

Strasbourg, 26 September 2018

T-PD-BUR(2018)45RAP

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

(Convention 108)

45th meeting of the Bureau

Paris, 24-26 September 2018

ABRIDGED REPORT

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 45th meeting in Paris from 24 to 26 September 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.

The Bureau of the Committee of Convention 108:

1. took note of the **communication by the Secretariat** regarding in particular the budgetary situation of the Organisation and its possible impact on the 2019 programme and the reinforcement of the staffing of the Data Protection Unit for the implementation of cooperation activities, also highlighting the latest cooperation activities carried out with the support of the Cybercrime Division (in Nigeria and Kenya);
2. took note of the information concerning the **modernisation of Convention 108**, notably the opening for signature of the Amending Protocol to be held in Strasbourg on 10 October 2018, with over fifteen Parties having already confirmed that they would sign the Amending Protocol to Convention 108;
3. took note of the information on the **state of play of ratifications and accessions**, in particular on the accession to Convention 108 by Cabo Verde and Mexico bringing to 53 the total number of Parties as of 1 October 2018. The Bureau examined and finalised the **draft opinion on Kazakhstan’s request** to accede Convention 108 and decided that the Committee would be consulted by written procedure for the adoption of the opinion, with a two weeks deadline;
4. examined the **draft explanatory memorandum of the Recommendation on the protection of health-related data** presented by the expert, Ms Jeanne Bossi Malafosse, held an exchange of views and decided that the revised version of the draft will be sent for comments to all delegations with a view to finalisation and approval at the 37th plenary meeting of the Committee (22-24 November 2018);
5. took note of the information provided by the secretariat on the **evaluation and follow up mechanism** to be set up under Convention 108+ and held an exchange of views and instructed the Secretariat to provide for the CRIDS expert support on this file, in order to present updated version of the documents at the 37th plenary meeting of the Committee;
6. took note of the information provided by the Secretariat concerning the latest development on ICANN related privacy issues, the next ICANN public meeting to be held in Barcelona (22 – 25 October 2018) and the imminent term of the written consultation on the draft “Privacy and Data protection principles **guide for ICANN** related data processing”;
7. took note of the information provided by the policy advisor on Artificial Intelligence of the Council of Europe, Mr Yannick Meneceur, on the latest developments within the organisation in relation to Artificial Intelligence and by the expert, Mr Alessandro Mantelero on the **report on Artificial Intelligence**, held an exchange of views and decided to circulate for comments of the Bureau participants the proposed guiding policies on the issue with a view to a finalisation of the report at the 37th Plenary meeting;
8. examined and finalised the draft **agenda of the 37th plenary meeting**, supporting the proposals made by the participants to add to the draft agenda an item on the consultation of delegations on the latest trends on the nomination of heads of data protection authorities and financing models, on the opportunity to invite a technical expert on AI and an expert to present the case-law of the European Court of Justice;
9. took note of the **activities and major developments related to the work of the Committee**, in particular the IXth Seminar on Privacy and Personal Data Protection (7-8 August 2018, São Paulo, Brazil), the AGESIC national event on personal data protection (16-19 October 2018, Montevideo, Uruguay), the 40th International Conference of Data Protection and Privacy Commissioners (ICDPPC) (22-26 October 2018), the Forum “Mexico and Convention 108” (Mexico, 7-8 November 2018), the 13th Annual meeting of the Internet Governance Forum (IGF) (Paris, 12-14 November 2018), the International Conference on Cyberlaw, Cybercrime & Cybersecurity 2018 (14-16 November 2018, New Delhi, India);

10. took note of the information provided by the expert, Mr Gert Vermeulen on **transborder access to data by law enforcement**, held an exchange of views on the issues at stake and stressed the importance of continuing providing guidance to the Cybercrime Committee on privacy and data protection matters with relation to the drafting of the second additional protocol to the Budapest Convention;

11. took note of the information on the **co-operation with other Council of Europe bodies** presented by the Secretariat, in particular regarding the work of the Cybercrime Committee (T-CY) on the second additional protocol to the Budapest Convention, on the outcome of the last Octopus conference held in Strasbourg on 11 – 13 July 2018, on the draft European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and correlated study prepared by the Working Group on the quality of justice of the Commission on the Efficiency of Justice (CEPEJ). It finally took note of the work of the Committee of experts on Human Rights Dimensions of automated data processing and different forms of artificial intelligence (MSI-AUT), and of the request for comments regarding the draft revised European Prison rules prepared by the Council for Penological Co-operation (PC-CP) that will be finalised by written consultation of the Bureau participants;

