



Strasbourg, 23 December 2013

T-PD(2013)RAP30Abr\_rev\_En

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

**30th plenary meeting**

Strasbourg, 15 – 18 October 2013

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**ABRIDGED REPORT**

Directorate General of Human Rights and Rule of Law

The Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD), established under Article 18 of the *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* [ETS No. 108], held its 30th plenary meeting in Strasbourg from 15 to 18 October 2013 with Mr Jean-Philippe Walter (Switzerland) in the Chair. The agenda, as adopted by the T-PD, and the list of participants\* are set out in Appendices 1 and 2.

The T-PD:

1. Took note of information provided by Mr Philippe Boillat, Director General of the Directorate General of Human Rights and Rule of Law, on the modernisation of Convention 108, major developments in the field of data protection and related fields since the 29th plenary meeting (27-30 November 2012) and the main events organised by the Council of Europe or in partnership with it;
2. Examined the draft **Explanatory Report** to the modernised Convention (proposals adopted by the T-PD at its 29th plenary meeting) and instructed the Secretariat to amend it in the light of the discussions, with a view to its subsequent submission to the Ad Hoc Committee on Data Protection (CAHDATA), responsible for finalising the report in parallel with the work being done on the draft of the modernised Convention;
3. Took note of information on the **evaluation and follow-up mechanism** being prepared by the Secretariat and instructed the latter to revise and supplement this document, taking account of the positions adopted at the meeting, with a view to its subsequent transmission, for information, to the CAHDATA ;
4. Examined the revised draft **Recommendation** on the protection of personal data used for **employment** purposes and instructed the Secretariat to revise the draft in the light of the observations made, so as to permit its finalisation and consultation of delegations before its adoption at the next plenary meeting;
5. Examined the final report on implementation of **Recommendation (87)15** regulating the use of personal data in the **police** sector, prepared by the scientific expert Mr Joseph Cannataci, and decided to publish the report after allowing delegations a final deadline for its verification (8 November) and to forward the report to other Council of Europe committees concerned, such as the Cybercrime Convention Committee (T-CY) and the European Committee on Crime Problems (CDPC) as well as the CAHDATA, and lastly instructed its Bureau to draw up tangible proposals concerning the follow-up to be given to this report;
6. Took note of information provided by Mr Joseph Cannataci concerning the review of implementation of **Recommendation (97)5** on the protection of **medical data** and instructed the Secretariat to submit to delegations the documents concerning the various working approaches (deadline for replies 30 November) so as to permit the sending of a questionnaire (which will either be exhaustive or less comprehensive) by the end of the year;

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\* 66 participants in total. Gender distribution: 33 men and 33 women

7. Took note of information provided by the scientific expert Mr Paul De Hert concerning the report on collection and processing of **biometric** data, information provided by the scientific expert Mr Douwe Korff concerning the report on the implications for private life of use of the **Internet** and of information on the report on **nanotechnology** and its implications for the right to privacy and invited the experts to finalise their reports for publication by the year end;
8. Decided on the Committee's future priorities for the 2014-2015 biennium, in the light of the scientific experts' statements and the discussions, and instructed the Secretariat to finalise the **work programme** accordingly;
9. Took note of activities and **major developments** at national level in the data protection field since the last plenary meeting and of the participation by the Secretariat or Committee representatives in various events, and particularly to the 35<sup>th</sup> International Conference of Data Protection and Privacy Commissioners (Warsaw, 23-26 September 2013);
10. Took note of the information provided on **Data Protection Day** 2014 concerning, firstly, the preparation of a compilation of national initiatives and, secondly, the launch of the handbook on European data protection case law prepared in partnership with the European Union Agency for Fundamental Rights ((FRA);
11. Took note of information provided by Professor Kai Rannenberg on the **standardisation** work and standards of the International Organization for Standardisation (**ISO**) and, in view of this work's interest for the Committee, instructed the Secretariat to take the necessary steps to request "liaison" organisation status;
12. Took note of information provided concerning **co-operation with other Council of Europe bodies**, in particular the work being done by the Steering Committee on Media and Information Society (CDMSI) and its Committee of Experts on Rights of Internet Users (MSI-DUI), by the drafting group for an international convention to combat the manipulation of sports results, by the Committee on Bioethics (DH-BIO), represented by its Secretary, Ms Laurence Lwoff, who presented the work of common interest of the Committees, and by the Parliamentary Assembly of the Council of Europe (PACE);
13. Drew attention to the need for very close monitoring of the work of the **Cybercrime** Convention Committee (T-CY) concerning transfrontier access to data, so as to ensure the proposals' consistency with personal data protection law;
14. Expresses its concerns in relation to the requirements of the European Convention on Human Rights and Convention 108 on mass surveillance allegations and instructed the Secretariat to submit to delegations a message to be addressed to the Committee of Ministers (see final version in appendix 3 of this report) in view of its finalisation by written procedure, which after its adoption will be submitted to the Committee of Ministers in a letter signed by the chair of the T-PD;

