

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 20 December 2018

T-PD-BUR(2018)46RAP

**BUREAU OF THE CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO
AUTOMATIC PROCESSING OF PERSONAL DATA**

(Convention 108)

46th meeting of the Bureau

Strasbourg, 17-19 December 2018

DRAFT ABRIDGED REPORT

Directorate General of Human Rights and Rule of Law

1. The Bureau of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Data (“Convention 108”) held its 46th meeting in Strasbourg from 17 to 19 December 2018 with Ms. Alessandra Pierucci (Italy) in the chair. The agenda, as adopted by the Bureau and the list of participants are set out in Appendices I and II.

2. The Bureau of the Committee of Convention 108:

2.1. took note of the information provided by Mr Jan Kleijssen, Director of the Information Society and Action against Crime Directorate, regarding namely:

- the approval of the Recommendation on the protection of health related data by the Steering Committee on Media and Information Society (CDMSI) and its decision to submit the draft to the Committee of Ministers for adoption early 2019,
- the approval by the CDMSI of the Draft Declaration on the manipulative capabilities of algorithmic processes,
- the organisation of the conference “Governing the Game Changer – Impacts of artificial intelligence development on human rights, democracy and the rule of law” scheduled on 26-27 February 2019 in Helsinki;

2.2. took note of the information provided by the Secretariat on the state of signatures of the amending Protocol CETS 223 and in particular of the forthcoming signature on 9 January 2019 by Hungary;

2.3. examined the draft explanatory memorandum of the draft Recommendation on the protection of health-related data, held an exchange of views, and agreed that a revised version of the draft explanatory memorandum would be circulated to delegations for an ultimate possibility to comment before the finalisation of the draft and approval by written procedure;

2.4. examined the draft Guidelines on data protection in artificial intelligence, held an exchange of views with the expert, Mr Alessandro Mantelero and decided that a revised version of the draft Guidelines would be circulated to delegations for comments before being submitted to the Committee for adoption by written procedure;

2.5. took note of the presentations made by representatives of the Secretariats of Group of States against Corruption (GRECO), Action against Trafficking in Human Beings (GRETA), European Social Charter and the Conference of the Parties to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198), on the respective monitoring mechanisms models, held an exchange of views with the expert, Ms Cécile de Terwangne, on the basis of the working documents and decided to pursue the work at its next meeting;

2.6. took note of the information provided by the Secretariat on ICANN related issues, notably on the call for Public Comment on the Initial Report published by the Expedited Policy Development Process (EPDP) Team on the Temporary Specification for gTLD Registration Data;

2.7. took note of the information provided by the Secretariat on the developments with regard to the Second Additional Protocol to the Budapest Convention, in particular on the informal meeting held on 26 November with the participation of data protection and cybercrime experts and held an exchange of views based on the outcome of this meeting and the report “Conditions for obtaining subscriber information in relation to dynamic versus static IP addresses: overview of relevant court decisions and developments” prepared by the Cybercrime Convention Committee (T-CY);

2.8. took note of the information on co-operation with other Council of Europe bodies;

2.9. took note of the major developments at national and international level in the data protection field and, in particular of the participation foreseen in the Conference Computers, Privacy & Data Protection

(CPDP 2019) “Data Protection and democracy” (Brussels, Belgium, 30 January-1 February 2019) and the preparations of the 13th edition of data protection day on 28 January 2019;

2.10. took note of the information provided by observers, in particular of the presentation by the representative of the OECD Working Party on Security and Privacy in the Digital Economy on the work program 2019-2020 and especially on initiatives regarding Privacy and Data Governance and Artificial Intelligence ;

2.11. took note of the information on the possible fields of cooperation regarding the implementation of the Macolin Convention, held an exchange of views with the expert, Mr Christian Flueckiger, and confirmed the availability of the Committee to support the Secretariat of the Macolin Convention in providing practical guidance regarding data protection;

2.12. took note of the information provided by the Secretariat regarding the launch and progress in the implementation of the Stefano Rodota Award and examined *in camera* the applications received with a view to selecting the winners;

2.13. took note of the concerns raised by several international non-governmental organisations and Serbian organisations regarding the process of selection of the new Commissioner for information of public importance and personal data protection of Serbia;

2.14. confirmed the dates of the Plenary meetings to be held in Strasbourg from 12 to 14 June 2019 (with preceding event of the UN Special Rapporteur on the right to privacy regarding the consultation on health data, 11 June and 12 June morning) and from 19 to 21 November 2019 and of the next Bureau meetings, to be held from 20 to 22 March 2019 in Paris, from 25 to 27 September 2019 in Paris and from 11 to 13 December 2019 in Strasbourg.

APPENDIX I.

AGENDA

	1. Opening of the meeting
T-PD(2018)RAP37Abr	Abridged report of the 37 th Plenary meeting (Strasbourg, 20-22 November 2018)
T-PD(2018)45RAP	Abridged report of the 45 th Bureau meeting (Strasbourg, 24-26 September 2018)
T-PD(2017)WP2018-2019	Work programme of the Committee 2018-2019
T-PD(2017)Rules	Rules of procedure
	2. Adoption of the agenda
	3. Statement by the secretariat
	Mr Jan Kleijssen, Director, Information Society and Action against Crime (TBC)
	4. Modernisation of Convention 108
	<u>Required action:</u> The Bureau will take note of the information provided by the secretariat.
	<ul style="list-style-type: none">• Consolidated text of the modernised version of Convention 108
	<ul style="list-style-type: none">• Explanatory report of the modernised Convention 108
	<ul style="list-style-type: none">• Amending Protocol
	5. State of play, ratifications and accessions
	<u>Required action:</u> The Bureau will take note of the information provided by the secretariat.
	<ul style="list-style-type: none">• Convention 108+: chart of signatures and ratification• Convention 108: chart of signatures and ratifications
	6. Protection of Health-related data
	<u>Required action:</u> The Bureau will hold an exchange of views on the draft explanatory memorandum based on the written comments received.
T-PD(2018)11Rev2	Draft explanatory memorandum
T-PD(2018)06Rev	Recommendation on the protection of health related data

T-PD(2015)07	Presentation report on the possible update of the Recommendation n° R (97) 5 on the protection of medical data by Ms Jeanne Bossi Malafosse
Recommendation N° (97) 5	on the protection of medical data
	Compilation of comments received on the Draft explanatory memorandum on the protection of health-related data
	7. Artificial intelligence
	Expert: Mr Alessandro Mantelero, Associated Professor, Politecnico di Torino, Italy. <u>Required action:</u> The Bureau will take note of the information provided by the expert and will re-examine the draft guidelines in light of the written comments received.
T-PD(2018)09Rev	Report on “Artificial intelligence”
T-PD(2018)17rev	Draft Guidelines
T-PD(2018)23REV_Bil	Compilation of comments on the Draft Guidelines on Artificial Intelligence
	8. Evaluation and follow up mechanism under Convention 108+
	Expert: Ms Cécile de Terwangne, CRIDS, Namur. <u>Required action:</u> The Bureau will take note of the information provided by the expert and will hold an exchange of views on the topic.
T-PD(2018)20	Draft questionnaire on the evaluation and follow-up mechanism
T-PD(2018)21	Information elements on the evaluation and follow-up mechanism
	Compilation of data protection practices
	9. ICANN
	<u>Required action:</u> The Bureau will take note of the information provided by the Secretariat.
T-PD(2018)18	<ul style="list-style-type: none"> • Privacy and data protection principles guide for ICANN related data processing • ICANN letter European Data Protection Board (EDBP) (05/07/2018) • Letter Article 29 Working Party on WHOIS (11 April 2018)

