Council of Europe Conseil de l'Europe

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Peter Kimpian, Data Protection Unit of the Council of Europe PDP on Next-Generation gTLD Registration Directory Service (RDS)



Art 12 of the Universal Declaration of Human Rights:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Art 17 of the International Covenant on Civil and Political Rights:

- No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
- 2. Everyone has the right to the protection of the law against such interference or attacks.

Art 8 of the European Convention on Human Rights:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others





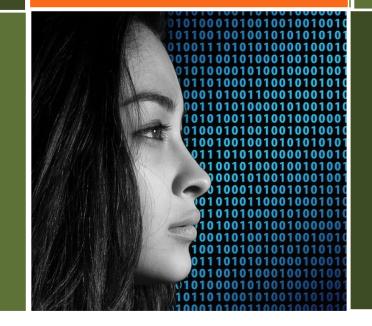
Individuals have to be in control of their personal data (trail of the data)

Main principles



- Proportionality
- Purpose specification/Purp ose limitation

- Adequate, relevant and not excessive in relation to the purposes for which they are stored
- Accurate and, where necessary, kept up to date
- 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



- Legitimate aim/purpose
- Lawful and fair means of data processing (ex: online marketing)
- Valid legal basis (law, consent, contract, vital interest of the individual, etc.)



- state security
- public safety
- the monetary interests of the State
- the suppression of criminal offences

Exemptions

- protecting the data subject or the rights and freedoms of others
- statistical and research purposes

BUT, processing of personal data for national security, law enforcement etc. purposes can constitute an <u>interference</u> with the right to privacy and to the protection of personal data

The interference has to be " provided for by law and has to constitute a necessary measures in a democratic society" (based on law, necessary and proportionate to the aim pursued)



Same rules as for processing	Discloser of data/Third party access to data/Further data processing	BUT, here there is a <u>third</u> party and a <u>second</u> purpose and it is not for the original data controller to define the secondary purpose, it defines the conditions, the procedures etc. under which it can disclose personal data if all legal requirements met
Purpose for processing \$\notherwiddle Purpose for disclosing		 New data processing has to comply with Legitimate aim/purpose Lawful and fair means of data processing Valid legal base (law, consent, contract, vital interest of the individual, etc.) Adequate, relevant and not excessive in relation to the purposes for which they are stored Accurate and, where necessary, kept up to date 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



Accountability

"A personal information controller should be accountable for complying with measures that give effect to the Principles stated above" - APEC Privacy Framework "Each Party shall provide that controllers and, where applicable, processors take all appropriate measures to comply with the obligations of this Convention and be able to demonstrate, in particular to the competent supervisory authority provided for in Article 12bis, that the data processing under their control is in compliance with the provisions of this Convention." – Modernised CoE Convention 108

"A data controller should be accountable for complying with measures which give effect to the principles stated above" - updated OECD Privacy Framework. 2013 → So collection of personal data for a specific purpose

responsibility for the implementation of the privacy and data protection principles for that purpose " The Data Protection Directive requires data controllers to observe a number of principles when they process personal data. These principles not only protect the rights of those about whom the data is collected ("data subjects") but also reflect good business practices that contribute to reliable and efficient data processing." - EU Directive 95/46/EC

" The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability')" – Art 5, GDPR





13th March 2017 !!!

"Privacy Summit" – ICANN 58



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Thank you for your attention **Peter Kimpian**

Data Protection Unit Human Rights and Rule of Law

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