12. took note of the latest requests for **observer status**, by Brazil and the Gabonese Data Protection Authority and decided that the Committee would be consulted by written procedure, also holding an exchange of views on the issue of applicable criteria to be considered to future requests for observer status. The Bureau also took note of the information presented by the delegation of the Philippines regarding the ACE programme (Awareness Compliance and Enforcement) and the privacy awareness week (to be held every year the last week of May and targeting DPOs) and implementation of controls. The representative of the EDPS recalled the forthcoming organisation of the 40th International Conference of Data Protection and Privacy Commissioners (Brussels, 22-26 October 2018). The ICRC delegation recalled the outcomes of the workshop on data protection in international organisations (Copenhagen, 13-14 July 2018) and referred to a study on “humanitarian metadata surveillance” commissioned to Privacy International to be made available in autumn, and the forthcoming launch of a new working series of workshops to update the Handbook on data protection and humanitarian action together with the Brussels Privacy Hub in order to address new topics such as blockchain, IA, digital identity and virtual reality. The Chair of the AFAPDP informed the Bureau of the date of the next General Assembly (18 October 2018 in Paris) which will examine a draft Resolution on the ownership of personal data, and of the annual Conference to be held on 19 October in Paris (addressing the themes of election and fake news and the GDPR). The representative of the European Commission drew attention of the Bureau on the draft adequacy decision regarding Japan and the fact that the opinion of the EDPB is expected for November, with a decision possibly adopted by the end of the year;

13. confirmed the **dates** of the forthcoming Plenary meeting to be held in Strasbourg from 20 to 22 November 2018 and of the next Bureau meeting, to be held from 17 to 19 December 2018 in Strasbourg. Dates for the meetings to be held in 2019 were also announced and are the following: Plenary meetings in Strasbourg from 12 to 14 June 2019 and from 19 to 21 November 2019, and Bureau meetings from 20 to 22 March 2019 (Paris), 25 to 27 September 2019 (Paris) and 11 to 13 December 2019 (Strasbourg).

APPENDIX I.

AGENDA

Paris, Council of Europe office

24 September 2018 (09:30 am) – 26 September 2018 (01:00 pm)

	1. Opening of the meeting
T-PD(2018)RAP36Abr	Abridged report of the 36 th Plenary meeting (Strasbourg, 19-21 June 2018)
T-PD(2018)44RAP	Abridged report of the 44 th Bureau meeting (Strasbourg, 26-28 March 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
	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 and will examine the draft opinion.
	<ul style="list-style-type: none">• Draft Opinion on Kazakhstan's request• Convention 108: chart of signatures and ratifications• Additional Protocol: chart of signatures and ratifications
	6. Protection of Health-related data
	Expert: Ms Jeanne Bossi Malafosse, Paris, France.
	<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 draft explanatory memorandum.
	Draft explanatory memorandum

T-PD(2018)06	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	
	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 hold an exchange of views on the draft report.
T-PD(2018)09Rev	Draft report on “Artificial intelligence”
	8. Evaluation and follow up mechanism under Convention 108+
	<u>Required action:</u> The Bureau will take note of the information provided and will hold an exchange of views on the topic.
T-PD(2016)01	Draft questionnaire on the evaluation and follow-up mechanism
T-PD-BUR(2013)02Rev5	Information elements on the evaluation and follow-up mechanism
	9. ICANN
	<u>Required action:</u> The Bureau will take note of the information provided by the Secretariat and will hold an exchange of views on the issues at stake.
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
Answers from the Committee of Convention 108 to the Discussion paper for the Octopus Conference Key messages of the Octopus Conference 2018	Expert: Mr Gert Vermeulen, Full Professor of (European and international) criminal law and director of the Institute for International Research on Criminal Policy (IRCP).

	<u>Required action:</u> The Bureau will take note of the information provided by the Secretariat and will hold an exchange of views with the expert on the issues at stake.
	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"> • Steering Committee on Media and Information Society (CDMSI) <ul style="list-style-type: none"> ◦ MSI-AUT • CAHENF • CEPEJ • Cybercrime Committee (T-CY) • Bioethics Committee (DH-BIO) • PC-CP
	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.
	<ul style="list-style-type: none"> • IX. Seminar on Privacy and Personal Data Protection (7-8 August 2018, São Paulo, Brazil) • AGESIC national event on personal data protection (16-19 October 2018, Montevideo, Uruguay) • 40th International Conference of Data Protection and Privacy Commissioners (ICDPPC) (22-26 October 2018) • IX International Conference "Protection Data Protection" (8 November 2018, Moscow, Russian Federation) • 13th Annual meeting of the Internet Governance Forum (IGF) (Paris, 12-14 November 2018) • International Conference on Cyberlaw, Cybercrime & Cybersecurity 2018 (14-16 November 2018, New Delhi, India)
	13. Observers
	<u>Required action:</u> The Bureau will take note of the information provided by the observers and by the secretariat.
T-PD(2018)04Rev	Observers - State of play and admission criteria
	14. Next meetings
	<u>Required action:</u> The Bureau will take note of the proposed dates for the next meetings.
	15. Any Other Business

APPENDIX II.

