

**“Think Privacy !”  
organised on the occasion of the 4th Data Protection Day  
Brussels, 28 January 2010**

**Opening intervention by Ambassador Torbjørn Froytnes  
Special Representative of the Secretary General of the Council of Europe.  
“Data Protection Day in Europe and around the world”**

Data protection is moving higher on the international agenda each time we celebrate the Data Protection Day. The subject is becoming more and more important in our everyday life. And the challenges are global.

Over the last few weeks major statements and events illustrate this.

Last Thursday, US Secretary of State, Hillary Clinton, made a major key note address in Washington on Internet Freedom, focusing on the threats to fundamental rights, including privacy, in many countries. These countries are so well known that I do not have to name them here – a fact which underscores *how* high on the agenda of international attention these issues are. She reiterated President Obama’s Nobel Peace Prize Acceptance speech, where he spoke about the need to build a world in which peace rests on the inherent rights of every individual. “To-day”, she said, “we find an urgent need to protect these freedoms on the digital frontiers of the 21<sup>st</sup> century”.

On this side of the Atlantic, both the Council of Europe and the EU are contributing substantially in that frontier fight.

The new EU Commission has established the post of a Commissioner with special responsibilities for fundamental rights of the citizens, a step which has been widely appreciated, and particularly warmly welcomed by the new Secretary General of the Council of Europe, Thorbjørn Jagland, when he visited President Barroso here in Brussels recently, as a significant contribution in the work to promote human rights in Europe and beyond.

In the Council of Europe we have noted with great pleasure that Commissioner-designate Viviane Reding in her Parliamentary hearing explicitly announced that she will work closely with the Council of Europe to ensure effective coherence of the EU’s actions in the field of fundamental rights. It serves to credit both Commissioner-designate Reding and the European Parliament that the issue of data protection and the right to privacy were among the top priorities of the hearing. Commissioner-designate Reding stated that “Data protection is an issue of particular importance. The right to privacy is essential to individual freedom.” She furthermore announced that she intended to bring together the EU’s data protection rules into a modern and comprehensive legal instrument.

The opening interventions that we heard from MEPs in’t Veld and Alvaro indeed underscores the proactive role and the long-standing efforts of the elected representatives in the matter.

A proactive attitude in politics is indeed necessary to match the speedy technological evolution.

Obviously, not every advance in technology requires a legislative response. In many instances, self-regulation by the private sector combined with awareness-raising campaigns for users can provide quick and efficient results. But self-regulation must not become a pretext for complacency. Public authorities must act in particular when human rights and

freedoms are at stake. The European Court of Human Rights in Strasbourg emphasized in many of its judgments that, where fundamental values and essential aspects of private life are at stake, state authorities have a duty to establish an efficient regulatory and enforcement framework of protection.

Thanks to the Council of Europe Convention on Human Rights, the right to privacy is directly enforceable all over Europe since 1950. The entry into force of the Lisbon Treaty opens up new possibilities to strengthen human rights and fundamental freedoms in Europe, as the EU Charter on Fundamental Rights acquires binding force. Likewise, under the Lisbon treaty, the EU is required to accede to the European Convention on Human Rights.

This calls for a common strategy of our institutions which have policy and decision-making competencies, also in the field of personal data protection. Moreover, the common challenges faced by all countries today, such as data loss, children safety online, or behavioural targeting, call for further initiatives and complementary actions.

Next year, in 2011, the Council of Europe will celebrate the 30<sup>th</sup> anniversary of Convention 108 – the corner stone for the fundamental right to privacy and data protection. Convention 108 defined a series of common core principles which remain valid in the online world. 28 January is not only a European, but a truly universal Data Privacy Day which is celebrated throughout the world.

It should be recalled that Convention 108 is not a purely European instrument. Non-European states participated in its drafting and its main standards are today almost universally recognized. It provides a sound legal framework for data exchanges, and also in this sense merits being further expanded outside of Europe. The recently adopted “Stockholm Programme” of the European Union calls for the promotion of accession to Convention 108. We have to make better use of the existing standards and we need to reach out globally because thanks to the internet our personal data are circulating freely worldwide.

What are our immediate challenges? One is certainly profiling. Data resulting from Internet searches, the use of mobile telephones or records of consumer habits are being matched to create individual profiles, often extrapolated on the basis of mere statistical inferences. They may or may not be true. The Council of Europe is currently finalizing a legal instrument on profiling, which should be adopted by the Committee of Ministers before the end of this year.

More work remains to be done. Hopefully the next step will be to prepare an additional protocol to Convention 108 in order to further develop this fundamental treaty in the light of new challenging technological developments.

Data Protection Day in Europe and around the world is the title of my presentation: It is not only for international organizations, it is for everyone! We need to act now and we all have an interest to work together – and this cannot be done without policy makers, the private sector and users.

This is what to-day's event is all about. So let me thank the organisers, and all the participants who have contributed to this event.