15. Adopted an opinion on PACE Recommendation (2024) 2013 on national security and access to information (appendix 4) and examined the draft revised Recommendation (2006) 4 on research on biological materials of human origin, prepared by DH-BIO, and suggested its adoption by written procedure as soon as possible in order to contribute to the work of this committee during its next plenary meeting (26-28 November 2013);
16. Took note of the information provided on the state of **signatures, ratifications and accessions** and welcomed the accession of Uruguay (45th party), the first participation by the Russian Federation (46th party) and the progress made on accession by the Kingdom of Morocco, which had been invited to accede to the Convention in January;
17. Took note of the information submitted by the **observers**;
18. Took note of the report by the Council of Europe **Data Protection Commissioner** on her activities since the last plenary meeting;
19. Took note of the request to update the **national information** on the Internet site and the call made to delegations to contribute to a new section concerning reference material on data protection in each country;
20. Took note of the updating of the joint OECD-APEC- Council of Europe **list of contact points** and invited delegations that so wished to join this initiative;
21. Appointed Mr Stanislav Durina (Slovakia) and Ms Alessandra Pierucci (Italy) as "**Equality**" **Rapporteurs**;
22. Took note of the **dates** of the first meeting of the CAHDATA, scheduled from 12 to 14 November 2013 (with the next meetings proposed for 17-19 February 2014 and 14-16 May 2014), and the dates of the 31st plenary meeting (2-5 June 2014) and the Bureau meetings (31st meeting: 18-20 December 2013, 32nd meeting: 25-27 March 2014, 33rd meeting: 15-17 October 2014 and 34th meeting: 16-18 December 2014).

## APPENDIX 1

### LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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

##### **ALBANIA / ALBANIE**

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Erton Karagozi, Director of the Registration Department, Commissioner for Personal Data Protection, Rr "Abdi Toptani, Nr. 4, Kati i II-te, Tirana, Albania

##### **ANDORRA / ANDORRE**

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Joan Crespo Piedra, Cap de l'Agencia, Agencia Andorrana de Protecció de Dades Personal - c/DR Villanova, 15 Edif. Conseil Général – AD Andorra la Vella

Anna Cadena, Agencia Andorrana de Protecció de Dades Personals, Carrer Dr. Vilanova núm. 15, Nova seu del Consell General, planta - 5, AD500 Andorra la Vella Principat d'Andorr

##### **ARMENIA / ARMENIE**

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Vahagn Harutyunyan, Deputy- Head of Division of Struggle against High-tech Crimes, General Department of Combat Against Organized Crime, Republic of Armenia Police, 130 Nalbandyan St. Yerevan

##### **AUSTRIA / AUTRICHE**

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Matthias Schmidl, Knowledge officer, Bundeskanzleramt, Verfassungsdienst, Ballhausplatz 2, 1014 Wien

##### **AZERBAIJAN / AZERBAÏDJAN**

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Asgar Hajiyev, Legal assistant, Ministry of National Security of the Republic of Azerbaijan, 2, Parliament avenue, Baku

##### **BELGIUM / BELGIQUE (apologised / excusé)**

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##### **BOSNIA AND HERZEGOVINA / BOSNIE HERZEGOVINE**

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Emir Muratović, Senior advisor for inspection supervision, Personal Data Protection Agency in Bosnia and Herzegovina, Vilsonovo šetalište br. 10, 71000 Sarajevo

