



OPENING PLENARY SESSION

by Sophie Kwasny

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Your Excellencies, Ministers, Chairs and members of data protection authorities, colleagues, ladies and gentlemen.

Patricia Adusei-Poku, Executive Director of the Data protection Commission of Ghana is very dynamic and very determined in delivering what she commits to.

I would like to thank her for her vision and commitment to the right to data protection, at national level, African level and International Level.

I would also like to thank her for her beautiful smile, always there to greet us with warmth. And I would like to thank her for the honour she is making me to be amongst you and such a distinguished panel of speakers.

When she mentioned to me her intention of organising this first ever African data protection event led by Regulators, and I insist, it's written here on the programme "in collaboration with the network of African DPAs"- when she mentioned her idea to me, I was immediately convinced of the importance of this event. The Chair of the African Network, Marguerite Ouedraogo Bonane who is also the Chair of the Data protection authority of Burkina Faso just underlined what this event brought to the Network.

I am speaking to you today as a humble citizen of the world. I have been working for nearly ten years, at international level, on data protection questions. I have witnessed the dynamics in Europe, where I come from. I

have witnessed the dynamics in Latin America, in North America, in Asia and Pacific, but for the African region, the picture was so far incomplete.

It still is incomplete if we place ourselves from the regulators side, as African countries with independent DPAs are still a minority at the scale of the Continent. But things are moving, and they are moving fast. It is simply breathtaking to see the number of African countries enacting laws, establishing supervisory authorities, preparing concept laws to convince their policy makers that data protection is an absolute must. Professor Graham Greenleaf from the University of New South Wales in Australia keeps a real time record of privacy legislations passed around the world. The latest figure I kept track of is 134. 134 countries out of the 190+ countries in the world have enacted “data privacy” laws. What an explosion! And guess from which region of the world the two latest arrivals to the data protection law club were? Any guess? Yes, from Africa! Nigeria and Uganda are the two latest arrivals. But there are still over 20 African countries missing in Professor’s Greenleaf table.

Our small data protection team at the Council of Europe has just in the past year been participating in work on the preparation of a data protection legislation, or its preliminary, in Gambia, Kenya, Nigeria, Uganda and soon we will be trying to do the same in Namibia. We are naturally doing similar work in other regions of the world, and will continue to respond ‘present’ to such requests, because getting a law straight from the beginning is easier than patching it successively to try to fix mistakes that could have been avoided from the start.

Since this week, the African Network counts 4 new members with Chad, Cote d’Ivoire, Gabon and South Africa and this is a Network that is meant to grow, and its growth is to my eyes a clear synonym of better data protection for all of us.

I am participating in this Conference representing the Organisation I work for, that is the Council of Europe. The Council of Europe is celebrating this year its 70th anniversary, so it is 70 years that my Organisation has been defending and promoting human rights, democracy and the rule of law. This is the threefold mission of the Council of Europe. And this mission is of relevance to all of us.

Human Rights, Democracy and Rule of Law. I repeat myself, I know.

Human Rights, Democracy and Rule of Law. Or in another order if you prefer: Democracy, Rule of Law, Human Rights.

And here we are participating in a data protection conference. If it was not obvious for everyone to start with, it now becomes uncontested that the right to data protection is essential to other human rights, to democracy, to the rule of law.

I will not be using my time this morning to tell you that our data protection Convention, known as Convention 108 and as Convention 108+ in its modernised form, is what all countries in the world should adopt. I will not highlight that there is no other equivalent at universal level and I will not try to present it as THE source of so many national and regional data protection regimes around the world.

No, instead, I will only speak about the right to privacy. I will speak about a universal right. I will speak about the Universal declaration of Human Rights and about the UN Covenant on Civil and Political Rights, which both lay down the right to privacy.

I will also speak about the right to data protection, as a pivotal right for the exercise and enjoyment of other fundamental rights. The right to privacy of course, but other human rights too. Think about the freedom of association, how can it be secured when the personal data of protesters is used to track them?

I will speak about the right to data protection as a pillar of our democracies, and will only have to mention the words “Cambridge Analytica” to illustrate the challenges that we are facing.

And I will speak of data protection as a guarantee to the rule of law.

Because this is what data protection is about: human rights, democracy and the rule of law.

Data protection touches the economic, social and security dimensions of our societies.

And the question is the same wherever we are on our globe: what societies do we want for our future?

- Societies with power asymmetries that are such that humans become completely marginalised and farmed for their data in the digital era?

- Digital growth and the digital revolution have immense economic potential, but should the unlocking of the value of that data be made at the expense of human dignity and autonomy?

- Is the common good our main drive or do we continue to become the sophisticated targets of surveillance capitalism?

- Will the manipulation of our targeted individual opinions, and public opinion, continue to deprive our countries from the democratic future they should be entitled to?

Connectivity may be a challenge and digital economy the objective, security may impose necessary and proportionate limitations on the rights of individuals, but let's ensure that all of this is done in a manner that doesn't affect human dignity and doesn't put at greater risk our societies. This is a collective challenge we are all facing, as the cyberspace this is happening in knows no border, and the internet platforms that harvest personal data operate everywhere. Local challenges that are specific to your region, also have to be addressed. And it is the role of the African data protection authorities and policy makers to ensure that the fast mobile industry development, that the push for identity technologies, that the deployment of e-governance and that security imperatives are not undermining the rights to privacy and data protection.

So indeed, Convention 108 has European parents, and European descendants, if I take for instance the GDPR.

Convention 108 was born in France, in Strasbourg, nearly forty years ago, but as our world is bringing each other closer and closer to one another, so is Convention 108+: you have a legal tool there, at your disposal, to get closer to other countries, to exchange, to shape policies together, to cooperate, to ensure safe international data flows, and to better protect persons in your jurisdictions.

Do use what was a European invention: Convention 108+, make it yours, use it to reach out to other countries, use it to secure a higher level of protection of persons in your respective countries and better cooperate with your peers.

And I refer to the Malabo Convention, it tells us that Data protection authorities are responsible for establishing mechanisms for cooperation with counterparts in other countries and for participating in international negotiations on personal data protection. International cooperation and engagement is crucial. And, this is clearly what the African network is about. Data protection can no longer be implemented solely in a national context, or regional context and I see Article 12 m and n of the Malabo Convention as an invitation to all African countries to participate in the work of the Committee of Convention 108.

To conclude, I would like to mention mathematics, astronomy and religion, which are amongst the African inventions that changed the world. Convention 108 may have seen the light in Europe at its birth, but it has always been meant to serve as many countries as possible, anywhere in the world.

I can only conclude by saying that I look forward to seeing you in Strasbourg, joining the already 55 countries that are Parties to the Convention, and in particular Cabo Verde, Mauritius, Morocco, Senegal and Tunisia. Join Burkina-Faso, Gabon and Ghana also participating in the work of the Committee of the Convention.

Join that rich group of data protection experts and defenders that commit to tackle together emerging and global challenges.

I thank you all for your attention, and thank once again the Data protection Commission of Ghana, Patricia and her wonderful team, and the African Network for this historic event.