

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 27 March 2015

T-PD-BUR(2015)RAP35Abr

**BUREAU OF THE CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO
AUTOMATIC PROCESSING OF PERSONAL DATA
[ETS No. 108]
(T-PD-BUR)**

35th meeting of the Bureau

Paris, 25-27 March 2015

ABRIDGED REPORT

The Bureau of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD-BU) held its 35th meeting in Paris from 25 to 27 March 2015 with Mr Jean-Philippe Walter (Switzerland) in the chair. The agenda, as appended in Appendix I, was adopted by the T-PD Bureau, and the list of participants is set out in Appendix II.

The Bureau of the T-PD:

1. took note of the information presented by the Secretariat regarding San Marino's signature of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108), Denmark's approval of the Additional Protocol to the Convention (ETS 181) and the follow-up to the Republic of Mauritius's request to be invited to accede to Convention 108 and to its Additional Protocol;
2. took note of the information provided by the Secretariat regarding the **modernisation of Convention 108**, in particular the abridged report of the last meeting of the Ad Hoc Committee on Data Protection (1-3 December 2014), which will be taken note of by the Committee of Ministers on 1 April 2015, and discussed the draft explanatory report of the modernised version of Convention 108, on the basis of the comments received by the members of the Ad hoc committee on data protection (CAHDATA);
3. examined the draft agenda of the **32nd Plenary meeting** and asked the Secretariat to finalise it in light of the proposed changes;
4. examined the **work programme** for 2016-2017 and made proposals on the priorities for the next biennium. The Chair pointed out that the follow-up mechanism budget needs to not only include additional staff for the Secretariat but also a second yearly Plenary meeting;
5. took note of the information presented by the scientific expert, Antoinette Rouvroy, on the outline of the report concerning **Big Data**, held an exchange of views with the expert and agreed that the draft report will be presented by the expert(s) at the 32nd Plenary meeting;
6. took note of the information provided by the Secretariat regarding **protection of medical data**, especially the compilation of the replies to the questionnaire on the topic, and discussed the follow-up;
7. took note of the information provided by the Secretariat concerning **data protection in the police sector** and the follow-up proposed. Furthermore, the Bureau discussed the issue of passenger name record (PNR). In the light of the on-going mass surveillance activities, the fight against terrorism as well as the reforms of intelligence laws, the Bureau asked the Secretariat to prepare a draft opinion on balance of interests in the case of PNR to be submitted for discussion at the 32nd Plenary meeting;
8. took note of the information provided by the Secretariat concerning the work relating to the **automatic exchange of data** and the Chair suggested the possible preparation of a paper for discussion at the 32nd Plenary meeting by interested delegations;
9. took note of the information provided by the Secretariat and the scientific expert, Monika Zalnieriute, on the topic of **ICANN**, held a discussion and decided on the follow-up to the report, in order to raise awareness of the issue. The Bureau decided to further discuss this topic at the 32nd Plenary meeting;

10. took note of the information provided by the Secretariat on the work of the Steering Committee on Media and Information Society (CDMSI), the Cybercrime Committee (T-CY), the Bioethics Committee (DH-Bio), the Enlarged Partial Agreement on Sport (EPAS) – Sport Conventions Division, the Committee of Experts on Terrorism (CODEXTER), the European Committee on Legal Co-operation (CDCJ) and the Parliamentary Assembly (PACE). The Bureau decided on the necessary follow-up, in particular the adoption of Recommendation CM/Rec(2015) on the processing of personal data in the context of employment, which is expected to be adopted by the Committee of Ministers on 1 April 2015, as well as a possible involvement in the newly established “working group on criminal justice access to evidence stored in the cloud, including through mutual legal assistance (Cloud Evidence Group)” of the T-CY;

11. took note of the information presented on **activities and major developments in the field of data protection** and suggested that the topic of profiling in the context of law enforcement and the fight against terrorism could be included in the draft agenda of the 32nd Plenary meeting under the relevant item;

12. revised, in the light of the comments received, and approved the **Draft opinion** of the Bureau of the T-PD on the joint statement of the European data protection authorities assembled in the Article 29 Working Party and instructed the Secretariat to transmit it to the Chair of Article 29 Working Party;

