

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 9 October 2015

T-PD-BUR(2015)36RAP

**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)**

36th meeting of the Bureau

Paris, 6-8 October 2015

ABRIDGED REPORT

Directorate General of Human Rights and Rule of Law

The Bureau of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD-BUR) held its 36th meeting in Paris from 6 to 8 October 2015, with Mr Jean-Philippe Walter (Switzerland) in the chair. The agenda, as adopted by the T-PD Bureau, and the list of participants are set out in Appendices I and II.

The Bureau of the T-PD:

1. took note of the information presented by the Secretariat (re-election of Gabriella Battaini-Drioni as Deputy Secretary General of the Council of Europe, the election of Mr Guido Raimondi as President of the European Court of Human Rights and the election of Mr Roderick Liddell as Registrar of the Court), welcomed the renewal of the secondment of Ms Maria Michaelidou to the Data Protection Unit, for which it thanked the government of Cyprus, and shared the concerns voiced again by the Chair regarding the inadequacy of the resources allocated to the Committee and its Secretariat;

2. took note of the information provided by the Secretariat concerning the **modernisation of Convention 108**, in particular the fact that the Committee of Ministers' Rapporteur Group on Legal Co-operation had agreed at its September meeting, given the state of progress of the dialogue negotiations within the EU, to place the CAHDATA item on the agenda of its first meeting in 2016, examined the revised draft explanatory report to the modernised version of Convention 108 and addressed the issue of exceptions regarding transborder data flows in connection with freedom of expression (Article 12(7) of the draft modernised Convention);

3. took note of the information provided by the Secretariat concerning **data protection in the police sector** and of the fact that this work would resume at the beginning of 2016;

4. took note of the information presented by the experts, Antoinette Rouvroy and Jean-Noël Colin, concerning their report, "Of data and men – fundamental rights and freedoms in a world of **big data**", held an exchange of views and instructed the Secretariat to prepare draft guidelines based on the report;

5. considered **the draft recommendation on the protection of medical data** presented by the expert, Jeanne Bossi Malafosse, and instructed the expert to flesh out the draft recommendation on the basis of the comments made and received in writing so that it could be examined at the Bureau's 37th meeting;

6. took note of the proposal by the representative of Liechtenstein concerning the work on the **automatic exchange of data**, exploring the possibility of co-operation with the OECD, in particular regarding Appendix C to the multilateral agreement between the competent authorities, and instructed the Secretariat to contact the OECD to this end;

7. took note of the information provided by the Secretariat on the draft terms of reference of the Steering Committee on Media and Information Society (CDMSI), the work of the Cybercrime Committee (T-CY) and the draft Internet Governance Strategy for 2016 to 2019, and in particular of the proposal to produce three-yearly reports on the state of data protection at the Council of Europe and, lastly, of the action taken on PACE Recommendation 2067 (2015) "Mass surveillance";

8. considered the proposals by the expert, Marie Georges, on the issue of PNRs and instructed the Secretariat to prepare a **draft opinion** on the balancing of the relevant interests in the case of PNRs, in preparation for the Bureau's 37th meeting;

9. took note of the information presented by the **observers**, in particular the proposal by the AFAPDP (French-Speaking Association of Personal Data Protection Authorities) that other countries which had passed data protection laws such as Mali, Niger, Côte d'Ivoire, Gabon and Madagascar be invited to consider the possibility of applying to accede to Convention 108, while noting that the legislation of the countries concerned would have to be assessed before any such invitations were issued and the information provided by ICRC (International Committee of Red Cross) on the adoption of rules on personal data, the establishment of a Data Protection Office, as well as other related activities such as the cooperation with the Brussels Privacy Hub and the workshop on data protection within international organisations to be organised with the EDPS. The participation of a representative of the OECD enabled to identify a cooperation opportunity in the field of health data;

10. took note of the judgment (C 362/14) of the Court of Justice of the EU (CJEU) of 6 October 2015 in the case of Maximilian Schrems v. Data Protection Commissioner, which invalidated the **Safe Harbour agreement**.

