive" and "limited to the minimum necessary" to underline expressly both dimensions of the principle of minimisation.
accurate and, where necessary, kept up to date;	unchanged	unchanged	<i>Support</i>	
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>	

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Article 6 – Special categories of data	Article 6 – Processing of sensitive data	Article 6 – Processing of sensitive 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>2. Appropriate safeguards shall prevent the risks that the processing of such sensitive data may present to the interests, rights and fundamental freedoms of the data subject, notably a risk of discrimination.</p>	<p>1 The processing of:</p> <ul style="list-style-type: none"> - genetic data, - personal data concerning suspected offences, 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 the applicable law provides specific and appropriate safeguards are enshrined in law, complementing those of the present Convention. <p>2. Specific and appropriate safeguards shall prevent the risks that the processing of such sensitive data may present</p>	<p><i>EU position reserved; preferable to keep the end of the sentence as proposed by T-PD ("complementing those of the present Convention"), which clarifies that the safeguards are not the ones generally foreseen by the Convention but additional ones.</i></p>	<p>DE suggests further exploring the context in which data is used.</p> <p>ES asks for clarifications on the concept of "biometric data", possibly in the Explanatory Report.</p> <p>IE would like the last part of the sentence ("complementing those of the present Convention") to be deleted.</p> <p>COM: Is "safeguards [...] enshrined in law" the same as "where the applicable law provides appropriate safeguards"?</p>

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		to the interests, 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 Every Party shall provide that the controller, and, where applicable the processor, takes the 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, 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.	<i>Support</i>	
	Article 7bis –	Article 7bis –		

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CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	Transparency of processing	Transparency of processing		
	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.	1 Each Party shall provide that where personal data are collected from data subjects or indirectly from another source, unless they have already been informed, the controller shall be responsible for informing the data subjects of at least the identity and habitual residence or establishment of the controller and the purposes of the processing for which the data are intended 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 providing them with any additional other information necessary to ensure fair and transparent lawful data processing of the personal data.	<i>EU position reserved subject to further discussion; possibility to refer back to the text proposed by the T-PD or see following alternative:</i> 1 Each Party shall provide that <u>the controller ensures the transparency of data processing by informing the data subjects</u> , where personal data are collected from data subjects or indirectly from another source unless they have already been informed, of <u>at least</u> the identity and habitual residence or establishment of the controller, and the purposes of the processing for which the data are intended, the data processed, the recipients or categories of recipients of the personal data, and the means of exercising the rights set	While agreeing with COM, BE suggests to replace "provide" by the verb "promote" / "encourage". DE suggests to further concretise the extent to which the transparency obligations apply and to balance the individuals' interest with the controller's bureaucratic burden. IE in favour of the 25/3 proposed text –on "lawful" (processing), IE suggests that this is not dealt with in this Article. HU would like "the legal basis for processing" to be added in the information to be provided to data subjects. COM: The new proposed formulation with the subordinate clauses is less straight-forward. The suggested reformulation

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			out in Article 8, as well as providing them with any additional other information necessary to ensure fair, and transparent <u>and lawful</u> data processing of the personal data.	places the controller's transparency requirement at the beginning of the sentence and resembles the text as agreed at technical level. It also includes important elements of transparency, such as information to data subjects relating to the exercise of their rights. COM: The addition of 'transparent' after 'fair' is to be welcomed, but lawfulness should also be maintained.
	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.	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.	Support	BE points out that even when data is collected from data subjects exceptions to the information of data subject may apply.
Article 8 – Additional	Article 8 – Rights of the data subject	Article 8 – Rights of the data subject		

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safeguards for the data subject				
Any person shall be enabled:	Any person shall be entitled :	Every person shall be entitled :	Support subject to slight modification; possibility to refer back to the text proposed by the T-PD. Every person shall be entitled have the right :	COM: "Shall have the right" is simpler and more straightforward that "be entitled to"; the latter might also risk to be understood as weakening the data subject's rights.
ato 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;	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;	a not to be subject to a decision significantly affecting him/her, based solely on an automated automatic processing of data without having their views taken into consideration;	Support subject to slight modification; possibility to refer back to the text proposed by the T-PD. a not to to be subject to a decision significantly affecting him/her, based solely solely on an automated automatic processing of data without having their views taken into consideration;	ES would like "solely" to be maintained.

