



Strasbourg 15 April 2010

T-PD-BUR (2010) RAP 21

**CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO
AUTOMATIC PROCESSING OF PERSONAL DATA [CETS 108]
(T-PD)**

21st Bureau meeting

Lisbon, 13-15 April 2010

ABRIDGED REPORT

1. The Bureau of the T-PD held its 21st meeting at the European Centre for Global Interdependence and Solidarity, North-South Centre from 13 to 15 April 2010 in Lisbon, Portugal. The list of participants and the agenda of the meeting appear in Appendices I and II to this report, respectively.

2. The Bureau of the T-PD adopted the agenda and took note of the information supplied by the Secretariat on the latest developments since its meeting in March 2010. Ms Regina JENSDOTTIR had taken up different duties in the Council of Europe, and a new appointment should soon be made to the post of Head of the Public and Private Law Division. The subject of data protection was part of the political agenda, and would be addressed by Commissioner Reding in her address to the Committee of Ministers of the Council of Europe on 7 June 2010. The Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127) was opened for signature.

The annual Council of Europe conference on co-operation in combating cybercrime had this year included a session on cloud computing and respect for privacy. The CRID had prepared a report on this issue (http://www.coe.int/t/dghl/cooperation/economiccrime/cybercrime/Documents/Reports-Presentations/2079_reps_IF10_yvespouillet1b.pdf). Professor Yves Poulet, the Director of the CRID, and Mr Francesco PIZZETTI, the President of the Italian Data Protection Authority, had been on the panel for the session. The key messages drawn up by the conference had stressed the importance of ensuring the worldwide promotion of the principles of Convention 108.

Mr Jorg POLAKIEWICZ, Head of the Law Reform Department, summarised the Conference of Ministers of Justice on “Modernising Justice in the Third Millennium”, which was being organised by the Council of Europe and would be held in Istanbul from 24 to 26 November 2010. Questions on personal data security and storage, etc, would be addressed during sessions on the use of data by the judicial system, particularly in the context of “e-justice”. The T-PD, which would be represented at the Conference by its Chairperson, was invited to help prepare the resolution that would be adopted by the Ministers of Justice at the end of the Conference.

The Secretariat also informed the Bureau that Azerbaijan would be ratifying Convention 108 in May, bringing the total number of ratifications of this instrument to 42.

3. The T-PD Bureau took note of the information on the organisation of the celebrations for the 30th anniversary of Convention 108. The Secretariat had prepared a draft project for the celebrations, and a request for voluntary contributions had been deposited with the permanent delegation of the United Kingdom to the Council of Europe. The Secretariat was working in close co-operation with the Hungarian Minister for Justice and Law Enforcement on organising the Conference in June 2011 during the Hungarian Presidency of the European Union. A meeting was scheduled between the Council of Europe ambassador in Brussels, Mr Torbjørn FROYSNES, and Ms Reding's private office in order to discuss the arrangements for celebrating the 30th anniversary on Data Protection Day 2011.

4. The T-PD Bureau examined the amendments drafted by Mr Karel Neuwirt, the Council of Europe Data Protection Commissioner, to the 1989 Resolution instituting a system of data protection for personal data files at the Council of Europe, and proposed a number of amendments regarding personal data file management and the Commissioner's status, which the Bureau decided to submit to the Council of Europe's legal department. The proposed amendments and the opinion of the legal department would be discussed at the 26th plenary meeting with an eye to submitting the revised text of the resolution for adoption.

5. The Bureau examined the request for an opinion on the application of Convention 108 submitted by the International Civil Status Commission with regard to the draft Convention on the use of the Platform for international communication of civil status data by electronic means, and decided to ask Ms Catherine POZZO DI BORGO, French representative with the T-PD, to draft the opinion.

6. The Bureau took note of the draft recommendation on measures to protect and promote respect for human rights with regard to social networking services and the draft recommendation on the protection of human rights with regard to search engines, both of which had been prepared by the Council of Europe's Media Division with a view to adoption by the Committee of Ministers, and decided to ask Ms Veronika ŽUFFOVÁ-KUNCOVÁ, representative of the Republic of Slovakia with the T-PD, to consider the drafts from the angle of the principles set out in Convention 108 and other Council of Europe instruments or draft instruments in the field of personal data protection.

7. The T-PD Bureau continued discussing the comments submitted by the national delegations of the European Committee on Legal Co-operation (CDCJ) on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the context of profiling. The Bureau finalised the 5th reading of the draft recommendation, and decided to solicit the T-PD and the observers to submit their comments on the finalised version. The comments received would be examined at the 26th plenary meeting of the T-PD with a view to the adoption of the draft recommendation by the T-PD.

8. The Bureau examined the draft explanatory memorandum on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the context of profiling in the light of the comments submitted. It made a number of amendments to the text of the explanatory memorandum and decided to continue the work on the comments in writing. The text as finalised would be available before the 26th plenary meeting. The T-PD Bureau took note of the Council of Europe's rules and practices vis-à-vis the adoption of recommendations by the Committee of Ministers: this did not require the formal adoption of the explanatory memorandum, which would therefore be finalised in consultation with the T-PD Bureau and the experts and subsequently published under the Secretariat's responsibility.