##### **BULGARIA / BULGARIE (apologised / excusé)**

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##### **CROATIA / CROATIE**

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Patricio Marcos Petrić, Croatian Agency for Protection of Personal Data, Martićeva 14, HR -10 000 Zagreb

##### **CYPRUS / CHYPRE (apologised / excusé)**

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##### **CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

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Hana Štěpánková, Head of the Press Department, Spokeswoman, Office for Personal Data Protection Pplk. Sochora 27, 170 00 Prague 7

##### **DENMARK / DANEMARK (apologised / excusé)**

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##### **ESTONIA / ESTONIE**

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Kaja Puusepp, Supervision Director, Estonian Data Protection Inspectorate, Väike-Amerika 19  
10129 Tallinn

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**FINLAND / FINLANDE**

Leena Vettenranta, Senior Specialist (Data Protection), Ministry of Justice, PO Box 25, FI-00023

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**FRANCE**

Catherine Pozzo di Borgo, Commissaire du Gouvernement adjoint auprès de la CNIL, Services du  
Premier Ministre, 66 rue de Bellechasse 75007 Paris

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**GEORGIE / GEORGIA**

Nino Sarishvili, Head of Research and Analysis Unit, Analytical Department, Ministry of Justice,  
0133Tbilisi, 24 Gorgasali Str.

Tamar Kaldani, Personal Data Protection Inspector, 7, Ingorokva Str., 0105, Tbilisi

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**GERMANY / ALLEMAGNE**

Elena Bratanova, Federal Ministry of the Interior, Project Group on Data Protection Reform in Germany  
and Europe, Directorate-General V (Public Law, Constitutional Law, Administrative Law)  
Fehrbelliner Platz 3, 10707 Berlin

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**GREECE / GRECE (apologised / excusé)**

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**HUNGARY / HONGRIE**

Attila Péterfalvi, President, National Authority for the Data Protection and Freedom of Information, H-1125  
Budapest, Szilágyi Erzsébet fasor 22/C

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**ICELAND / ISLANDE**

Hörður Helgi Helgason, Interim Data Protection Commissioner, The Icelandic Data Protection Authority,  
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**IRELAND / IRLANDE**

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Redmond's Hill, Dublin 2

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**ITALY / ITALIE**

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**LATVIA / LETTONIE (apologised / excusé)**

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**LIECHTENSTEIN**

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**LITHUANIA / LITUANIE**

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**LUXEMBOURG**

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41 rue de la Gare, 1611 Luxembourg

**MALTA / MALTE**

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**MONACO**

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Isabelle Rouanet-Passeron, Conseiller Technique, Département de l'Équipement, de l'Environnement et de l'Urbanisme, 98000 Monaco

**MONTENEGRO**

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Zora Cizmovic, Ministry of Interior of Montenegro, Head of the Section for Personal Data Protection and Free Access to Information, Blvd. Svetog Petra Cetinjskog No 22, Podgorica

Jelena Matovic, Ministry of Interior of Montenegro, Department for International Cooperation and European Integration, Advisor - Interpreter,

**NETHERLANDS / PAYS-BAS (apologised / excusé)**

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**NORWAY / NORVEGE**

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Mari Vindedal Strand, Higher Executive Officer, Ministry of Justice and Public Security, Legislation Department

**POLAND / POLOGNE**

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Urszula Góral, Director of the Social Education and International Cooperation Department, Bureau of the Inspector General for Personal Data Protection, ul. Stawki 2, 00-193 Warszawa

**PORTUGAL**

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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

**REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA**

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Nicolae Lungu, Head of the Legal Affairs Division and Public Relation for the National Center for the Data Protection, MD-2012 Chişinău

**ROMANIA / ROUMANIE**

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Simona Sandru, Head of Complaints' Department, National Supervisory Authority for Personal Data Processing, Bd. Magheru no. 28-30, 5th floor, 010336, Bucharest

**RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE**

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Igor Milashevskiy, Advisor to the Minister of communication and mass communications of the Russian Federation (Head of delegation);

Dmitriy Vyatkin, Deputy Chairman of the State Duma Committee on constitutional legislation and state building;

Mikhail Vinogradov, Deputy Director of Department for international law and cooperation, Ministry of Justice of the Russian Federation;

Andrey Fedosenko, Chief Counselor of the Staff of the State Duma Committee on constitutional legislation and state building;

Aleksandra Aronova, Counselor of the Department for regulation of radio frequencies and communication networks, Ministry of communication and mass communications of the Russian Federation;

Konstantin Kosorukov, Deputy for Legal Affairs to the Permanent Representative of the Russian Federation at the Council of Europe.