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	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 ;	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 ; (moved to new d.)	Support	
bto obtain at reasonable intervals and without excessive delay or expense confirmation of whether 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;	c to obtain, on request, at reasonable intervals and without excessive delay or 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	b be entitled to obtain, on request, at reasonable intervals and without excessive delay or 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 retention period as well as any other information that the controller is required to provide to ensure the transparency of processing in accordance with Article	Support subject to slight modification; oppose the deletion of "compelling" (grounds); possibility to refer back to the text proposed by the T-PD. b be entitled to obtain, on request, at reasonable intervals and without excessive delay or 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 retention	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	<p>7bis paragraph 1;</p> <p>d to obtain, on request, knowledge of the reasoning underlying the data processing, the results of which are applied to him/her ;</p>	<p>7bis paragraph 1;</p> <p>c be entitled to obtain, on request, knowledge of the reasoning underlying the data processing, the results of which are applied to him/her ;</p> <p>d be entitled 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>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;</p> <p>c be entitled to obtain, on request, knowledge of the reasoning underlying the data processing, the results of which are applied to him/her ;</p> <p>d be entitled to object at any time to the processing of personal data concerning him/her unless the controller demonstrates <u>compelling</u> legitimate grounds for the processing which override their interests or rights and fundamental freedoms ;</p>	<p>BE agrees with COM on "compelling" and would like to have even stricter right of opposition.</p> <p>DE suggests considering possible consequences in the formulation of the right to object.</p> <p>IE in favour of deleting "compelling" (grounds).</p> <p>COM: 'Compelling' is the reason why the legitimate grounds in the case at hand override the data subject's rights; this wording derives from Article 14(a) of Directive 95/46/EC.</p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
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;	e to obtain, upon request , as the case may be, rectification or erasure of such data if these have been processed contrary to the law giving effect to the provisions of this Convention;	e be entitled to obtain, upon on request , as the case may be, rectification or erasure of such data if these have been processed contrary to the law giving effect to the provisions of this Convention;	Support subject to slight modification; oppose the deletion of "compelling" (grounds); possibility to refer back to the text proposed by the T-PD. e be entitled to obtain, upon on request , as the case may be, rectification or erasure of such data if these have been processed contrary to the law giving effect to the provisions of this Convention;	
dto have a remedy if a request for confirmation or, as the case may be, communication, rectification or erasure as referred to in paragraphs b and c of this article is not complied with.	See f below	See f below		
	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	f be entitled to have a remedy if a decision significantly affecting them, based solely on an automated processing, has been taken without having taken his/her views taking into consideration their views	Support subject to slight modification; possibility to refer back to the text proposed by the T-PD. f be entitled to have a remedy if a decision significantly affecting them, based	ES suggests keeping "solely". COM: "based solely on an automated processing" is part of the acquis – cf. Article 15.

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	an objection, as referred to in this Article;	or no response is given to a request under this Article has been received from the controller for confirmation, communication, rectification, erasure or to an objection, as referred to in this Article;	<u>solely</u> on an automated processing, has been taken without having taken his/her views taking into consideration their views or no response is given to a request under this Article has been received from the controller for confirmation, communication, rectification, erasure or to an objection, as referred to in this Article;	
	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.	g be entitled 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.	<i>Support subject to slight modification; possibility to refer back to the text proposed by the T-PD.</i> g <u>be entitled</u> 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.	HU raises question on the interaction with the one-stop-shop mechanism.
	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	1- Each Party shall provide that the controllers and, or where applicable, processors, shall take at all stages of	<i>EU position reserved subject to further discussion.</i>	CZ suggests maintaining the deletion of the 25/3 proposed text, as these requirements will not