13. took note of the information provided by the Secretariat concerning the **cooperation projects** in the field of data protection as well as of the presentation by Nicolas de Bouville, legal and policy officer of the European and International Department of the Commission Nationale de l'Informatique et des Libertés (CNIL) regarding the cooperation platform that will facilitate the exchange of information among members of the European Conference of Data Protection Authorities;

14. took note of the information provided by the Secretariat regarding the work of the **Data Protection Commissioner**;

15. took note of the information presented by the **observers**;

16. took note of the information provided by Gérard Lommel regarding the hearing in the case of Maximilian Schrems v Data Protection Commissioner (C-362/14) at the European Court of Justice (CJEU) on 24 March;

17. confirmed that the **32nd Plenary** will be held in Strasbourg on 1-3 July 2015, its **36th meeting** will be held in Paris on 6-8 October 2015 and its **37th meeting** will be held in Strasbourg on 9-11 December 2015.

APPENDIX I

AGENDA

1. OPENING OF THE MEETING

- T-PD-BUR(2014)RAP34Abr Abridged report of the 34th Bureau meeting (16-18 December 2014)
- T-PD(2014)RAP31Abr Abridged report of the 31st Plenary meeting (2-4 June 2014)
- T-PD(2014)WP Work programme of the T-PD
- T-PD(2014)Rules T-PD's rules of procedure

2. ADOPTION OF THE AGENDA

3. STATEMENT BY THE SECRETARIAT

4. MODERNISATION OF CONVENTION 108

Required action: The Bureau will take note of the information provided by the Secretariat.

- CM(2015)40 Abridged report of the 3rd CAHDATA meeting (1-3 December 2014)
- *Draft Explanatory Report of the modernised version of Convention 108*
- T-PD-BUR(2013)02Rev5 Information elements on the evaluation and follow-up mechanism

5. 32ND PLENARY MEETING

Required action: The Bureau will examine and finalise the draft agenda of the 32nd Plenary meeting.

- T-PD32(2015)OJprov Draft agenda

6. WORK PROGRAMME 2016 - 2017

Required action: The Bureau will make proposals on priorities for the next biennium 2016 – 2017

- T-PD(2015)WP 2016-2017 Draft Work programme 2016-2017

7. BIG DATA

Scientific Expert: Ms Antoinette Rouvroy, Professor at Namur University

Required action: The Bureau will take note of the information provided by the expert and will hold an exchange of views with her.

8. PROTECTION OF MEDICAL DATA

Required action: The Bureau will take note of the information provided by the Secretariat and will discuss the follow-up.

- T-PD(2014)07 “Medical technologies and data protection issues”
Questionnaire
- T-PD(2015)02Mos Compilation of replies received on the protection of medical data
- Recommendation N° (97) 5

9. DATA PROTECTION AND POLICE

Required action: The Bureau will take note of the information provided by the Secretariat and will discuss the follow-up.

- T-PD(2013)11 Recommendation (87)15 – “Twenty-five years down the line”:
Final Report
- PNR: Press Release Issued by the Article 29 Data Protection Working Party
- Opinion 7/2010 on the European Commission's Communication on the global approach to transfers of Passenger Name Record (PNR) data to third countries

10. AUTOMATIC EXCHANGE OF DATA

Required action: The Bureau will take note of the information provided by the Secretariat.

- Statement of the WP29 of 4 February 2015 on automatic inter-state exchanges of personal data for tax purposes
- Directive 2014/107/UE of the Council of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
- T-PD(2014)05 Opinion on the implications for data protection of mechanisms for automatic inter-state exchanges

of data for administrative and tax purposes

- T-PD-BUR(2014)01 Report on the implications for data protection of the growing use of mechanisms for automatic inter-state exchanges of personal data for administrative and tax purposes, as well as in connection with money laundering, financing of terrorism and corruption

11. ICANN

Scientific Expert: Ms. Monika Zalnieriute, Fellow at the Centre for Internet & Human Rights
European University Viadrina, Germany