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**SERBIA/SERBIE**

Nevena Ruzic, Head of Department for harmonisation of regulation and practices and international cooperation, Office of the Commissioner for information of public importance and personal data protection, Belgrade 11000, Bul. Kralja Aleksandra 15

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**SLOVAK REPUBLIC / RÉPUBLIQUE SLOVAQUE**

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**SLOVENIA / SLOVENIE**

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**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

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**SWEDEN / SUEDE**

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**SWITZERLAND / SUISSE**

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**“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA” / « L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE »**

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**UKRAINE**

Olena Smirnova, Deputy Head of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights

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**UNITED KINGDOM / ROYAUME-UNI**

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**URUGUAY (apologised / excusé)**

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**OBSERVERS/OBSERVATEURS**

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**KINGDOM OF MOROCCO / ROYAUME DE MAROC (apologised / excusé)**

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**TURKEY / TURQUIE**

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Tamer AKÇALI, Judge, Ministry of Justice of the Republic of Turkey, General Directorate of External Relations and International Law

**USA / ETATS-UNIS (apologised / excusé)**

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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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**AUSTRALIAN PRIVACY FOUNDATION (APF) (apologised / excusé)**

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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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**INTERNATIONAL CHAMBER OF COMMERCE (ICC) / CHAMBRE DE COMMERCE INTERNATIONALE (CCI) (apologised / excusé)**

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**INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS / Conférence internationale des Commissaires à la protection des données et de la vie privée (apologised / excusé)**

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**IBERO-AMERICAN DATA PROTECTION NETWORK / RESEAU IBERO-AMERICAIN DE PROTECTION DES DONNEES (apologised / excusé)**

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**EUROPEAN COMMISSION / COMMISSION EUROPEENNE**

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Liene Balta, Policy Officer in Data Protection Unit of DG Justice, Office MO59 02/050 - 1049 Brussels, Belgium)

**COUNCIL OF THE EUROPEAN UNION / CONSEIL DE L'UNION EUROPEENNE**

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

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**INTERPOL**

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**« INTERNET SOCIETY » / L'INTERNET SOCIETY" (ISOC)**

Robin Wilton, Technical Outreach Director - Identity and Privacy

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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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Young-Kil Kim, Commissioner, Personal Information Protection Commission, Tongil-ro 81, Seodaemun-gu, 120-705, Seoul, Korea

Sohyun Shin, International Relations, Personal Information Protection Commission, Tongil-ro 81, Seodaemun-gu, 120-705, Seoul, Korea

Hyun-Woo Yang, Personal Information Protection Commission, Tongil-ro 81, Seodaemun-gu, 120-705, Seoul, Korea

**OTHER PARTICIPANTS / AUTRES PARTICIPANTS**

**COUNCIL OF EUROPE DATA PROTECTION COMMISSIONER**

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**EXPERTS SCIENTIFIQUES/SCIENTIFIC EXPERTS**

Joseph A. Cannataci, Professor, Lancashire Law School

Paul de Hert, Tilburg Institute for Law, Technology, and Society, Tilburg University, P.O. Box 90153

Marie Georges, Consultante, 58 rue de Rochecouart, 75009 Paris, France

Douwe Korff, Professor of International Law at London Metropolitan University, Wool Street House, Gog Magog Hills, Barbraham, Cambridge CB22 3AE, United Kingdom

Kai Rannenber, Goethe University Frankfurt, Deutsche Telekom Chair of Mobile Business & Multilateral Security, Grueneburgplatz 1, 60629 Frankfurt/Main, Germany

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

**COUNCIL OF EUROPE BODIES / ORGANES DU CONSEIL DE L'EUROPE**

**THE EUROPEAN COMMITTEE ON LEGAL CO-OPERATION / LE COMITÉ EUROPÉEN DE COOPÉRATION JURIDIQUE (CDCJ) (apologised / excusé)**