11. confirmed that the **33rd plenary meeting** would be held in Strasbourg from 29 June to 1 July 2016; and the **37th** and **38th** meetings of the Bureau of the T-PD would be held in Strasbourg from 9 to 11 December 2015 and in Paris from 22 to 24 March 2016 respectively.

APPENDIX I.

Strasbourg, 23 September 2015

T-PD-BUR36(2015)OJ_en

BUREAU OF THE CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA [ETS 108]

36th meeting, Paris, Council of Europe, Room 1

From 6 October 2015 – 9.30 am.
to 8 October 2015 – 4.00 pm.

DRAFT AGENDA

1. OPENING OF THE MEETING

- T-PD(2014)RAP32Abr Abridged report of the 32nd Plenary meeting (1-3 July 2015)
- T-PD-BUR(2015)RAP35Abr Abridged report of the 35th meeting of the Bureau of the T-PD (25-27 March 2015)
- T-PD(2016)WP Work programme of the T-PD 2016-2017
- T-PD(2014)WP Work programme of the T-PD 2014-2015
- 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

Expert: Ms. Cécile de Terwangne, Professor Law Faculty, Namur University (FUNDP), CRIDS Research Director, Namur, Belgium.

Required action: The Bureau will discuss the formulation of Article 12(7) of the draft text of the modernised Convention.

- CAHDATA(2014)RAP03Abr Abridged report of the 3rd CAHDATA meeting (1-3 December 2014)
- Draft amending Protocol Draft Protocol amending the Convention 108

- Information document Consolidated text of the modernised version of Convention 108 with reservations
- Draft Explanatory Report Draft Explanatory Report of the modernised version of Convention 108 (25/06/15)
- T-PD-BUR(2013)02Rev5 Information elements on the evaluation and follow-up mechanism

5. DATA PROTECTION AND POLICE

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

- T-PD(2015)06 Draft practical guide regulating the use of personal data in the police sector
Draft report by Mr Ed Beaman
- T-PD(2013)11 Recommendation (87)15 – “Twenty-five years down the line: Final Report (by Mr Cannataci)
- Recommendation regulating the use of personal data in the police sector Recommendation regulating the use of personal data in the police sector (17 September 1987)

6. BIG DATA

Experts:

Ms. Antoinette Rouvroy, Permanent research fellow, Fund for Scientific Research (FRS-FNRS), Research Centre Information, Law & Society (CRIDS), University of Namur, Belgium

Mr. Jean-Noël Colin, Professor, Computer Science Faculty, Namur University, Belgium

Required action: The Bureau will take note of the draft report presented by the experts and will make proposals on actions to be taken in the field.

- T-PD-BUR(2015)09 Draft report: Of data and men - fundamental rights and freedoms in a world of big data
by Antoinette Rouvroy & Jean-Noël Colin

7. PROTECTION OF MEDICAL DATA

Expert: Ms. Jeanne Bossi Malafosse, Counsel, DLA Piper France LLP, Paris, France.

Required action: The Bureau will examine the preliminary draft Recommendation presented by the expert.

- T-PD-BUR(2015)06 Preliminary draft Recommendation on the protection of health data - Draft Recommendation
- T-PD(2015)07 Draft presentation report on the possible update of the Recommendation on the protection of medical data by Ms. Jeanne Bossi Malafosse

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

8. AUTOMATIC EXCHANGE OF DATA

Expert: Philipp Mittelberger, Data Protection Supervisor, Data Protection Office, Liechtenstein.

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

- 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

9. COOPERATION WITH OTHER COUNCIL OF EUROPE BODIES

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

- Steering Committee on Media and Information Society (CDMSI)
- Cybercrime Committee (T-CY)
 - Letter of Article 29 WP to the T-CY

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

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

- ICANN (54th meeting, Dublin; 18-22 October 2015)
- T-PD(2015)03Mos Compilation of experts' reports

11. OPINION

Experts:

Ms. Marie Georges, Council of Europe independent expert, Paris, France.