LIST OF PARTICIPANTS

MEMBERS OF THE BUREAU / MEMBRES DU BUREAU

FRANCE

Agnès Maitrepierre, Chargée de mission auprès du Directeur des affaires juridiques, Ministère des affaires étrangères et du développement international

GEORGIE / GEORGIA (apologised / excusée)

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

ITALY / ITALIE

Pierucci Alessandra, (Chair / Présidente) Department of International relations, Il Garante

LUXEMBOURG

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

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)

MEMBERS OF THE COMMITTEE / MEMBRES DU COMITE

MONACO

Corine Laforest de Minotty, Chargée de Missions auprès du Conseiller de Gouvernement-Ministre des Relations extérieures et de la Coopération, Département des Relations Extérieures et de la Coopération Ministère d'Etat

MONTENEGRO

Radenko Lacmanović, Member of Council, Agency for Personal Data Protection and Free Access to Information of Montenegro

Nikola Mrdak, legal advisor, Agency for Personal Data Protection and Free Access to Information of Montenegro

SENEGAL

Adama Sow, Directeur de Communication, Commission de Protection des données personnelles (CDP)

TURKEY / TURQUIE

Yusuf Emre Köse, Legal Counselor, Embassy of the Republic of Turkey in Paris

Tuba Kendir Tunalı, Head of Department, Personal Data Protection Authority

Demet Aslaner Keklikkiran, Head of Department, Personal Data Protection Authority

UNITED KINGDOM / ROYAUME-UNI

Olufemi Animashaun, Senior Policy Advisor, EU and International Data Protection Policy, Government

OBSERVERS / OBSERVATEURS

ARGENTINA / ARGENTINE

Gomez-Duran Rosa Délia, Head of the Political and Legal Section at the Embassy of Argentina in Paris,

FRENCH-SPEAKING ASSOCIATION OF PERSONAL DATA PROTECTION AUTHORITIES / ASSOCIATION FRANCOPHONE DES AUTORITÉS DE PROTECTION DES DONNÉES PERSONNELLES (AFAPDP)

Marine Revel, Chargée de mission

EUROPEAN ASSOCIATION FOR THE DEFENSE OF HUMAN RIGHTS / ASSOCIATION EUROPEENNE POUR LA DEFENSE DES DROITS DE L'HOMME (AEDH)

Maryse Artiguelong, Déléguée

EUROPEAN COMMISSION / COMMISSION EUROPEENNE

Lukasz Rozanski, DG Justice, Unit C4

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

Claire-Agnès Marnier, Legal Officer

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

Massimo Marelli, Lawyer, Head of Data Protection Project, Communication & Information Management Department, ICRC Geneva

Julie Tenenbaum, Regional Legal Adviser for Europe, ICRC Paris

**INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS /
CONFÉRENCE INTERNATIONALE DES COMMISSAIRES À LA PROTECTION DES DONNÉES ET DE
LA VIE PRIVÉE (ICDPPC)**

Nana Botchorichvili, Juriste, CNIL

Anne Vidal, CNIL

INTERNET SOCIETY / SOCIÉTÉ DE L'INTERNET (ISOC) (apologised / excusé)

MEXICO / MEXIQUE

Marisol Camacho, Affaires Politiques, Ambassade du Mexique en France

PHILIPPINES

Elisa May A. Cuevas, Executive Director IV, National Privacy Commission

Angela G. Butalid, Executive Assistant IV, National Privacy Commission

EXPERTS

Jeanne Bossi-Malafosse, Avocate

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

Gert Vermeulen, Full Professor, Department Chair, Department Criminology, Criminal Law and Social Law, Institute for International Research on Criminal Policy (IRCP)

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

Yannick Meneceur, Policy advisor on artificial intelligence and digital transformation,

Directorate of Information Society and Action against Crime

Data Protection Unit / Unité de la protection des données

Sophie Kwasny, Secretary of the Committee / Secrétaire du Comité

Péter Kimpiàn, Programme Advisor / Conseiller de programme

INTERPRETERS / INTERPRETES

Ouedraogo Léa (chef d'équipe)

Aitken Eline

Freeman Annabel