



TREATY SERIES 2010
Nº 14

**Additional Protocol to the Convention for the Protection of
Individuals with regard to Automatic Processing of Personal
Data, Regarding Supervisory Authorities and Transborder
Data Flows**

**(with a declaration in accordance with Article 3(2)(c) of the Convention for the
Protection of Individuals with regard to Automatic Processing of Personal Data,
and updated declaration under Article 13(2) of the Convention)**

Done at Strasbourg on 8 November 2001

Ireland's Instrument of Ratification deposited with the
Secretary General of the Council of Europe
on 5 May 2009

Entered into force with respect to Ireland
on 1 September 2009

Presented to Dáil Éireann by the Minister for Foreign Affairs

**ADDITIONAL PROTOCOL TO THE CONVENTION FOR THE
PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC
PROCESSING OF PERSONAL DATA, REGARDING SUPERVISORY
AUTHORITIES AND TRANSBORDER DATA FLOWS**

The Parties to this additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, opened for signature in Strasbourg on 28 January 1981 (hereafter referred to as "the Convention");

Convinced that supervisory authorities, exercising their functions in complete independence, are an element of the effective protection of individuals with regard to the processing of personal data;

Considering the importance of the flow of information between peoples;

Considering that, with the increase in exchanges of personal data across national borders, it is necessary to ensure the effective protection of human rights and fundamental freedoms, and in particular the right to privacy, in relation to such exchanges of personal data,

HAVE AGREED as follows:

Article 1
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.
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.

(b) Each supervisory authority shall hear claims lodged by any person concerning the protection of his/her rights and fundamental freedoms with regard to the processing of personal data within its competence.
3. The supervisory authorities shall exercise their functions in complete independence.
4. Decisions of the supervisory authorities, which give rise to complaints, may be appealed against through the courts.
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.

Article 2

Transborder flows of personal data to a recipient which is not subject to the jurisdiction of a Party to the Convention

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.
2. By way of derogation from paragraph 1 of Article 2 of this Protocol, each Party may allow for the transfer of personal data:
 - (a) if domestic law provides for it because of :
 - specific interests of the data subject, or
 - prevailing interests, especially important public interests,or
 - (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.
3. (a) This Protocol shall enter into force on the first day of the month following the expiry of a period of three months after the date on which five of its Signatories have expressed their consent to be bound by the Protocol in accordance with the provisions of paragraph 2 of Article 3.

(b) In respect of any Signatory to this Protocol which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiry of a period of three months after the date of deposit of the instrument of ratification, acceptance or approval.
4. (a) After the entry into force of this Protocol, any State which has acceded to the Convention may also accede to the Protocol.

(b) Accession shall be effected by the deposit with the Secretary General of the Council of Europe of an instrument of accession, which shall take effect on the first day of the month following the expiry of a period of three months after the date of its deposit.
5. (a) Any Party may at any time denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

(b) Such denunciation shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of such notification by the Secretary General.

6. The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the European Communities and any other State which has acceded to this Protocol of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) any date of entry into force of this Protocol in accordance with Article 3;
- (d) any other act, notification or communication relating to this Protocol.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Strasbourg, this 8th day of November 2001, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, the European Communities and any State invited to accede to the Convention.

Declaration regarding application of the Convention to personal data files which are not processed automatically (Article 3.2(c))

Ireland will apply the Convention to personal data which are not processed automatically but which are held in a relevant filing system. “ ‘Relevant filing system’ means any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible”.

Declaration under Article 13 (2) of the Convention

In accordance with Article 13 (2) of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, I have the honour to provide up-dated information in relation to the designated authority, in respect of Ireland as follows:

Data Protection Commissioner
Canal House,
Station Road,
Portarlinton,
Co. Laois