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	<p>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.</p> <p>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 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</p>	<p>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 that the data processing under their control is in compliance with the measures taken to give effect to this Convention of — this Convention — the compliance with the applicable law.</p> <p>2- Each Party shall provide that the controllers and, or where applicable, processors, shall undertake a risk assessment of the likely carry out a risk analysis of the potential impact of the intended data processing on the data protection rights and fundamental freedoms of the data</p>		<p>enable any Party to verify compliance.</p> <p>IE in favour of 25/3 proposed text; deleted text can go to the Explanatory Report.</p> <p>NL finds this article very detailed; discussion at EU level not yet conclusive.</p> <p>COM: "At least" should be maintained because others, such as the Courts or, if appropriate, data subjects, would also benefit from this.</p> <p>CZ suggests limiting obligation to perform an impact assessment to high risk processing.</p> <p>DE questions the mandatory requirement to assess the impact of all processing operations without distinction.</p> <p>LT in favour of exceptions</p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	interference with those rights and fundamental freedoms.	subjects prior to the commencement of such processing, and shall design data processing operations in a manner which such a way as to prevents or at least minimises the risk of interference with those rights and fundamental freedoms .		for prosecution of criminal offences.
	<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>4- Each Party can take the measures needed to adapt the application of the provisions of the previous paragraphs,</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>4- 3- Each Party may, having regard to the risks arising for the interests, rights and fundamental freedoms of the data</p>	Support	<p>DE agrees to maintain T-PD text.</p> <p>IE supports deletion of this paragraph, since it is unworkable in practice to impose such an obligation to producers/designers of products/services.</p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	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.	subjects can take the measures needed to adapt the application of the provisions of the previous in paragraphs 1 and 2 in the measures giving effect to the provisions of this Convention, according to the nature of the data, the nature, scope and purpose of the processing and 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.		
Article 9 – Exceptions and restrictions	Article 9 – Exceptions and restrictions	Article 9 – Exceptions and restrictions		
1 No 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	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	Support	BE and HU suggest that not all exceptions from Article 5 paragraph 3 are allowed (e.g. lawfulness of processing must always be maintained). CZ suggests broadening national security