Ms. Muriel Sylvan, Diplomatic Councillor Advisor, Ministry of Interior, France.

Required action: The Bureau will take note of the information provided by the experts and will examine the draft opinion that will be submitted to the T-PD for adoption.

- T-PD-BUR(2015)05 Draft opinion on Passenger Name Records (PNR), data mining and data protection
- T-PD(2015)11 Passenger Name Records, data mining & data protection: the need for strong safeguards
Draft Council of Europe's report by Mr Douwe Korff and Ms. Marie Georges
- T-PD(2015)14 Opinion of the T-PD on the request of Tunisia to be invited to accede to Convention 108

12. OBSERVERS

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

13. ANY OTHER BUSINESS

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DRAFT ORDER OF BUSINESS
(provisional and subject to change in light of the work pace)

	6 October 2015	7 October 2015	8 October 2015
<i>Opening</i>	9:30 am	9:30 am	9:30 am
<i>Morning</i>	Items 1,2,3,6	Item 4,8	Item 11
<i>Lunch</i>	01:00-2:30 pm	01:00-2:30 pm	
<i>Afternoon</i>	Items 7	Items 5,9,10	Items 12,13
<i>End</i>	6:00 pm	6:00 pm	4:00 pm
<i>Informal gathering</i>	8 pm		

APPENDIX II.

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS*

MEMBERS OF THE BUREAU / MEMBRES DU BUREAU

GEORGIA / GEORGIE (apologised/excusée)

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

HUNGARY / HONGRIE

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ITALY / ITALIE

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

LUXEMBOURG

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PORTUGAL

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SERBIA / SERBIE

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 (apologised/excusé)

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 (PF PDT), Chancellerie fédérale, Feldeggweg 1, 3003 Berne

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

BELGIUM / BELGIQUE

Valérie Verbruggen, Conseiller Juridique, Commission de la protection de la vie privée, Rue de la presse, 35 à 1000 Bruxelles

FRANCE

Agnès Maitrepierre, Chargée de mission auprès du Directeur des affaires juridiques du Ministère des affaires étrangères et du développement international, 57 Boulevard des Invalides, 75700 Paris

**This list does not constitute a certificate of presence as some participants only attended part of the meeting. / La présente liste ne constitue en aucune façon une attestation de présence en raison du fait que certains participants n'ont été présents que ponctuellement.*

OBSERVERS / OBSERVATEURS

TURKEY / TURQUIE

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FRENCH-SPEAKING ASSOCIATION OF PERSONAL DATA PROTECTION AUTHORITIES / ASSOCIATION FRANCOPHONE DES AUTORITÉS DE PROTECTION DES DONNÉES PERSONNELLES (AFAPDP)

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

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EUROPEAN COMMISSION / COMMISSION EUROPEENNE

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

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

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

Massimo Marelli, Lawyer/Head of Data Protection Project, Communication & Information Management
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INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS / CONFERENCE INTERNATIONALE DES COMMISSAIRES A LA PROTECTION DES DONNÉES ET DE LA VIE PRIVÉE

Elyse Latify, Juriste, Service des affaires européennes et internationales, Commission Nationale de
l'Informatique et des Libertés (CNIL), Paris

Laurent Lim, CNIL, Juriste chargé de mission, Service des affaires européennes et internationales

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD) / ORGANISATION DE COOPERATION ET DE DEVELOPPEMENT ECONOMIQUE (OCDE)

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PERSONAL INFORMATION PROTECTION COMMISSION (PIPC) OF SOUTH KOREA / COMMISSION POUR LA PROTECTION DES DONNEES PERSONNELLES (PIPC) DE LA COREE DU SUD

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SCIENTIFIC EXPERTS / EXPERTS SCIENTIFIQUES

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Antoinette Rouvroy, docteur en sciences juridiques et chercheur à l'Université de Namur, Belgique

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

INTERPRETERS / INTERPRETES

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Tim Viart