



Right to Privacy



Federal Ministry
for Foreign Affairs
of Austria



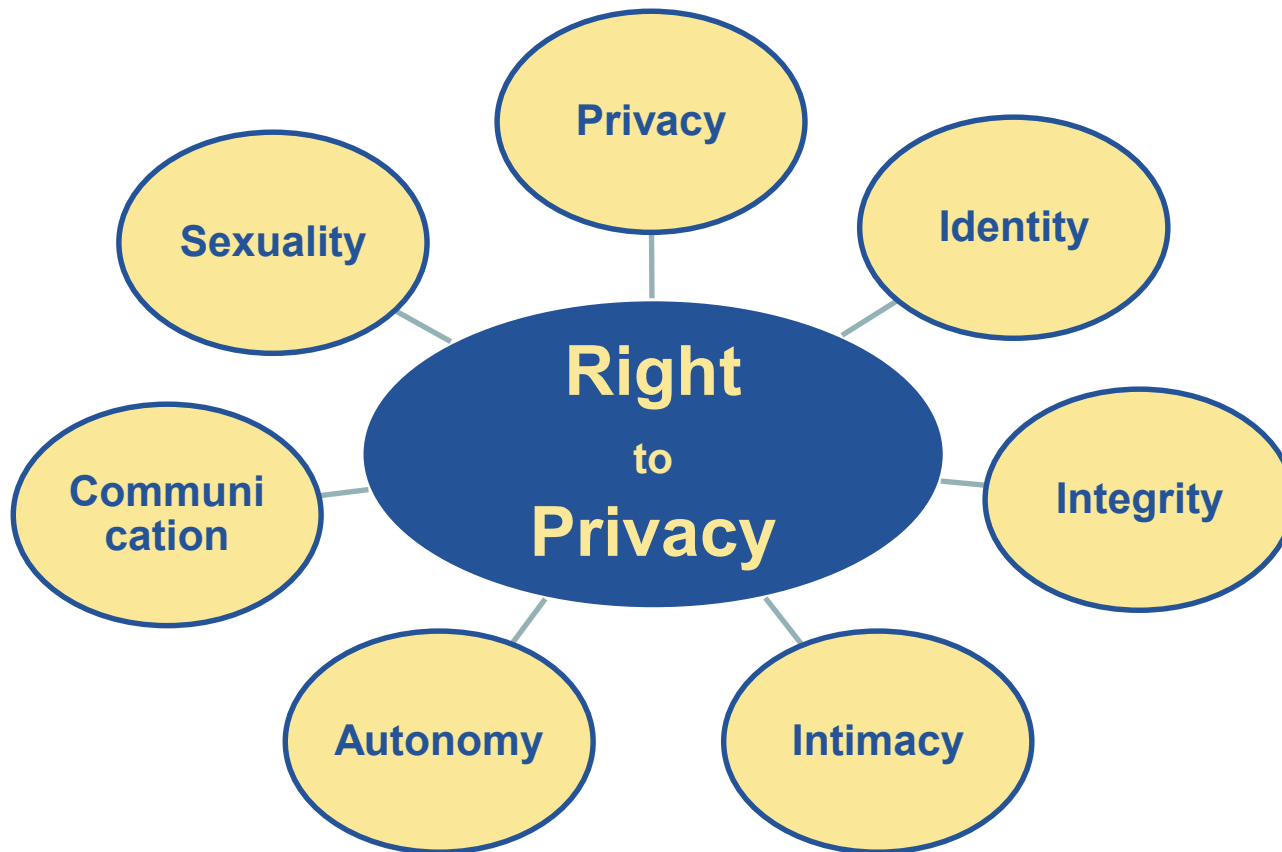
“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

Art. 12, Universal Declaration of Human Rights, 1948.

- ▶ **Art. 12** of the Universal Declaration of Human Rights.
- ▶ **Art. 17** of the **International Covenant Civil and Political Rights** as the major international provision regarding the right to privacy.
- ▶ The right of every person against arbitrary or unlawful interference with her/his privacy is protected by Art. 17, as mentioned in General Comment No.16 on it.

- ▶ The right to privacy has to be protected against:
 - interferences by the state.
 - violations by other natural or legal persons.

- ▶ Especially vulnerable groups:
 - Persons with disabilities.
 - People affected by diseases.
 - The elderly.
 - Children.



***Source:** Manfred Nowak. 2005. *CCPR Commentary, Art. 17 CCPR*

- ▶ **The Erosion of the Right to Privacy by Counter-Terrorism Policies** such as increased surveillance powers and extended powers to stop, question and search.
- ▶ **The Use of Biometrics and Dangers of Centralised Identity Systems** can result in wrongful criminalisation.
- ▶ **Circulation of Watch Lists.**
- ▶ **Collecting Data in Centralised Databases.**
- ▶ **Privacy on the Internet-Social Networks.**
- ▶ **Child Pornography.**

- ▶ **The Human Rights Committee**, may receive:
 - States reports.
 - Inter-states complaints.
 - Individual complaints.
- ▶ **UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism** deals with the right to privacy and its erosion by counter-terrorism measures.
- ▶ **OECD Guidelines Governing the Protection of Privacy and Transborder Data Flows of Personal Data** require efforts of governments, business and consumer representatives to protect privacy and personal data.

CoE

- ▶ **European Court of Human Rights: Art. 8 of the ECHR.**
- ▶ **Additional Protocol for the Protection of Individuals to the Council of Europe Convention on Automatic Processing of Personal Data and Additional Protocol** requires states to set up supervisory authorities.

OAS

- ▶ **Inter-American Court of Human Rights: Art.11**
American Convention of Human Rights

AU

- ▶ Art. 10, African Charter on the Rights and Welfare of the Child.

EU efforts:

- ▶ **“Data Protection Directive”**: Directive 95/46/EC on Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of such Data.
- ▶ Two Directives concerning the Processing of Personal Data and the Protection of Privacy...
 - ...in the Telecommunications Sector: Directive 97/66/EC, **“Telecommunications Privacy Directive”**.
 - ...in the Electronic Communications Sector: Directive 2002/58/EC, **“E-Privacy Directive”**, amended by Directive 2006/24/EC.
- ▶ **2012: Draft Directive** on the protection of individuals with regard to the processing of personal data by competent authorities for the purpose of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data.

- ▶ The Electronic Privacy Information Centre (EPIC) and Privacy International (PI), have jointly created Privacy.org.
- ▶ Watch lists, “No-fly” lists.
- ▶ Google Street View.
- ▶ Social Networks.
- ▶ National DNA Database-UK.
- ▶ Joint Declaration on Freedom of Expression and the internet.
- ▶ Offline and Online Protection of Human Rights.

- 1966 International Covenant on Civil and Political Rights, Art. 17.
- 1980 OECD Guidelines on the Protection of Privacy and Transborder Flows of Privacy and Transborder Flows of Personal Data.
- 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.
- 1988 UN Human Rights Committee's General Comment No.16 on Art. 17 of the ICCPR.
- 1989 UN Convention on the Rights of the Child.
- 1996 EC Data Protection Directive 95/36/EC.
- 2001 EC Data Protection Regulation 454/2001/EC.

- 2002 Optional Protocol to the Convention on the Rights of the Children on the Sale of Children, Child Prostitution and Child Pornography.
- 2002 EC ePrivacy Directive 2002/58/EC.
- 2003/2005 World Summit on the Information Society.
- 2004 Additional Protocol to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows.