



**Comissão Nacional
de
Protecção de Dados**

INTERNATIONAL CONFERENCE ON THE PROMOTION OF CONVENTION 108

STRASBURG, JUNE 17, 2016.

The Importance of adding Cape Verde to the Convention on Cybercrime and the Convention on Data Protection

*Your Excellency, President of the Committee of Convention 108,
Dear colleagues,
Ladies and Gentlemen,*

I would, first of all, like to express words of gratitude to the Council of Europe for the invitation to participate in this International Conference in representation of Cape Verde.

Introduction

I would like, within the time that I have been given, to give a brief characterization of Cape Verde, followed by the importance of its addition to the Convention of data protection and the Convention on Cybercrime, and lastly, but not the least, emphasize the nature and competences of the National Commission of Data Protection.

I- Characterisation of Cape Verde



The Republic of Cape Verde is a Sovereign and Democratic State which guarantees the respect for the dignity of the human person and recognizes the non-violation and inalienability of Human Rights as foundation for the human community, for peace and for justice.

Cape Verde is composed of ten islands, nine of which are inhabited, and is located 455 Km (four hundred and fifty-five kilometers) off the Coast of West Africa.

The resident population projected in 2016 is 531.239 (five hundred and thirty-one thousand, two hundred and thirty-nine) people. The number of Cape Verdeans in the diaspora is superior to the resident population.

Cape Verde has benefited a huge external investment, especially from Europe, led by Portugal, England, Spain and Italy.

Tourism has been one of the stimulating factors of the national economy, representing 20% (twenty percent) of the Gross Domestic Product (GDP). A major part of tourists that visit Cape Verde come from Europe with Germans topping the list followed by the Portuguese, French and Italians.

Cape Verde is a member of the Economic Community of West African States (ECOWAS) and signed, some few years ago, a Special Partnership Agreement with the European Union (EU).

As part of this partnership, and seeking to control illegal migration and promote legal mobility, the Republic of Cape Verde and the European Union signed agreements for the facilitation of visas of short stay for Cape Verdeans and the readmission of people who have resided without authorization.



II- The importance of the addition of Cape Verde to the Convention of data protection and the Convention on Cybercrime

A- Computer and Internet utilization in the context of Cape Verde

The Constitution of the Republic of Cape Verde establishes/sees the dignity of the human person as an essential value of the Cape Verdean society, and as such the State and all social institutions are instruments to the service of the citizen.

All are granted access to computer networks of public use as a new dimension of the freedom of expression, with the law defining the applicable regime the forms of personal data protection and the flow of cross border data.

As such, Cape Verde has focused in recent years in the development of an information society based on the utilization of new technologies of information and communication in various areas, namely:

- a) In the basic provision of health and educational services;
- b) In the modernization of the public administration and all the other structures of government, dematerialization of processes and implementing the computerization of registry services as well as of the courts.

This dynamic also involves the private sector, which is introducing deep changes in the ways of providing services and information to clients/customers through the use of the internet as an interactive platform between companies and between companies and clients.



The involvement of a citizen in the digital world, socializing in social networks making possible online transactions, interacting with the State through the internet is today an undeniable reality in Cape Verde.

These transformations have been supported by the European Union, namely, in the implementation of e-governance, in the dissemination and utilization of information technologies as well as in the development of the culture of technical-scientific research.

B- Protection of Personal Data, Freedom and Security

We can affirm that the social life of our country, similar to the one on a global scale, is rapidly determined through computer means, which, associated with the internet, permits, on the one hand the concentration of a huge quantity and quality of information, facilities and speed in the processing and its communication, and, on the other hand, offers a special danger to the right to privacy and the right to the reserve of the intimacy of personal and family life. This right is well preserved in the constitution (Article 41, subsection 2).

The Constitution of the Republic of Cape Verde (Articles 41 and 45) and The Protection of Personal Data Law (Statutory Law Number 41/VIII/2013, of September 17), sufficiently guarantee the right of the individual to determine the use of his data, the essential principles regarding personal data protection, regulate the necessary mechanisms for that protection and punish behaviours that may violate these rules.

That protection is not only guaranteed for Cape Verdean citizens, but also foreigners and stateless people who reside or who are found in Cape Verde, (Article 25 of CRCV).



The right to the reserve of the intimacy of personal and family life, the right to the protection of personal data are not absolute. However, they have to be restricted with some balance taking into consideration the dignity of the human person as supreme value and limit itself to the necessity for the safeguard of other constitutionally protected rights, for example, security (Article 17, subsection 5 of CRCV).

With regards the concrete processing of computerized data, we are faced with the problem of leaning on the technological means which is not sufficiently safe.

On this note, the Special Partnership between Cape Verde and the European Union determines the need to have a technical and normative convergence, namely standards and technical regulation.

This way, Cape Verde should improve the national capacity of standardization, evaluation of compliance and the supervision of the utilized technological means ensuring the absorption of gradual standards of international and European organizations.

Naturally, mobility, the management of the flow of migrants and the good relations and the commercial exchanges between the Republic of Cape Verde and the European Union are facilitated by the use of modern information and communication technology which permits the processing of personal information in a logical, automated and rapid mode. In this context, it is unquestionable the need and the importance of personal information exchange between the Republic of Cape Verde and the European Union as well as other countries in a legally harmonized way.



Taking long strides with regards the digitalization of the society, increasing on a daily basis its dependence on the system of information and communication, the Republic of Cape Verde cannot forget the accumulation and the universalization of criminal acts with computer and internet means directed preferably against e-governance, information systems and banking/financial communication, national security infrastructure, but also against individual interests.

It is important to refer that the Republic of Cape Verde considering its geographic location in the Medium Atlantic, has taken measures related to maritime security and has stopped transnational crimes, namely drug trafficking directed towards Europe.

Another worry of the country is related to the prevention of terrorism threat taking cognizance of the way terrorists act and also due to the fact that we are a member of the ECOWAS where there are terrorist groups operating in some countries.

At present, Cape Verde is witnessing the real presence of the use of computer and internet means in the actions of criminals, especially in computer fraude and banking theft.

The Republic of Cape Verde has no specific law in relation to computer crimes although the Cape Verdean Penal Code establishes the following computer crimes: Illegal Computer processing (Article 187), Invasion through computer means (Article 188), Violating the secrecy of correspondence or Telecommunications (Article 189) and Computer fraudulent acts (Article 212).

The addition of Cape Verde on Cybercrime will, as such, permit the country to harmonize its penal and judicial legislation so as to include the main criminal



acts in which the use of computer and internet means is the essential element, adopting specific means of investigation and proofs in digital environments and, still, establishing a wider international cooperation, in much more accelerated forms and much more appropriate for online crime.

It is important to note that the Republic of Cape Verde signed judicial cooperation agreements on penal issues with Portugal, Senegal and Spain.

III- National Commission of Data Protection

The National Commission for Data Protection is an independent administrative entity which operates within Parliament, and has as its general authority to control and supervise the observance of the legal provisions and statutory laws with regards personal data protection in rigorous respect for human rights and freedoms and guarantees.

It is responsible:

- a) To issue opinions on legal provisions;
- b) To authorize the processing of personal data;
- c) To authorize the interconnections and transfer of personal data to third party countries;
- d) To fix the time limit for the conservation of data;
- e) To apply penalties for the violation of the rules for the protection of data;
- f) To participate in judicial processes for the violation of the rules of the data protection;

The National Commission for Data Protection has only one year of existence.



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Thank you very much!