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**BIOETHICS / BIOETHIQUE**

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

## SECRETARIAT

### DG I – HUMAN RIGHTS AND RULE OF LAW / DG I - DROITS DE L'HOMME ET ÉTAT DE DROIT

Philippe Boillat, Director General / Directeur général

#### **Media, Information Society, Data Protection and Cybercrime Department / Service des médias, de la société de l'information, de la protection des données et de la cybercriminalité**

Jan Malinowski, Head/Chef de service

#### **Information Society / Société de l'Information**

Lee Hibbard, Head of Unit / Chef d'unité

#### **Data Protection and Cybercrime Division / Division de la protection des données et cybercriminalité**

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

Maria Michaelidou, Programme Advisor / Conseillère de programme

Szilvia Simond, Assistant / Assistante

## INTERPRETERS/INTERPRETES

Lucie De Burlet  
Didier Jungling  
Luke Tilden  
Gregoire Devictor  
Katia di Stefano

## APPENDIX 2

### AGENDA

#### I. OPENING OF THE MEETING

#### II. ADOPTION OF THE AGENDA

#### III. STATEMENT BY THE SECRETARIAT

Mr Philippe Boillat, - Director General, General Direction of Human Rights and Rule of Law - [link to the speech](#) (French only)

- [T-PD-BUR\(2013\)RAP30Abr](#) Abridged report of the 30<sup>th</sup> meeting of the Bureau of the T-PD (28-30 May 2013)
- [T-PD-BUR\(2013\)RAP29Abr](#) Abridged report of the 29<sup>th</sup> meeting of the Bureau of the T-PD (5-7 February 2013)
- [T-PD \(2012\)RAP29Abr](#) Abridged Report of the 29<sup>th</sup> Plenary meeting of the T-PD (27-30 November 2012)
- [T-PD\(2012\)Rules](#) T-PD's rules of procedure
- [DP\(2013\)CASE LAW](#) List of ECHR judgments (non-exhaustive)

#### IV. MODERNISATION OF CONVENTION 108

*Required action: The T-PD will take note of the information provided by the Secretariat concerning the Ad hoc Committee (CAHDATA) and will examine the draft explanatory report and the information elements on the evaluation and follow-up mechanism.*

- [T-PD-BUR\(2013\)3Rev2](#) Draft Explanatory report of the modernised version of Convention 108
- [T-PD-BUR\(2013\)02Rev3](#) Information elements on the evaluation and follow-up mechanism

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*Related documents:*

- [CAHDATA\(2013\)ToR](#) *Terms of reference of the Ad hoc Committee (CAHDATA) on Data Protection*
- [T-PD\(2012\)04Rev4](#) *Final document on the modernisation of Convention 108*

- [T-PD\(2012\)10](#) *Memorandum on introducing the concept of jurisdiction into Article 1 of Convention 108 (Update, 5/09/2012)*
  - [CDDH\(2012\)R75 Addendum II](#) *Reply of the CDDH following the request of the T-PD Bureau concerning the modernisation of the Convention for data protection (STCE 108)*
  - [T-PD\(2012\)04Mos](#) *Final document on the modernisation of Convention 108 (Proposals and compilation of comments received, June 2012)*
  - [T-PD-BUR\(2012\)01Rev2](#) *Modernisation of Convention 108 : new proposals (April 2012)*
  - [T-PD-BUR\(2012\)03Mos](#) *Compilation of the comments received on the modernisation of Convention 108 (April 2012)*
  - [T-PD-BUR\(2011\)01mosRev6](#) *“Consultation concerning the modernisation of Convention 108: results”*
  - [T-PD-BUR\(2010\)09](#) *Report on the lacunae of the Convention for the protection of individuals with regard to automatic processing of personal data (ETS 108) resulting from technological developments*
  - [T-PD-BUR\(2010\)13rev](#) *Report on the modalities and mechanisms for assessing implementation of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108) and its Additional Protocol*
  - [T-PD-BUR\(2011\)15](#) *Modalities for the amendment of Council of Europe treaties*
  - [T-PD-BUR\(2011\)25](#) *Secretariat Comments on the strengthening of the Convention’s follow up mechanism*
- Ms Cécile de Terwangne, Professor Law Faculty, Namur University (FUNDP), CRIDS Research Director
  - Ms Marie Georges, Scientific Expert: modalities and mechanisms for assessing the implementation of Convention 108