Required action: The Bureau will take note of the information provided by the expert and will discuss the follow-up

- Report: ICANN's procedures and policies in the light of human rights, fundamental freedoms and democratic values

(see also her report of ICANN52 – document T-PD(2015)03Mos under item 13 of the agenda)

12. COOPERATION WITH OTHER COUNCIL OF EUROPE BODIES

Required action: The Bureau will take note of the information provided by the Secretariat and decide on any necessary follow up

- Steering Committee on Media and Information Society (CDMSI)
 - Recommendation CM/Rec(2015)___ of the Committee of Ministers to member States on the processing of personal data in the context of employment – Draft Explanatory Memorandum
 - Draft Recommendation CM/Rec(2015)___ of the Committee of Ministers to member States on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality
 - Draft Recommendation CM/Rec(2015)___ of the Committee of Ministers to member States on free transboundary flow of information on the Internet
- Cybercrime Committee (T-CY)
 - Response of the Secretary of the T-CY to the letter of the Chair of the T-PD and Article 29 WP sent to the Cybercrime Committee of the Council of Europe in relation to the scenarios on transborder access to personal data

- Letter of the Chair of the T-PD and Article 29 WP sent to the Cybercrime Committee of the Council of Europe in relation to the scenarios on transborder access to personal data
- Transborder access to data and jurisdiction: Options for further action by the T-CY
(Including draft Guidance Note on Article 32 and draft Terms of Reference of a “Cloud evidence group”)
- Octopus conference 2015 (17-19 juin)
- Bioethics Committee (DH-Bio)
 - Information note of the DH-Bio Secretariat
- Enlarged Partial Agreement on Sport (EPAS) – Sport Conventions Division
 - Handbook about exchange of information
- CODEXTER
 - Preliminary draft for an Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism
- CDCJ
 - Preliminary draft recommendation on the legal regulation of lobbying activities in the context of public decision-making

13. OVERVIEW OF ACTIVITIES AND MAJOR DEVELOPMENTS IN THE FIELD OF DATA PROTECTION

Required action: The Bureau will take note of the information presented and will hold an exchange of views.

- Joint statement of the European Data Protection Authorities Assembled in the Article 29 working party
- T-PD(2015)03Mos Compilation of experts’ reports

14. OPINION

Required action: The Bureau will revise the draft opinion in the light of the comments received and will finalise it.

- T-PD-BUR(2015)02 Draft opinion of the Bureau of the T-PD on the joint statement of the European data protection authorities assembled in the Article 29 Working Party, of 25 November 2014

15. COOPERATION PROJECTS

Required action: The Bureau will take note of the information provided by the Secretariat.

- Information Document – CoE cooperation projects in the data protection field

16. DATA PROTECTION COMMISSIONER

Required action: The Bureau will take note of the information provided by the Secretariat.

17. OBSERVERS

Required action: The Bureau will take note of the information provided by the observers.

18. ANY OTHER BUSINESS

APPENDIX II

LIST OF PARTICIPANTS

MEMBERS OF THE BUREAU / MEMBRES DU BUREAU

GEORGIA / GEORGIE

Nino Sarishvili, Head of International Relations and Communications Department, Office of the Personal Data Protection Inspector, 7, Ingorokva Str., 0105, Tbilisi Georgia

ITALY / ITALIE (apologised/excusée)

Pierucci Alessandra, (first vice-chair), Piazza di Monte Citorio 121, 00186 Rome

LUXEMBOURG

Gérard Lommel, Commissaire du gouvernement à la protection des données, Ministère d'Etat, Bâtiment Zurich, 3 boulevard Roosevelt, L-2450 Luxembourg,

PORTUGAL

João Pedro Cabral, Legal Adviser, Directorate General of Justice Policy, Ministry of Justice, Avenida D. João II, n.º1.08.01 E, Torre H, Pisos 2/3, 1990-097 Lisboa

SERBIA / SERBIE (apologised/excusée)

Nevena Ružić, (second vice-chair), Head of Office, Commissioner for Information of Public Importance and Personal Data Protection, 42 Svetozata Markovica, 11 000 Belgrade