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	democratic society for:	democratic society for:		<p>exemptions to apply to Article 12 (5) and to Article 12bis.</p> <p>NL suggests adding following paragraph: "No exception to the principles expressed in this Chapter shall be allowed, except to the provisions of Articles 5.3, <u>6</u>, 7.2, 7bis, 8 <u>and 8 bis</u>, when such derogation is provided by an accessible and foreseeable law and constitutes a necessary measure in a democratic society for the protection of national security".</p>
2Derogation from the 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:	delete	delete	<i>Support</i>	
a protecting State security, public safety, the monetary interests of the State or the suppression of criminal	a the protection of national security, public safety, important economic and financial	a the protection of national security, public safety, important economic and financial	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
offences;	interests of the State or the prevention and suppression of criminal offences;	interests of the State or the prevention, investigation and prosecution of criminal offences;		
b protecting 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 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 are provided by law and constitute a necessary measure in a democratic society for the freedom of expression.	2 Restrictions on the exercise of the provisions specified in Article 12 may also be allowed admitted where they are provided by law and constitute a necessary measure in a democratic society for the freedom of expression.	<i>Support</i>	
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	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	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	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
privacy of the data subjects.	and fundamental freedoms of data subjects.	and fundamental freedoms of data subjects.		
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 domestic law giving effect to the provisions of this Convention.	<i>Support</i>	CZ suggests clarifying that certain unclear/very general obligations (e.g. data protection by design) are not enforced by sanctions.
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	Delete	Delete	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
national borders, by whatever medium, of personal data undergoing automatic processing or collected with a view to their being automatically processed.				
2A Party shall not, for the sole purpose of the protection of privacy, prohibit or subject to special authorisation transborder flows of personal data going to the territory of another Party.	1. A Party shall not, for the sole purpose of the protection of personal data, prohibit or subject to 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.	1. A Party shall not, for the sole purpose of the protection of personal data, prohibit or subject to special authorisation the transfer of 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 binding harmonised rules of protection shared by States belonging to a regional international organisation and where the transfer of data is not governed by measures provided for in paragraph 3.b.	<i>Support provided that "binding" (to qualify the harmonised rules of protection, which cannot be e.g. soft law instruments) is reinserted and the last part of the last sentence is deleted:</i> 1. A Party shall not, for the sole purpose of the protection of personal data, prohibit or subject to special authorisation the transfer of 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 <u>binding</u> harmonised rules of protection shared by States belonging to a regional international organisation and where <u>the transfer of data is not</u>	SI suggests further clarifying the meaning of "bound by harmonised rules", what constitutes a "regional organisation" etc. ES questions the need to delete the last part of the sentence. <i>COM: The last part of the last sentence should be deleted, since the EU MS may further restrict transfers on the basis of BCRs, Standard contractual clauses etc. (measures provided for in</i>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
			governed by measures provided for in paragraph 3.b.	paragraph 3b can also include standardised safeguards as provided for in Article 19 g).
<p>3 Nevertheless, each Party shall be entitled to derogate from the provisions of paragraph 2:</p>	<p>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.</p> <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</p>	<p>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 data can only occur where an appropriate level of personal data protection based on the principles of this Convention is ensured.</p> <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</p>	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	persons involved in the transfer and further processing.	persons involved in the transfer and further processing.		
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>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 absence of appropriate safeguards, or</p> <p>b) the specific interests of the data subject require it in the particular case, or</p> <p>c) prevailing legitimate interests, in particular important public interests, are provided by law and constitute a necessary measure in a democratic society.</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 absence of appropriate safeguards, or</p> <p>b) the specific interests of the data subject require it in the particular case, or</p> <p>c) prevailing legitimate interests, in particular important public interests, are provided for by law and constitute a necessary measure in a democratic society.</p>	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	<p>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 supervisory authority be entitled to prohibit, suspend or subject to condition such transfers of data.</p>	<p>5. Each Party shall provide that the competent supervisory authority within the meaning of Article 12 bis of the Convention be provided with all relevant information in relation to 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 effectiveness of the safeguards quality and effectiveness of actions taken and that the supervisory authority be entitled to prohibit, suspend or subject to condition such transfers where the safeguards are deemed inadequate of data.</p>	<p>Support the text proposed by T-PD or reformulate as follows:</p> <p>5. Each Party shall provide that the competent supervisory authority within the meaning of Article 12 bis of the Convention be provided with all relevant information in relation to data transfers according to paragraphs 3.b when ad hoc safeguards are set up, 4.b and 4.c, <u>including on the ad-hoc transfers</u>. It shall also provide that the supervisory authority be entitled to request that the person who transfers data, or the recipient, demonstrates the effectiveness of the <u>safeguards -adopted measures -quality and effectiveness of actions taken</u> and that the supervisory authority be entitled to prohibit, suspend or subject to condition such transfers where the <u>measures and</u></p>	<p>ES proposes to delete "4.b and 4.c".</p> <p>HU questions the need for DPAs authorisation in case of transfers on the basis of paragraph 4b and partly 4c.</p> <p>IE against submitting all relevant information to DPAs prior to data transfers.</p> <p>COM: The "safeguards" are only with respect to para. 3.b (ad hoc safeguards provided by legally binding instruments), but not with respect to 4.b and 4.c, where a balance of interests takes place. Therefore, the term "measures" (referring to this balance) should also be used.</p> <p>COM: The term "not [...] appropriate" should be preferred over the term "inadequate", which has a</p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
			safeguards are not deemed inadequate appropriate of data.	<i>specific meaning with respect to the EU acquis.</i>
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 circumvention of the legislation of the Party referred to at the beginning of this paragraph.	Delete	Delete	Support	
				NL suggests adding following paragraph: <u>"(6) An exception to the principles expressed in this article shall be allowed when such derogation is provided by an accessible and foreseeable law and constitutes a necessary measure in a democratic society for the protection of national security"</u> .
Article 2 – Transborder flows of personal data to a recipient which is not subject to the jurisdiction of a Party to the Convention (Additional	<i>(Article 12 above replaces the old Article 12 and Article 2 of the Additional Protocol)</i>	<i>(Article 12 above replaces the old Article 12 and Article 2 of the Additional Protocol)</i>		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
Protocol)				
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 provides for it because of:	Delete	Delete	Support	
– specific interests of the data subject, or	Delete	Delete	Support	
– legitimate prevailing interests, especially important public interests, or	Delete	Delete	Support	
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	Support	
Additional Protocol	Chapter III bis	Chapter III bis		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	Supervisory authorities	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 measures in its domestic law giving effect to the principles of this Convention.	<i>Support</i>	
2 a To this end, the said authorities shall have, in 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.	2 To this end, such authorities: a. shall have powers of investigation and intervention; a'. are consulted when drawing up legislative and administrative measures relating to the protection of individuals with regard to the processing of personal data; b. shall perform the functions relating to transfers of data provided for under Article 12, notably the approval of standardised	2 To this end, such authorities: a. shall have powers of investigation and intervention; a'. are consulted when drawing up legislative and administrative measures relating to the protection of individuals with regard to the processing of personal data; (see new paragraph 2bis below) b. shall perform the functions relating to transfers of data provided for under Article 12, notably the	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	<p>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 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>approval of standardised safeguards;</p> <p>c. shall have the powers to take corrective action and, where appropriate, to impose administrative sanctions for violations of the law 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 the attention of the competent judicial authorities violations of provisions of the domestic law giving effect to the provisions of this Convention;</p> <p>e. shall promote public be responsible for raising awareness of the rights of data subjects and the exercise of such</p>		<p>BE reckons that "corrective action" is a too vague term.</p> <p>IE argues "administrative sanctions" includes "fines" and explicit mention to fines should be at the Explanatory Report. IE suggests deleting reference to domestic law.</p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
		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 providing information on data protection;		
		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.	Support provided the word "severely" is deleted. 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.	LT is not in favour of the foreseen role of DPAs in the legislative process, who are not involved in the lawmaking process.
b. Each supervisory authority shall hear claims lodged by any person concerning the protection of his/her rights and fundamental	3 Each supervisory authority can be requested by any person to investigate a claim concerning the protection of his/her rights and	3 Each competent supervisory authority can be requested shall deal with requests and complaints lodged by data subjects any person to		

