Document Title: African Union Convention on Cyber Security and Personal Data Protection

Adopted: July 2014

Status: awaiting ratification by at least 15 State Parties to take effect

State Parties that have ratified: to be confirmed (reports indicate that 5 states have deposited ratification instruments, the latest being Senegal).

**African Union Convention on Cyber Security and Personal Data Protection**

**Preamble**

“The Member States of the African Union:

Guided by the Constitutive Act of the African Union adopted in 2000.....

Considering that the establishment of a regulatory framework on cyber-security and

personal data protection takes into account the requirements of respect for the rights of citizens, guaranteed under the fundamental texts of domestic law and protected by international human rights Conventions and Treaties, particularly the African Charter on Human and Peoples' Rights;.....

Stressing that at another level, the protection of personal data and private life constitutes a major challenge to the Information Society for governments as well as other stakeholders; and that such protection requires a balance between the use of information and communication technologies and the protection of the privacy of citizens in their daily or professional lives, while guaranteeing the free flow of information;”

**Summary of Relevant Articles of the Convention**

Chapter II is dedicated to personal data protection.

Article 8 calls upon States to establish legal frameworks for “strengthening fundamental rights and public freedoms, particularly the protection of physical data, and punish any violation of privacy without prejudice to the principle of free flow of personal data.”

It is important to note that like many instruments from Africa, the Convention envisages not only protection of human rights but also people’s rights. Article 8 (2) for example requires that the legal mechanism established under Article 8 (1) “ensure that any form of data processing respects the fundamental freedoms and rights of natural persons while recognizing the prerogatives of the State, the rights of local communities and the purposes for which the businesses were established.”

Other provisions are the basic principles for data processing. These are:

1. consent and legitimacy of personal data processing
2. lawfulness and fairness of personal data processing
3. purpose, relevance and storage of processed personal data
4. accuracy of personal data
5. transparency of personal data processing
6. confidentiality and security of personal data processing

Data subject rights are: Right to information, right of access, right to information, right to object and right to rectification/erasure.

Data controllers obligations are confidentiality, security, storage and sustainability.