SPAIN / ESPAGNE

Agustín Puente Escobar, Director, Agencia Española De Protección De Datos, State Attorney -Head of the Legal department, C/Jorge Juan, 6, 28001 Madrid

SWITZERLAND / SUISSE

Jean-Philippe Walter, (Président), Préposé fédéral à la protection des données et à la transparence (PFPDT), Chancellerie fédérale, Feldeggweg 1, 3003 Berne

MEMBERS OF THE T-PD / MEMBRES DU T-PD

BELGIUM / BELGIQUE

Ketsia Malengreaux, Attachée, Cellule Vie Privée – Direction législation et droits fondamentaux, SPF Justice

FRANCE

Jean-Alexandre Silvy, Commissaire du Gouvernement auprès de la CNIL, Services du Premier Ministre - Secrétariat général du Gouvernement, 35 rue Saint-Dominique – F-75007 Paris

MONACO

Corinne Laforest de Minotty, Inspection générale de l'administration, Chef de l'Inspection Générale de l'Administration, Ministère d'Etat - Place de la Visitation, 98000 Monaco

OBSERVERS / OBSERVATEURS

TURKEY / TURQUIE

Abdullah Aydin, Magistrat / Conseiller juridique à l'Ambassade de la Turquie
16, Avenue de Lamballe, 75016 Paris

ASSOCIATION EUROPEENNE POUR LA DEFENSE DES DROITS DE L'HOMME / EUROPEAN ASSOCIATION FOR THE DEFENSE OF HUMAN RIGHTS (AEDH)

Maryse Artiguelong, Déléguée, AEDH, Rue de la Caserne 33 – 1000 Brussels, Belgium

EUROPEAN COMMISSION / COMMISSION EUROPEENNE

Paulo Silva, European Commission, DG Justice and Consumers, Rue de la Loi 200, 1049 Brussels

Lukasz Rozanski, European Commission, DG Justice and Consumers, Rue de la Loi 200, 1049 Brussels

EUROPEAN DATA PROTECTION SUPERVISOR / LE CONTRÔLEUR EUROPEEN DE LA PROTECTION DES DONNEES

Anne-Christine Lacoste, Conseil juridique - Coordinateur, Office of the European Data Protection Supervisor (EDPS) / Bureau du Contrôleur Européen de la Protection des Données (CEPD), rue Wiertz 60 - MO 63, B-1047 Brussels, (Office: Rue Montoyer 63, 6th floor)

INTERNATIONAL COMMITTEE OF THE RED CROSS / COMITE INTERNATIONAL DE LA CROIX-ROUGE

Julie Tenenbaum, Regional Legal Adviser for Europe, 10bis, Passage d'Enfer, 75014 Paris, France

SCIENTIFIC EXPERTS / EXPERTS SCIENTIFIQUES

Cécile de Terwangne, Professeur à la Faculté de Droit, Directrice de recherche au CRIDS (Centre de Recherches Informatique, Droit et Société), Facultés Universitaires Notre-Dame de la Paix (FUNDP), Rempart de la Vierge n°5, 5B-5000 Namur, Belgique

Antoinette Rouvroy, Professeur à la Faculté de Droit, Namur, Belgique

Monika Zalnieriute, Research Fellow at Centre for Internet & Human Rights, European University of Viadrina Vilniaus g. 14 -7, LT- 01402 Vilnius, Lithuania

GUESTS / INVITES

Nicolas de Bouville, Legal and policy officer, European and International Department, Commission Nationale de l'Informatique et des Libertés (CNIL)
8, rue Vivienne, CS 30223 - 75083 Paris Cedex 02, France

SECRETARIAT

**Directorate General Human Rights and Rule of Law
Direction Générale Droits de l'Homme et Etat de Droit**

Data Protection Unit / Unité de la protection des données

Sophie Kwasny, Secretary of the T-PD / Secrétaire du T-PD

Maria Michaelidou, Programme Advisor / Conseillère de programme

Carolin Zachmann, Programme Assistant / Assistante de programme

INTERPRETERS / INTERPRETES

Eline Aitken
Léa Ouedraogo
Ingrid Veriepe