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	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.	investigate a claim concerning their data protection rights the protection of his/her rights and fundamental freedoms with regard to the data processing within its competence and shall keep data subjects informed of progress of the follow-up given to such a claim.		
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 independence and impartiality in performing their duties and exercising their powers. 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.	<i>Oppose; support text as proposed by T-PD.</i>	IE suggests deleting the last sentence of proposed by T-PD text and including it in the Explanatory Report. COM: By omitting 'complete' from the requirement of independence, the modernised Convention would lower the level of protection with respect to the Convention 108 currently in force, and in Directive 95/46/EC. Impartiality is not a substitute for independence, so it should not be mistaken for a synonym.

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
				The last sentence is instructive, in particular in view of the global outreach of this instrument, and in view of those countries which are now at the process of establishing their data protection systems.
	<p>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.</p> <p>5bis The supervisory authorities shall draw up 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</p>	<p>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 have adequate human, technical and financial resources and infrastructure necessary to perform their functions and exercise their powers independently and effectively.</p> <p>5bis Each supervisory authorities shall prepare and publish an annual draw up a public report outlining its activities and shall see to it that transparency on their</p>	Support	<p>BE suggests replacing "annual report" by "periodical report".</p>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	confidentiality with regard to confidential information they have access to or have had access to in the performance of their duties.	activities be ensured. 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.		
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, which give rise to complaints, may be appealed against through the courts.	Support	
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 exchanging all useful information.	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, in particular by:	Support	
	a exchanging all useful information, in particular	a providing mutual assistance by exchanging	Support under the condition that the following	BE, IE prefer to keep

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	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;	relevant and useful information and cooperating with each other 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;	<i>addition is accepted:</i> a providing mutual assistance to the supervisory authority of the other Party 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>	"relevant and useful information" instead of "necessary" information. DE expresses a reservation on the extension of international data transfers by DPAs, in particular in the field of police and judicial cooperation.
	b coordinating their investigations or interventions or conducting joint actions;	b coordinating their investigations or interventions, or conducting joint actions;	Support	
	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.	Support	
	8 In order to organise	8 In order to organise	Support subject to small	COM: Risk of duplication

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	their co-operation and to perform the duties set out in the preceding paragraph, the supervisory authorities of the Parties shall form a conference/network.	their co-operation and to perform the duties set out in the preceding paragraph, the supervisory authorities of the Parties shall form a conference/network.	modification: 8 In order to organise their co-operation and to perform the duties set out in the preceding paragraph, the supervisory authorities of the Parties shall <u>may, in the framework of existing fora,</u> form a conference/network	of fora.
	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 entities acting in their judicial capacity.	Support	HU underlines the need to preserve the independence of the judiciary. SI suggestion to further clarify this paragraph, such as e.g. on the limits and whether courts/tribunals can be supervised when acting in other capacities (administrative tasks, financial tasks), whether public prosecution systems should be included etc.
				NL suggests adding following paragraph: "(10) <u>An exception to the principles expressed in this article shall be allowed</u>

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
				<u>when such derogation is provided by an accessible and foreseeable law and constitutes a necessary measure in a democratic society for the protection of national security".</u>
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 assistance in order to implement this Convention.	unchanged	unchanged	<i>Support</i>	
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	b each Party which has designated more than one supervisory authority shall specify in its communication referred to in the previous sub-paragraph the	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	competence of each.	competence of each.		
3 An authority designated by a Party shall at the request of an authority designated by another Party:	Incorporated into Article 12bis	Incorporated into Article 12bis	<i>Support</i>	
a furnish information on its law and administrative practice in the field of data protection;	Delete	Delete	<i>Support</i>	
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	Delete	<i>Support</i>	
Article 14 – Assistance to data subjects resident abroad	Article 14 – Assistance to data subjects resident abroad	Article 14 – Assistance 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.	Incorporated into Article 12bis	Incorporated into Article 12bis	<i>Support</i>	
2 When such a person resides in the territory of	Incorporated into Article 12bis	Incorporated into Article 12bis	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
another Party he shall be given the option of submitting his request through the intermediary of the authority designated by that Party.				
3 The request for assistance shall contain all the necessary particulars, relating inter alia to:	Incorporated into Article 12bis	Incorporated into Article 12bis	<i>Support</i>	
a the name, address and any other relevant particulars identifying the person making the request;	Incorporated into Article 12bis	Incorporated into Article 12bis	<i>Support</i>	
b the automated personal data file to which the request pertains, or its controller;	Incorporated into Article 12bis	Incorporated into Article 12bis	<i>Support</i>	
c the purpose of the request.	Incorporated into Article 12bis	Incorporated into Article 12bis	<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	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	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	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
assistance shall not use that information for purposes other than those specified in the request for assistance.	assistance shall not use that information for purposes other than those specified in the request for assistance.	for assistance shall not use that information for purposes other than those specified in the request for assistance.		
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 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.	2 In no case may a 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.	2 In no case may a 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.	<i>Support</i>	
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	A designated supervisory authority to which a request for assistance is addressed under Article 13 of this	A designated supervisory authority to which a request for assistance is addressed under Article 13 of this	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
not refuse to comply with it unless:	Convention may not refuse to comply with it unless:	Convention may not refuse to comply with it unless:		
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 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.	compliance with the request would be incompatible with the 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.	compliance with the request would be incompatible with the 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.	<i>Support</i>	
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	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	1 Mutual assistance which the Parties render each other under Article 13 and assistance they render to data subjects [abroad] under Article 12bis shall not give rise to the payment of any	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
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.	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.	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.		
2 The data subject may not be charged costs or fees in connection with the steps taken on his behalf in the territory of another Party other than those lawfully payable by residents of that Party.	unchanged	unchanged	<i>Support</i>	
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>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
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	Support	
3. The Consultative Committee may, by unanimous decision, invite any 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.	3 The Convention Committee may, by a decision taken by a majority of two-thirds of the representatives of the Parties entitled to vote , invite an observer to be represented at its meetings .	3 The Convention Committee may, by a decision taken by a majority of two-thirds of the representatives of the Parties entitled to vote , invite an observer to be represented at its meetings .	Support text as proposed by T-PD	
	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.	Support	
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:	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
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 accordance with Article 21, paragraph 3;	unchanged	unchanged	<i>Support</i>	
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>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	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 or on its own initiative , 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;	Support	
	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;	Support <i>subject to accepted deletion of the last part of the last sentence of Article 12 paragraph 1.</i>	BE agrees with COM and would furthermore like to receive more explanations on the envisaged models of standardized safeguards in accordance with Article 12 further explained during the CAHDATA meeting (who can submit them? Rules of procedure?)