## V. DATA PROTECTION USED FOR EMPLOYMENT PURPOSES

*Required action: The Committee will consider the draft revised version of the Recommendation of 1989.*

- [T-PD\(2013\)09](#) *Compilation of comments received*
  - [T-PD\(2013\)05Rev](#) *Draft revised Recommendation on the protection of personal data used for employment purposes*
  - [T-PD\(2013\)05rev\\_en](#) *German commen*
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Related documents:

- [T-PD-BUR\(2010\)11FIN](#) *Study on Recommendation (89)2 on the protection of personal data used for employment purposes and to suggest proposals for the revision of the above-mentioned Recommendation by Mr Giovanni Buttarelli.*
- [Recommendation \(89\)2](#) *on the protection of personal data used for employment purposes*

**VI. DATA PROTECTION AND POLICE**

Required action: *The Committee will examine the final report of the expert and will decide on the following work.*

- Recommendation (87)15 – “Twenty-five years down the line”: Final experts’ Report **(restricted)**
- [Recommendation \(87\)15](#) of the Committee of Ministers to the member States on regulating the use of personal data in the police sector

Mr Joseph Cannataci, Chair in European Information Policy & Technology Law, University of Groningen, Adjunct Professor SECAU Security Research Centre

**VII. RECOMMENDATION ON MEDICAL DATA**

Required action: *The Committee will take note of the work proposals and agree on the next steps.*

- [Topics for questionnaire and interviews](#)
- [Recommendation N° R \(97\) 5](#) on the protection of medical data (13 February 1997)

**VIII. EXPERTS’ REPORTS**

Required action: *The Committee will take note of the draft reports prepared by the scientific experts and will decide on the necessary follow-up.*

- [T-PD\(2013\)06](#) Progress report on the application of the principles of Convention 108 to the collection and processing of biometric data  
*Mr Paul De Hert and Mr Koen Christianen, Tilburg Institute for Law, Technology, and Society (TILT) Tilburg University*
- [T-PD\(2013\)07](#) The use of the Internet & related services, private life & data protection: trends & technologies, threats & implications  
*Mr Douwe Korff, professor of international law at London Metropolitan University, London, UK*

- [T-PD\(2013\)08](#) Nanotechnology, Ubiquitous Computing and The Internet of Things: “Challenges to Rights to Privacy and Data Protection Draft Report to the Council of Europe”  
*Mr Matthew Kearnes and Ms Georgia Miller, University of New South Wales*

Mr Douwe Korff, Professor of international law at London Metropolitan University, UK

Mr Paul De Hert, Professor of European Criminal Law, Tilburg Institute for Law, Technology, and Society (TILT) Tilburg University

## **IX. OVERVIEW OF ACTIVITIES AND MAJOR DEVELOPMENTS IN THE FIELD OF DATA PROTECTION SINCE THE LAST PLENARY MEETING**

*Required action: The Committee will take note of the information presented and will have an exchange of views on these points.*

- [T-PD\(2013\)03Mos](#) Information on the recent developments at national level in the data protection field
- [T-PD\(2013\)03Mos Addendum](#)
- [T-PD\(2013\)01Mos](#) Compilation of reports of T-PD representatives in other committees and fora as well as other events and conferences

## **X. DATA PROTECTION DAY**

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

## **XI. EXCHANGE OF VIEWS**

*Required action: The Committee will hold an exchange of views on the subject of data protection and the International Organization for Standardisation (ISO).*

[“Work and Projects in ISO/IEC JTC 1/SC 27/WG 5 “Identity Management & Privacy technologies”](#)

Mr Kai Rannenber, Deutsche Telekom Chair of Mobile Business & Multilateral Security, Goethe University Frankfurt.