	10. Law enforcement transborder access to data
	<p>Expert: Mr Gert Vermeulen, Full Professor, Department Chair, Department Criminology, Criminal Law and Social Law, Institute for International Research on Criminal Policy (IRCP)</p> <p><u>Required action:</u> The Bureau will take note of the information provided by the expert and will hold an exchange of views on the issues at stake.</p>
<p>T-CY discussion paper: Conditions for obtaining subscriber information – static versus dynamic IP addresses</p> <p>Answers from the Committee of Convention 108 to the Discussion paper for the Octopus Conference</p> <p>Key messages of the Octopus Conference 2018</p>	
	11. Cooperation with other Council of Europe bodies and entities
	<u>Required action:</u> The Bureau will take note of the information provided by the secretariat.
	<ul style="list-style-type: none"> • Bioethics Committee (DH-BIO) • CEPEJ • CDPC • PC-OC • Venice Commission • Steering Committee on Media and Information Society (CDMSI) <ul style="list-style-type: none"> ○ MSI-AUT
	12. Overview of activities and major developments in the field of data protection
	<u>Required action:</u> The Bureau will take note of the information provided by the Secretariat.
	International Conference Computers, Privacy & Data Protection “Data Protection and democracy” (CPDP 2019) (Brussels, Belgium, 30 January-1 February 2019)
	13. Observers
	<u>Required action:</u> The Bureau will take note of the information provided by the observers.
T-PD(2018)04Rev3	Observers - State of play and admission criteria

	14. Macolin Convention
	<u>Required action:</u> The Bureau will take note of the information provided by the expert, Mr Christian Flueckiger and the Secretariat and will hold a discussion on the issues at stake.
	15. Stefano Rodota Award
	<u>Required action:</u> The Bureau will consider the applications received.
	16. Next meetings
	<u>Required action:</u> The Bureau will take note of the dates for the next meetings.
	<u>Dates of further Bureau meetings in 2019:</u> <ul style="list-style-type: none"> • 47th Bureau meeting (Paris, 20-22 March 2019) • 48th Bureau meeting (Paris, 25-27 September 2019) • 49th Bureau meeting (Strasbourg, 11-13 December 2019) <u>Dates of the Plenary meetings in 2019:</u> <ul style="list-style-type: none"> • 38th Plenary meeting (Strasbourg, 12-14 June 2019) • 39th Plenary meeting (Strasbourg, 19-21 November 2019)
	17. Any Other Business

APPENDIX II.

LIST OF PARTICIPANTS

MEMBERS OF THE BUREAU / MEMBRES DU BUREAU

FRANCE (apologised / excusée)

GEORGIE / GEORGIA

Tamar Kaldani, (first Vice-Chair / premier Vice-président), Personal Data Protection Inspector of Georgia

ITALY / ITALIE

Pierucci Alessandra, (Chair / Présidente), Piazza di Monte Citorio 121, 00186 Rome

LUXEMBOURG

Gérard Lommel (second vice-chair / deuxième Vice-président), Commissaire du gouvernement à la protection des données

PORTUGAL

João Pedro Cabral, Legal Adviser, Directorate General of Justice Policy, Ministry of Justice

SERBIA / SERBIE

Nevena Ružić, Head of Office, Commissioner for Information of Public Importance and Personal Data Protection

SENEGAL

Awa Ndiaye, Présidente, Commission de Protection des données personnelles (CDP)

SWITZERLAND / SUISSE

Jean-Philippe Walter, Préposé suppléant, Préposé fédéral à la protection des données et à la transparence (PFPDT), Chancellerie fédérale

MEMBERS OF THE COMMITTEE / MEMBRES DU COMITE

MEXICO / MEXIQUE

Lorena Alvarado-Quezada, Adjointe de l'Observateur Permanent, Mission Permanente du Mexique auprès du Conseil de l'Europe, Strasbourg

REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA

Eduard Raducan, Director, National Center for Personal Data Protection of the Republic of Moldova

SENEGAL

Dieguy Diop, Chef du Bureau de la Coopération, Commission de Protection des données personnelles (CDP)

SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUE

Petra Lasova, Department of Legal Services, The Office for Personal Data Protection of the Slovak Republic

