

**Draft Resolution of the European Data Protection Authorities on the need for a prompt ratification of
“Convention 108+”**

Conference of Data Protection Authorities

Cavtat, Dubrovnik 19-20 May 2022



30th European Conference of Data Protection Authorities

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The European Data Protection Authorities, assembled in their Spring Conference of 2022,

Sponsor: Italian Data Protection Authority

Co-sponsors:

- Albanian Information and Data Protection Commissioner
- Bulgarian Commission for Personal Data Protection
- Council of Europe Data Protection Commissioner
- Croatian Personal Data Protection Agency
- European Data Protection Supervisor
- Hungarian National Authority for Data Protection and Freedom of Information
- Swiss Federal Data Protection and Information Commissioner
- French Data Protection Commission
- Belgian Data Protection Authority

Having in mind that:

- The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter ‘Convention 108’) is the only legally binding instrument at international level for the protection of personal data. With its principles-based approach, high data protection standards that are flexible enough to be easily transposed, it has paved the way for a relevant number of data protection laws all over the world, including at European level;

- Convention 108 has been a fundamental pillar for the protection of personal data for over 40 years. However, the legal responses taken to protect individuals in 1981 needed to be updated to adequately respond to the numerous challenges raised by new technologies and globalisation;
- To address these challenges, Protocol No. 223 amending Convention 108 (hereinafter “modernised Convention” or “Convention 108+”) was adopted by the Council of Europe’s Committee of Ministers on 18 May 2018 and opened for signature on 10 October 2018;
- The modernised Convention, whose finalisation was strongly supported by the resolution adopted by the Spring Conference of Limassol in 2017, is an indispensable tool for the protection of individuals and their dignity in the modern data-driven and digital world;
- The modernised Convention reaffirms the importance of the original principles of Convention 108 and lays down new ones, including transparency, accountability and privacy by design, a new generation of data protection rights, enhanced data security and strong oversight authorities. It offers a new evaluation and review mechanism which reinforces the credibility of the Convention. It proclaims the importance of protecting the right to informational autonomy in the face of technological developments. It aims at facilitating the free flow of information among State Parties to the Convention, while ensuring an appropriate protection of individuals also in the case of “data exports” from State Parties to non-Parties through the development and implementation of tools and standards - such as ad-hoc or approved standardised safeguards. It introduces strengthened cooperation mechanisms providing a forum for the cooperation of supervisory authorities, allowing the exchange of relevant and useful information and the carrying out of joint actions;

Considering that:

- According to Article 37, the Amending Protocol No 223 shall enter into force in respect of those States which have expressed their consent to be bound by it, provided that the Protocol has been ratified by at least thirty-eight Parties by 10 October 2023;
- So far only 17 Parties have ratified the Protocol, out of 44 who have signed it;
- It is essential to ensure continuity to the high level of protection so far provided by the original Convention and that the updated, robust legal framework represented by the modernised Convention can play the same crucial protective role against the challenges of the digital age;
- It is therefore indispensable to reach the required number of ratifying Parties in a timely manner.

Stressing the utmost importance of ensuring the entry into force of the modernised Convention at the earliest possible stage, the Spring Conference of Data Protection Authorities:

- **Calls upon the governments of the Member States of the Council of Europe, the governments of third countries to the Council of Europe, the European Union and international organisations to accelerate the signature and ratification process;**

- **Calls upon the Data Protection Authorities to engage in a dialogue with the national competent authorities for the ratification of Convention 108+ and to do their utmost to support the process;**
- **Encourages Data Protection Authorities to participate actively in the establishment of the cooperation mechanism provided for in the modernised Convention;**
- **Calls upon governments to consider contributing through voluntary contributions and/or cooperation programmes with additional financial, human or technical resources and support to the Secretariat in fulfilling these new tasks linked to the monitoring mechanism introduced by Convention 108+.**