APPENDIX I

LIST OF PARTICIPANTS

BUREAU MEMBERS

AUSTRIA/AUTRICHE

Eva Souhrada-Kirchmayer, [*First Vice-Chair of the T-PD*], Head of the data protection division, Federal Chancellery,

CZECH REPUBLIC/RÉPUBLIQUE TCHÈQUE

Hana Štěpánková, Head of the Press Department, Spokeswoman, Office for Personal Data Protection,

ITALY/ITALIE

Alessandra Pierucci, Civil Servant at the Italian Data Protection Authority, Garante per la Protezione dei Dati Personali,
Excused / excusée

Clizia D'Agata, Substitute representative of Ms. Alessandra Pierucci / Représentant remplaçante de Mme Alessandra Pierucci, Service for Community and International Matters of the Italian Data Protection Authority, Garante per la Protezione dei Dati Personali,

PORTUGAL

João Pedro Cabral, [Chair of the T-PD], Directorate General of Justice Policy, Ministry of Justice,

ROMANIA/ROUMANIE

George Grigore, Department of European Integration, and International Affairs - Romanian DPA

SWITZERLAND/SUISSE

Jean-Philippe Walter, [*Second Vice-Chair of the T-PD*], Préposé fédéral à la protection des données et à la transparence (PFPDT), Chancellerie fédérale,

UNITED KINGDOM/ROYAUME-UNI

Kevin Fraser, Head of EU Data Protection Policy, Ministry of Justice,
Excused / excusé

SCIENTIFIC EXPERTS

Jean-Marc Dinant, Docteur in informatique, Maître de conférence à l'Université de Namur,

Yves Pouillet, Directeur du CRID (Centre de Recherches Informatique et Droit, Faculté de Droit,

COMMISSION OF THE EUROPEAN COMMUNITIES

Hana Pecháčková, Directorate General Justice, Freedom and Security, D5 Data Protection Unit,

SECRETARIAT

Directorate General of Human Rights and Legal Affairs / Direction Générale des droits de l'Homme et des affaires juridiques

Directorate of Standard-Setting

Law reform Department / Département des Réformes législatives

Jörg Polakiewicz, Head of the Department / Chef du Service

Tel. : +33 3 88 41 2919, Jorg.polakiewicz@coe.int

Public and private law Division / Division du droit public et privé

Kateryna Gayevska, Secretary of the TPD-BUREAU / Secrétaire du T-PD-BUREAU ;

Tel. : +33 3 88 41 2127, kateryna.gayevska@coe.int

Lucy Ancelin, Assistant / Assistante

Tel.: +33 3 88 41 2204, lucy.ancelin@coe.int

Christiane Weltzer, Assistant / Assistante

Tel. : +33 3 90 21 4530, Fax : +33 3 90 21 56 48, christiane.weltzer@coe.int

Excused / Excusée

ANNEXE II

DRAFT AGENDA

1. OPENING OF THE MEETING

2. ADOPTION OF THE AGENDA

3. STATEMENT BY THE SECRETARIAT

- Abridged report 20th
T-PD-BUR
New Abridged report of the 20th meeting of the T-PD-BUR (Bureau of the Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data [ETS No. 108]), (2-4 March 2010)

4. 30TH COUNCIL OF EUROPE CONFERENCE OF MINISTERS OF JUSTICE, ISTANBUL ON 24 - 26 NOVEMBER 2010 : *Modernising Justice in the Third Millennium:*

- *transparent and efficient justice;*
- *prisons in today's Europe*

Required action: *The T-PD Bureau will discuss the appointment of a T-PD representative to attend the conference and the elements which could be part of the resolution to be adopted during this conference.*

5. PREPARATION OF THE 26TH PLENARY MEETING IN JUNE :

Required action: *The T-PD Bureau will discuss the items mentioned in the draft agenda of the 26th Plenary meeting*

- Draft Resolution
New Draft Resolution instituting a system of data protection for personal data files at the Council of Europe (draft prepared by Karl Neuwirt, Data Protection Commissioner)
- T-PD (2010) 01
New Proposed Amendments to the T-PD Rules of procedure
- T-PD(2010)Ojprov
New Draft Agenda of the 26th Plenary meeting

6. T-PD OPINIONS REQUESTED :

Required action: The T-PD Bureau will nominate a rapporteur who will prepare an opinion on the following documents :

- **New** Recommendation on measures to protect and promote respect for human rights with regard to social networking services
- **New** Draft Recommendation by the Committee of Ministers to Member states on the protection of human rights with regard to search engines
- **New** Draft Convention regulating the use of the ICCS Platform for international communication of civil-status data by electronic means (in French only)

7. ORGANISATION OF THE 30TH ANNIVERSARY OF CONVENTION 108

Required action: The T-PD Bureau will take note of the information from the Secretariat concerning the organisation of the celebration of the 30th anniversary of Convention 108, and will discuss the implication of the T-PD in the organisation of these events.

8. PROFILING

Required action: The Bureau will finalise the 6th revision of the recommendation in the light of contributions received by the European Committee on Judicial Co-operation (CDCJ) and the Legal advice Department of the Council of Europe.

The Bureau will examine the comments received on the draft explanatory memorandum on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling in order to finalise the text.

- T-PD (2008) 01 Study on the application of Convention 108 to the profiling mechanisms
- T-PD-BUR (2009) 02 Rev 5
New Draft recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling as resulting from the 20th T-PD Bureau meeting (2-4 March 2010)
- T-PD-BUR (2010) 01 Mos
• T-PD-BUR (2010) 01 Eng Comments on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling (T-PD and CDCJ comments' compilation)
- T-PD-BUR (2010) 05 Mos
New Comments on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling

- CDCJ (2010) 7 Mos Comments received from the CDCJ delegation on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling
- T-PD-BUR (2010) 02 Draft explanatory memorandum on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling
- T-PD-BUR (2010) 04 Mos
New Comments on the Draft explanatory memorandum on the draft recommendation on the protection of individuals with regard to automatic processing of personal data in the framework of profiling

9. DATE OF THE NEXT MEETING OF THE BUREAU OF THE T-PD-BUR IN 2010