

Montreux Declaration

«The protection of personal data and privacy in a globalised world: a universal right respecting diversities»

The Swiss Federal Data Protection Commissioner with the support of the Federal Data Protection Commissioner of Germany, the Spanish Data Protection Agency, the Inspector General for Personal Data Protection of Poland, the Privacy Commissioner of New Zealand, the Privacy Commissioner of Canada, the European Data Protection Supervisor, the Privacy Commissioner for Personal Data of Hong Kong, the State Data Protection Inspectorate of Lithuania, the Dutch Data Protection Authority, the Office of Data Protection of the Czech Republic, the Italian Data Protection Commission, the Data Protection Commissioner of Guernsey, the Privacy Commissioner of Victoria (Australia), the Commissioner for Data Protection and Freedom of Information of Berlin, the Data Protection Commissioner of Canton Zug (Switzerland) proposes the adoption of the following Declaration:

The Data Protection and Privacy Commissioners assembled in Montreux for their 27th International Conference (14 – 16 September 2005) have agreed to promote the recognition of the universal character of data protection principles and have adopted the following final declaration:

1. Following the declaration adopted during the 22nd International Conference of Data Protection and Privacy Commissioners in Venice,
2. Recalling the Resolution on Data Protection and International Organisation adopted during the 25th International Conference of Data Protection and Privacy Commissioners in Sydney,
3. Recognising that the development of the information society is dominated by the globalisation of information exchange, the use of progressively intrusive technologies of data processing and the increase of security measures,
4. Concerned about the growing risks of ubiquitous surveillance of the individual throughout the world,
5. Noting the potential benefits and risks inherent in new technologies of information,
6. Concerned by the current disparities between the legal systems in different parts of the world and in particular the absence of data protection safeguards in some places that undermines effective global data protection,
7. Aware that the fast increase in knowledge in the field of genetics may make human DNA the most sensitive personal data of all; aware also that this acceleration in knowledge raises the importance of adequate legal protection of these data,
8. Recalling that the collection and any subsequent processing of personal data must be done with regard to the requirements of data protection and privacy,
9. Recognising the need in a democratic society to efficiently fight terrorism and organised crime, but reminding that this purpose can be achieved in the best possible way when human rights and in particular human dignity are respected,

10. Convinced that the right to data protection and privacy is an essential condition in a democratic society in order to safeguard the respect for the rights of the people, a free flow of information and an open market economy,
11. Convinced that the right to data protection and privacy is a fundamental human right,
12. Convinced that it is necessary to strengthen the universal character of this right in order to obtain a universal recognition of the principles governing the processing of personal data whilst respecting legal, political, economical and cultural diversities,
13. Convinced of the need to guarantee individual rights to all citizens of the world without discriminations wherever and whenever their personal data are processed,
14. Recalling that the World Summit on the Information Society 2003 in Geneva in its Declaration of Principles and Plan of Action has underlined the importance of data protection and privacy for the development of the information society,
15. Recalling the recommendation of the International Working Group on Data Protection in Telecommunications to take into account the Decalogue, worked out in 2000¹, in order to protect privacy in the frame of multilateral privacy agreements,
16. Recognising that the principles of data protection derive from international legal binding and non-binding instruments such as the OECD Guidelines governing the Protection of Privacy and Transborder Flows of Personal Data, the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, the United Nations Guidelines concerning Computerized Personal Data Files, the European Union Directive 95/46 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the Asia Pacific Economic Cooperation Privacy Framework,
17. Recalling that these principles are in particular the following:
 - Principle of lawful and fair data collection and processing,
 - Principle of accuracy,
 - Principle of purpose-specification and -limitation,
 - Principle of proportionality,
 - Principle of transparency,
 - Principle of individual participation and in particular the guarantee of the right of access of the person concerned,
 - Principle of non-discrimination,
 - Principle of data security,
 - Principle of responsibility,
 - Principle of independent supervision and legal sanction,
 - Principle of adequate level of protection in case of transborder flows of personal data.

Accordingly,

The Data Protection and Privacy Commissioners express their will to strengthen the international recognition of the universal character of these principles. They agree to collaborate in particular with the governments and international and supra-national

¹ http://www.datenschutz-berlin.de/doc/int/iwgdpt/tc_en.htm

organisations for the development of a universal convention for the protection of individuals with regard to the processing of personal data.

To this end, the Commissioners appeal:

- a. to the United Nations to prepare a legal binding instrument which clearly sets out in detail the rights to data protection and privacy as enforceable human rights;
- b. to every Government in the world to promote the adoption of legal instruments of data protection and privacy according to the basic principles of data protection and also to extend it to their mutual relations;
- c. to the Council of Europe to invite, in accordance with article 23 of the Convention for the protection of individuals with regard to automatic processing of personal data, non-member-states of the Council of Europe which already have a data protection legislation to accede to this Convention and its additional Protocol.

Furthermore, the Commissioners also encourage:

Heads of States and Governments that will join in Tunis for the World Summit on the Information Society (16-18 November 2005) to include in their final declaration a commitment to develop or reinforce a legal framework that ensures the rights to privacy and data protection to all citizens within the Information Society in line of the commitment taken in the Summit of Santa Cruz (Bolivia) by the Iberoamerican Heads of Government and States (November 2003) and in the summit of Ougadougou by the Heads of Government and States of Countries which share French language (November 2004).

The Commissioners also appeal:

- a. to international and supra-national organisations to commit themselves to complying with principles that are compatible with the principal international instruments dealing with data protection and privacy and in particular to establish operationally independent supervisory authorities with control powers;
- b. to those international Non-Governmental Organisations, such as business and consumers associations to develop standards based on or consistent with the fundamental principles of data protection;
- c. to hardware and software manufacturers to develop products and systems integrating privacy enhancing technologies.

Furthermore, the Commissioners agree:

- a. to intensify in particular the exchange of information, the coordination of their supervisory activities, the development of common standards, the promotion of information concerning the activities and resolutions of this conference;
- b. to promote cooperation with countries which do not yet have independent supervisory data protection authorities;
- c. to promote the exchange of information with international Non Governmental Organisations which are dealing with data protection and privacy;
- d. to collaborate with the data protection officers of organisations;
- e. to create a permanent website in particular as a common base for information and resources management.

The Data Protection and Privacy Commissioners agree to assess the realisation of the objectives of this declaration on a regular basis, with the first evaluation taking place at the 28th International Conference in 2006.

