

## World Data Protection Report

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### INTERNATIONAL

#### Council Of Europe Adopts Recommendation On Profiling

By Daniel Cooper, of Covington & Burling LLP, London.

On November 23, 2010, the Council of Europe adopted a recommendation (the "Recommendation") on the "protection of individuals with regard to automatic processing of personal data in the context of profiling."

The Recommendation is designed to apply the principles and protections established by Convention 108 to consumer profiling activities. The term "profiling" is defined as "an automatic data processing technique that consists of applying a 'profile' to an individual, particularly in order to take decisions concerning him or her or for analyzing or predicting his or her personal preferences, behaviours and attitudes."

The Recommendation advocates, *inter alia*, the following practices:

- the use of privacy-enhancing technologies ("PETs") and the control of technologies designed to circumvent PETs;
- the establishment of a clear legal basis to engage in profiling activities (in this respect, when relying on consent, the burden rests with the organization con-

ducting the profiling to show that the individual furnished informed consent);

- allowing consumers access to goods and services without the need to furnish personal information to service providers and without the use of default profiling;
- periodic checks to ensure data quality and to ensure that any inaccuracies in any personal information are corrected; and
- restrictions on the use of sensitive personal information for profiling.

The Recommendation is a major development in seeking to create a set of general rules for profiling activities, and represents the outcome of a long series of ministerial discussions and stakeholder input on this issue. Although the Recommendation does not have binding effect, it encourages members to implement its principles into law and to promote industry self-regulation in this area, for example, by developing codes of conduct.

*The Recommendation can be viewed at [https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Rec\(2010\)13&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Rec(2010)13&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383).*

**Daniel Cooper is a Partner in the European Data Protection Practice of Covington & Burling LLP, based in London. He may be contacted at [dcooper@cov.com](mailto:dcooper@cov.com).**