## **XII. WORK PROGRAMME**

*Required action: The Committee will discuss the draft programme for 2014-2015 and finalise it.*

- T-PD(2013)WP Work programme for the T-PD for 2014 and 2015
- [T-PD\(2012\)WP](#) Work programme for the T-PD for 2012 and 2013
- [Council of Europe Internet Governance Strategy \(2012-2015\)](#)

### **XIII. COOPERATION WITH OTHER COUNCIL OF EUROPE BODIES**

*Required action: The Committee will take note of the information provided.*

- Steering Committee on Media and Information Society (CDMSI)
  - Conference of Council of Europe Ministers responsible for Media and Information Society, Freedom of Expression and Democracy in the Digital Age, Opportunities, Rights, Responsibilities (Belgrade, 7 and 8 November 2013)
  - Committee of Experts on Rights of Internet Users (MSI-DUI)
- European Committee on Legal Cooperation (CDCJ)
- Cybercrime Convention Committee (T-CY)
- Committee on Bioethics (DH – Bio)
- Enlarged Partial Agreement on Sport (EPAS) – Sport Conventions Division
- Council of Europe Parliamentary Assembly (PACE)
  - *Massive Eavesdropping in Europe - Motion for a Resolution*  
<http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=20050&lang=EN>
  - *Recommendation 2024 (2013) "National security and access to information"*
  - *Resolution 1954 (2013) "National security and access to information"*
- DG PROG : Cooperation programs

### **XIV. OPINIONS**

*Required action: The Committee will examine the draft opinion and will take note of the finalised ones.*

- [T-PD\(2013\)10](#) Draft Opinion on the revised Recommendation (Rec(2006)4 on research on biological materials for humans (DH-Bio)
  
- [T-PD\(2013\)02](#) Compilation of opinions

### **XV. STATE OF SIGNATURES, RATIFICATIONS AND ACCESSION**

*Required action: The Committee will take note of the information provided.*

- [Overview Convention 108](#)
- [Overview additional Protocol](#)

### **XVI. OBSERVERS**

*Required action: The admission of a new observer will be welcomed (Australian Privacy Foundation) and it will be taken note of the information presented by the observers.*

### **XVII. DATA PROTECTION COMMISSIONER**

*Required action: The Committee will take note of the information provided by the Council of Europe Data Protection Commissioner.*



- [Secretary General's Regulation](#)

#### **XVIII. CONTACT POINTS AND NATIONAL INFORMATION**

*Required action:* The Committee will take note of the information provided by the Secretariat concerning the joint OECD-APEC-Council of Europe list of contact points and the Council of Europe web site.

#### **XIX. NEXT MEETINGS**

*Required action:* The Committee will take note of the proposed dates for the next meetings of the Bureau and of the Plenary meeting of the T-PD in 2014.

#### **XX. OTHER BUSINESS**

#### **DRAFT ORDER OF BUSINESS (PROVISIONAL AND SUBJECT TO CHANGE IN LIGHT OF THE DISCUSSIONS)**

	<b>15 October</b>	<b>16 October</b>	<b>17 October</b>	<b>18 October</b>
<i>Opening</i>	9:30 am	9:00/ 9:30am	9:00/ 9:30am	9:00/ 9:30am
	Items I, II, III, VI, VII.	Item IV.	Item IV.	Items VIII.-X.
<i>Lunch</i>	01:00-2:30 pm	12:30/1:00 pm - 2:00/2:30 pm	12:30/1:00 pm - 2:00/2:30 pm	12:30/1:00 pm - 2:00/2:30 pm
	Item V.	Item IV.	Items IV, XI.	Items XII-XX.
<i>End</i>	6:00 pm	5:30 / 6:00 pm	5:30 / 6:00 pm	4:00 pm
<i>Informal gathering</i>	8 pm			

### **APPENDIX 3 (final version)**

At its 30th plenary meeting in Strasbourg from 15 to 18 October 2013, the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data discussed the implications that the information revealed by Edward Snowden regarding mass surveillance programmes might have for the protection of human rights and fundamental freedoms. In this regard, it noted that there is a need to reflect on the strengthening of the measures aimed at enforcing the legal framework applicable to the processing of personal data in the context of surveillance programmes conducted for purposes of national security, in order to guarantee everyone concerned respect for their rights. It also underlined the fact that data processing of this type must according to the case law of the European Court of Human Rights be subject to effective, independent and transparent scrutiny.

The Consultative Committee underscored the timeliness of the current work on modernising Convention 108, which should reflect all of the criteria deriving from the case-law of the European Court of Human Rights strictly applying the general principle, provided for by Article 8 of the European Convention on Human Rights, that the right to privacy may only be restricted in exceptional circumstances for the legitimate protection of national security if such restriction is in accordance with the law and necessary in a democratic society. It appears in that respect appropriate to reflect upon the concept of national security and the safeguards surrounding any restriction on the right to data protection in that context.

