

Power of humanity

33rd International Conference
of the Red Cross and Red Crescent

9-12 December 2019, Geneva



EN

33IC/19/12.4DR rev1
Original: English
For decision

33rd INTERNATIONAL CONFERENCE
OF THE RED CROSS AND RED CRESCENT

Geneva, Switzerland
9–12 December 2019

**Restoring Family Links while respecting privacy, including as it
relates to personal data protection**

Draft resolution

Document prepared by

**the International Committee of the Red Cross in cooperation with the other members
of the RFL Leadership Platform and the RFL Strategy Implementation Group (28
National Societies and the International Federation of Red Cross and Red Crescent
Societies)**

Geneva, December 2019

DRAFT RESOLUTION

Restoring Family Links while respecting privacy, including as it relates to personal data protection

The 33rd International Conference of the Red Cross and Red Crescent,

concerned by the numbers of families separated and people going missing as a result of, *inter alia*, armed conflicts, disasters and other emergencies, forced displacement, as well as in the context of migration, smuggling of migrants and trafficking of persons, by the lack of sufficient measures to prevent people from going missing and to clarify the fate and whereabouts of those who do, by the fact that many human remains are never identified and by the suffering of families who do not know the fate and whereabouts of their loved ones,

recalling the long-standing cooperation between States and the International Red Cross and Red Crescent Movement (Movement) to restore family links,

recalling the importance of clarifying the fate and whereabouts of missing persons, and of restoring and maintaining contact between separated family members, and relevant international obligations, in particular those related to the right of families to know the fate of their relatives, as applicable,

recalling the mandate of the International Committee of the Red Cross (ICRC) based on the Geneva Conventions of 1949, their Additional Protocols of 1977, the Statutes of the Movement and resolutions of the International Conference of the Red Cross and Red Crescent (International Conference), and *recalling*, in this regard, the Central Tracing Agency of the ICRC, including its role as coordinator and technical adviser to National Red Cross and Red Crescent Societies (National Societies) and governments, as defined in the report adopted by the 24th International Conference,

recalling further the mandate of National Societies as auxiliaries to the public authorities in the humanitarian field, as reflected in the Geneva Conventions of 1949, their Additional Protocols of 1977, the Statutes of the Movement and resolutions of the International Conference, including Resolution 2 of the 30th International Conference and Resolution 4 of the 31st International Conference,

recalling further the adoption by the Movement of its Restoring Family Links Strategy (2008–2018) in Resolution 4 of the 2007 Council of Delegates,

recalling further that personal data protection is closely related to privacy, and *taking into account* that processing of personal data is an integral part of RFL services and necessary for the performance of the mandate of the components of the Movement,

recognizing that it is important for beneficiaries to be able to trust all components of the Movement with their personal data, and that their data is protected,

recalling that the ICRC and the International Federation of Red Cross and Red Crescent Societies and their employees and representatives enjoy privileges and immunities, to the extent applicable, in order to enable them to perform their respective mandates and to do so in full conformity with the Movement's Fundamental Principles of neutrality, impartiality and independence,

concerned that humanitarian organizations may come under pressure to provide personal data collected for humanitarian purposes to authorities wishing to use such data for other purposes,

1. *calls upon* States to take effective measures to prevent persons from going missing, to clarify the fate and whereabouts of persons who have gone missing, to restore family links and facilitate reunification of families, and to avoid, as far as possible, family separation, consistent with applicable legal frameworks, and *encourages* States to consider measures to protect men, women, boys and girls, in particular those in vulnerable situations, including persons with disabilities;
2. *requests* States to take all possible measures, consistent with applicable international obligations, to ensure the dignified treatment of people who have died as a result of armed conflicts, disasters and other emergencies as well as in the context of migration, and to centralize and analyse data in accordance with applicable legal frameworks in order to try to identify deceased persons and provide answers to their families, and *welcomes* the support provided in this process by the ICRC in the form of forensic expertise;
3. *calls upon* the components of the Movement to work closely with States, in line with their mandates and the Movement's Fundamental Principles, and *also calls upon* States to make use of the services of their National Society, in its role as an auxiliary to the public authorities in the humanitarian field, to clarify the fate and whereabouts of missing persons and to enable individuals and their families to establish, restore or maintain contact, including along migratory routes;
4. *notes* the adoption by the Movement of its Restoring Family Links Strategy 2020–2025 in Resolution 6 of the 2019 Council of Delegates, and *encourages* States to continue their support for the services of the components of the Movement in the field of RFL = as appropriate, in particular by:
 - a. reaffirming and recognizing the specific role of the National Society of their country in providing RFL services, if applicable
 - b. strengthening the National Society's capacities, including through the provision of resources
 - c. ensuring that the National Society has a clearly defined role in the context of the country's overall disaster risk management laws, policies and plans
 - d. exploring and establishing partnerships with the components of the Movement to provide connectivity to help separated families restore and maintain family links
 - e. granting the components of the Movement access to places where there are people in need of RFL services

- f. cooperating with the components of the Movement, in accordance with their mandates and national, regional and international legal frameworks, by facilitating , if necessary, access to relevant personal data and responding to inquiries they may make in order to help establish the fate and whereabouts of missing persons.
5. *recalls* that the Movement processes personal data under the framework set out in the Restoring Family Links Code of Conduct on Data Protection;
6. *recognizes* the difficulty, and often impossibility, of acquiring consent in cases of missing or separated families, and the necessity that components of the Movement continue to rely upon alternative valid bases for processing of personal data, including as reflected in section 2.2 of the Restoring Family Links Code of Conduct on Data Protection, such as important grounds of public interest, vital interest, and compliance with a legal obligation;
7. *welcomes* the Movement's efforts to proactively address and provide adequate safeguards against the risks associated with personal data processing, and *encourages* the Movement to continue to enhance the effectiveness of data processing practices;
8. *recognizes* that the misuse of data may result in violations of privacy obligations that are set out in national, regional and international legal frameworks, including as such obligations relate to personal data protection, and may have a serious impact on the beneficiaries of RFL services and be detrimental to their safety and to humanitarian action more generally;
9. *also recognizes* that it is of utmost importance to ensure that the processing and transfer of personal data between the components of the Movement for the particular purpose of providing RFL services remain as unrestricted as possible, consistent with the Restoring Family Links Code of Conduct on Data Protection, relevant IHL instruments and the Statutes of the International Red Cross and Red Crescent Movement.
10. *further recognizes* that, whenever any component of the Movement collects, retains, or otherwise processes personal data in the performance of RFL services, it should do so for purposes that are compatible with the exclusively humanitarian nature of its mandate, and *calls upon* States to respect the humanitarian purpose of the Movement's processing of personal data, in line with Articles 2 and 3 of the Statutes of the Movement
11. *urges* States and the Movement to cooperate to ensure that personal data is not requested or used for purposes incompatible with the humanitarian nature of the work of the Movement, and in conformity with Article 2, including paragraph 5 thereof, of the Statutes of the Movement, or in a manner that would undermine the trust of the people it serves or the independence, impartiality and neutrality of RFL services.

12. *welcomes* the Movement's Restoring Family Links Code of Conduct on Data Protection as an appropriate foundation for personal data protection;
13. *requests* the Movement to periodically review and update the Restoring Family Links Code of Conduct on Data Protection, and *requests* States to support the components of the Movement in their efforts to implement it.