	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	h shall periodically review the implementation of this Convention by the Parties in accordance with the provisions of Article 4.3 and recommend measures to take where a	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	Party is not in compliance with the Convention;	Party is not in compliance with this Convention;		
	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>	
Article 20 – Procedure	Article 20 – Procedure	Article 20 – Procedure		
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.	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.	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.	<i>Support</i>	
2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the Consultative Committee.	2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the Convention Committee.	2 A majority of representatives of the Parties shall constitute a quorum for a meeting of the Convention Committee.	<i>Support</i>	
	3 Each Party has a right to vote and shall have one vote. On questions related to its competence, the European Union exercises	3 Each Party has a right to vote and shall have one vote. On questions related to its competence, the European Union exercises	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	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 the field concerned. In this case, those member States of the European Union do not vote.	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 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.	Support	
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 and establish in particular the procedures of evaluation set out in Article 4.3 and of examination of the level of personal data protection provided for in Article 19, on the basis of objective criteria.	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
Chapter VI – Amendments	Chapter VI – Amendments	Chapter VI – Amendments		
Article 21 – Amendments	Article 21 – Amendments	Article 21 – Amendments		
1 Amendments to this Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the Consultative Committee.	1 Amendments to this Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the Convention Committee.	1 Amendments to this Convention may be proposed by a Party, the Committee of Ministers of the Council of Europe or the Convention Committee.	<i>Support</i>	
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	3 Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the	3 Moreover, any amendment proposed by a Party or the Committee of Ministers shall be communicated to the	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.	Convention Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.	Convention Committee, which shall submit to the Committee of Ministers its opinion on that proposed amendment.		
4 The Committee of Ministers shall consider the proposed amendment and any opinion submitted by the Consultative Committee and may approve the amendment.	4 The Committee of Ministers shall consider the proposed amendment and any opinion submitted by the Convention Committee and may approve the amendment.	4 The Committee of Ministers shall consider the proposed amendment and any opinion submitted by the Convention Committee and may approve the amendment.	<i>Support</i>	
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,	7. Moreover, the Committee of Ministers may after consulting the Convention Committee,	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2 nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	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 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.	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 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	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	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	consent to be bound by the Convention without at the same time accepting the amendment.	consent to be bound by this Convention without at the same time accepting the amendment.		
Chapter VII – Final clauses	Chapter VII – Final clauses	Chapter VII – Final clauses		
Article 22 – Entry into force	Article 22 – Entry into force	Article 22 – Entry into force		
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.	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.	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 this 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.	<i>Support text as proposed by T-PD</i>	
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	unchanged	unchanged	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions 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	unchanged	Support text subject to minor clarification: 3 In respect of any Party 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.	
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	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	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	Support	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
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.	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 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.	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 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	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>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	Council of Europe.			
Article 24 – Territorial clause	Article 24 – Territorial clause	Article 24 – Territorial clause		
1 Any State 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.	1 Any State, the European Union or other 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.	1 Any State, the European Union or other 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.	<i>Support</i>	
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	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	<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
	date of receipt of such declaration by the Secretary General.	date of receipt of such declaration by the Secretary General.		
3 Any declaration made under the two preceding paragraphs may, in respect of 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.	unchanged	unchanged	<i>Support</i>	
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	unchanged		<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	EU PROPOSED POSITION	COMMENTS
months after the date of receipt of the notification by the Secretary General.				
Article 27 – Notifications	Article 27 – Notifications			
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:		<i>Support</i>	
a any signature;	unchanged		<i>Support</i>	
b the deposit of any instrument of ratification, acceptance, approval or accession;	unchanged		<i>Support</i>	
c any date of entry into force of this Convention in accordance with Articles 22, 23 and 24;	unchanged		<i>Support</i>	
d any other act, notification or communication relating to this Convention.	unchanged		<i>Support</i>	

CURRENT TEXT OF THE CONVENTION AND ADDITIONAL PROTOCOL	T-PD PROPOSALS	TEXT FOR DISCUSSION AT 2nd CAHDATA MEETING (25/3 PROPOSED TEXT)	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.