The Committee underlines that the increased use of technologies allowing for general (or mass) surveillance of persons, whatever their nationality and place of residence, may be contrary to the rights safeguarded by the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Convention 108.

The Committee denounces the use of mass surveillance techniques, which could seriously infringe on human rights and democracy and suggests that a line of action based on Convention 108 be defined in the field.

## APPENDIX 4

### OPINION ON THE RECOMMENDATION 2024 (2013) ON NATIONAL SECURITY AND ACCESS TO INFORMATION

1. The Ministers' Deputies agreed at their 1181<sup>st</sup> meeting of 16 October 2013 to communicate Recommendation (2024)2013 on "National Security and Access to Information"<sup>†</sup> to the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (T-PD) for information and possible comments by 29 November 2013.
2. The T-PD welcomes the adoption by the Parliamentary Assembly on 2 October 2013 of Recommendation (2024)2013.
3. The T-PD has examined the Recommendation from the perspective of Council of Europe standards on data protection, in particular the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter "Convention 108") and its additional protocol on supervisory authorities and transborder data flows (ETS No. 181, hereafter the "additional protocol").
4. The T-PD welcomes this initiative of promotion of the principle of transparency, including access to information held by public authorities and reliance on the Global Principles on National Security and the Right to Information (hereafter "Global Principles") adopted on 12 June 2013 by an assembly of experts from international organisations, civil society, academia and national security practitioners, in particular concerning the points highlighted in the above-mentioned resolution, in modernising their legislation and practice.
5. The right to access to information held by public authorities is enshrined in the Council of Europe Convention on Access to Official Documents (CETS No. 205) and protected under Article 10 of the European Convention on Human Rights. In its recent judgement dealing with access to information held by a national security authority the European Court on Human Rights reaffirmed the right to access official documents protected under Article 10 of the ECHR (Youth Initiative for Human Rights v. Serbia, Application no. 48135/06, judgement of 25 June 2013).
6. The right to privacy and personal data protection is protected under Article 8 of the European Convention on Human Rights as well as under Convention 108 and its additional protocol. The right to data protection is to be considered in respect of its role in society and has to be reconciled with the other human rights and fundamental freedoms, including the freedom of expression. Restriction of the right, including restrictions for the protection of national security, may only be admitted if such restriction is provided for by

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<sup>†</sup> [Recommendation 2024 \(2013\)](#), which refers to Resolution refers to [Resolution 1954 \(2013\)](#) on national security and access to information.

law and constitutes a necessary measure in a democratic society. While the right to access to official documents containing personal data should accommodate the exercise of both rights, national security interests should not automatically prevail over the right to privacy and protection of personal data. As acknowledged in the Global Principles that certain information that should not be withheld on national security grounds may potentially nonetheless be withheld on various other grounds recognised in international law — including, personal privacy.

7. The T-PD takes note of the importance given in the Global Principles to the protection of privacy and personal data, most notably the obligation of public authorities to balance between the right to access to documents and the right to privacy.
8. In the context of the modernisation of Convention 108, the T-PD has agreed to highlight in the preamble of the draft modernised Convention the fact that the Convention “permits account to be taken, in the implementation of the rules laid down therein, of the principle of the right of public access to official documents”.
9. The TP-D furthermore welcomes the balancing of interests and rights incorporated in Article 10 of Resolution 1954(2013) and the reference regarding invasive wiretapping technologies by public authorities, internet providers and others, as well as in Article 11 regarding the protection of journalists communication and source. Illegitimate, invasive or excessive use of communication technologies by public authorities, internet providers as well as any other unavoidably will jeopardise the right to privacy, private communication and personal data protection.
10. The T-PD welcomes the principle emphasised in Resolution 1954(2013) regarding the protection of those who disclose wrongdoings in the public interest (whistle-blower) from any type of retaliation.
11. Finally, the T-PD wishes to emphasise that it is currently revising Recommendation (89)2 on the protection of personal data used for employment purposes, touching upon provisions pertaining to internal reporting mechanisms implemented by employees and which need to meet personal data standards including the protection of personal data and securing of the confidentiality of whistleblowers.