SPAIN / ESPAGNE

Pablo Manuel Mateos Gascueña, International Department, Data Protection Agency

TURKEY / TURQUIE

Güray Güçlü, Legal Counselor, Permanent Representation of Turkey to the Council of Europe, Strasbourg, France

OBSERVERS / OBSERVATEURS

ABU DHABI GLOBAL MARKET REGISTRATION AUTHORITY

Sami Mohammed, Monitoring & Enforcement Manager Registration Authority, Abu Dhabi Global Market, Abu Dhabi United Arab Emirates

EUROPEAN DATA PROTECTION SUPERVISOR (EDPS) / LE CONTRÔLEUR EUROPEEN DE LA PROTECTION DES DONNÉES (CEPD)

Olivier Matter, Team Leader for International Cooperation

DELEGATION OF THE EUROPEAN UNION / DELEGATION DE L'UNION EUROPEENNE

Per Ibold, International Relations Officer, European Commission, DG Justice – Unit 02, Brussels, Belgium

André Ortega Costa, stagiaire

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

Maria-Elena Ciccolini, Deputy Data Protection Officer for Europe and Central Asia, International Committee of the Red Cross (ICRC)

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD) / ORGANISATION DE COOPÉRATION ET DE DÉVELOPPEMENT ÉCONOMIQUE (OCDE)

Elettra Ronchi, PhD, Head of Unit, Senior Policy Analyst, Digital Economy and Policy Division, Directorate for Science, Technology and Innovation

EXPERTS

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

Christian Flueckiger, Préposé à la protection des données et à la transparence, Jura et Neuchâtel, Les Breuleux, Suisse

Alessandro Mantelero, Tenured Aggregate Professor at Politecnico di Torino, Italy

COUNCIL OF EUROPE SECRETARIAT / SECRETARIAT DU CONSEIL DE L'EUROPE

**Directorate General Human Rights and Rule of Law /
Direction générale Droits de l'Homme et Etat de Droit (DG I.)**

Directorate of Information Society and Action against Crime / Direction de la société de l'information et de la lutte contre la criminalité

Jan Kleijssen, Director / Directeur

Information Society Department / Service de la société de l'information

Penninckx Patrick, Head of Department / Chef de Service

Data Protection Unit / Unité de la protection des données

Sophie Kwasny, Secretary of the Committee / Secrétaire du Comité

Anne Boyer-Donnard, Senior Project Officer / Responsable de projets

Péter Kimpiàn, Programme Advisor / Conseiller de programme

Szilvia Simond, Assistant / Assistante

Hélène Lecuivre, Trainee / Stagiaire

Media and Internet Division / Division Médias et Internet

Altenhoener-Dion Charlotte, Head of Internet Gouvernance / Chef de l'Unité gouvernance de l'Internet

Secretariat of the Group of States against Corruption / (Secrétariat du Groupe d'Etats contre la corruption (GRECO)

Gianluca Esposito, Executive Secretary / Secrétaire exécutif

Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism / Comité d'experts sur l'évaluation des mesures de lutte contre le blanchiment des capitaux et le financement du terrorisme (MONEYVAL)

Claudia Elion, Programme assistant / Assistante de programme

Human Rights Directorate / Direction des Droits de l'Homme

Bioethics / Bioéthique (DH-BIO)

Laurence Lwoff, Secretary of DH-BIO / Secrétaire du DH-BIO

Department of the European Social Charter / Service de la Charte sociale européenne

Henrik Kristensen, Deputy Executive Secretary, Secretary of the European Committee of Social Rights / Chef de Service adjoint, Secrétaire exécutif adjoint du Comité européen des Droits sociaux

**Direction générale de la Démocratie /
Directorate General of Democracy (DG. II.)**

Trafficking in Human Beings / Traite des êtres humains / (GRETA)

Petya Nestorova, Head of Division and Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings / Chef de Division et Secrétaire Exécutive de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains

INTERPRETERS / INTERPRETES

Luke Tilden

Jean-Jacques Pedussaud

Lucie de Burlet (Chef d'équipe)