

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 15 September 2017

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**BUREAU OF THE CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE PROTECTION  
OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING  
OF PERSONAL DATA [ETS 108]**

**42<sup>nd</sup> meeting of the Bureau**

Paris, 11-13 September 2017

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**ABRIDGED REPORT**

Directorate General of Human Rights and Rule of Law

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 42<sup>nd</sup> meeting in Paris from 11 to 13 September 2017 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 and welcomed the information presented by Ms María Patricia Kurczyn Villalobos, Commissioner of the national data protection agency (“INAI”) regarding the recent request of Mexico to be invited to accede to Convention 108 and its additional protocol;
2. took note of the information presented by the Secretariat regarding the latest developments within the Council of Europe and the latest activities carried out since its 34<sup>th</sup> plenary meeting (see <http://www.coe.int/fr/web/data-protection/news>);
3. took note of the information on the latest discussions concerning the **modernisation of Convention 108** at the level of the Committee of Ministers’ Rapporteur Group on Legal Co-operation (GR-J) and the transmission for opinion of the draft amending Protocol to the Parliamentary Assembly;
4. examined the draft 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 draft would be revised in light of these discussions and circulated together with the draft explanatory memorandum prior to the 35<sup>th</sup> plenary meeting of the Committee;
5. examined the draft practical guide on the use of personal data in **the police sector**, held an exchange of views and decided that the draft would be revised by the Secretariat on the basis of these discussions and distributed to the Committee delegations and to other committees concerned (CDPC, T-CY and Codexter) with a view to its final adoption at the 35<sup>th</sup> plenary meeting;
6. examined and finalised the draft **agenda** of the 35<sup>th</sup> plenary meeting;
7. held an exchange of views on the Committee’s **work programme** for the 2018-2019 biennium with a view of its implementation, in particular regarding the preparation of a report on artificial intelligence and held a discussion on the opportunity of launching a price, instructing the Secretariat to prepare proposals for the Committee in that regard;
8. took note of the **activities and major developments related to the work of the Committee**, particularly the forthcoming 39th International Conference of Data Protection and Privacy Commissioners (Hong-Kong, 25-29 September 2017), of the information given by Gert Vermeulen, Full Professor, Chair of Department Criminology, Institute for International Research on Criminal Policy (IRCP) regarding the Mauritius Agreement; as for ICANN’s work by the Secretariat and by Nigel Hickson, (VP; UN and IGO engagement, ICANN) and held an exchange of views with the experts on the subjects.
9. took note of the information on **co-operation with other Council of Europe bodies**, particularly the work of the Steering Committee on Media and Information Society (CDMSI) and its Committee of Experts on Internet Intermediaries (MSI-NET), the work of the Cybercrime Committee (TC-Y) and the Committee on Bioethics (DH-BIO), the preparation of “Guidelines to empower, protect and support children’s safe access to their rights on the Internet” by the Ad hoc Committee for the Rights of the Child (CAHENF) and the recent judgment of the ECHR in the *Barbulescu v. Romania* case (5 September 2017);
10. took note of the compilation of **opinions**, and in particular of the transmission of the opinion on Argentina’s request to the Committee of Ministers and the opinion of the Bureau regarding the draft recommendation on the responsibility of internet intermediaries – MEXICO opinion;

11. took note of the information presented by the **observers**, namely by the AFAPDP (10<sup>th</sup> Conference held in Tunis on 4-5 September, Resolution adopted and celebration of the 10<sup>th</sup> anniversary) by the ICDPPC (Hong-Kong Conference 25-29 September 2017), by the ICRC (Release of the Handbook on data protection in humanitarian action), by AEDH (dissemination of the Barbulescu case to its members), by the European Commission (adequacy talks with Japan and the Republic of Korea, review mission of the Privacy Shield).

12. confirmed the following **meeting dates for 2017**: 35<sup>th</sup> plenary meeting from 22 to 24 November, in Strasbourg and 43<sup>rd</sup> Bureau meeting in Geneva from 18 to 20 December.

## APPENDIX I.

### AGENDA

#### **42<sup>ND</sup> BUREAU MEETING - CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA (ETS NO.108)**

**Council of Europe, Room 1, Paris**

**11 September 2017, 9.30 am - 13 September 2017 – 1.00 pm**

	<b>1. Opening of the meeting</b>
<a href="#">T-PD(2016)RAP34Abr</a>	Abridged report of the 34th T-PD Plenary meeting (19-21 June 2017)
<a href="#">T-PD-BUR(2017)41RAP</a>	Abridged report of the 41st meeting of the T-PD Bureau (29-31 March 2017)
<a href="#">T-PD(2016)WP Rev</a>	Work programme of the T-PD 2016-2017
<a href="#">T-PD(2017)WP2018-2019</a>	Work programme of the T-PD 2018-2019
<a href="#">T-PD(2017)Rules</a>	T-PD's rules of procedure
	<b>2. Adoption of the agenda</b>
	<b>3. Statement by the secretariat</b>
	<b>4. Modernisation of Convention 108</b>
	Required action: The Bureau will take note of the information provided by the secretariat
	<ul style="list-style-type: none"><li>• <a href="#">Consolidated text of the modernised version of Convention 108</a></li><li>• <a href="#">Draft Protocol amending Convention 108</a></li><li>• <a href="#">Draft explanatory report of the modernised Convention 108</a></li></ul>
<a href="#">CAHDATA(2016)RAP Abr</a>	Abridged report of the CAHDATA meeting (Strasbourg, 15-16 June 2016)
<a href="#">T-PD(2016)01</a>	Draft questionnaire on the evaluation and follow-up mechanism
<a href="#">T-PD-BUR(2013)02Rev5</a>	Information elements on the evaluation and follow-up mechanism
	<b>5. Protection of Health-related data</b>
	Expert: Ms. Jeanne Bossi Malafosse, Consultant
	Required action: The Bureau will take note of the information provided by the expert and will examine the revised version of the draft Recommendation
<a href="#">T-PD(2016)4REV5</a>	Draft Recommendation on the protection of health-related data
<a href="#">T-PD(2017)15</a>	Draft explanatory memorandum
<a href="#">T-PD(2015)07</a>	Draft presentation report on the possible update of the Recommendation No. R (97) 5 on the protection of medical data by Ms. Jeanne Bossi Malafosse

<a href="#">T-PD(2015)02Mos</a>	Compilation of replies received on the protection of medical data
	<a href="#">Recommendation No. R (97) 5 of the Committee of Ministers to member states on the protection of medical data</a>
	<b>6. Data protection and police</b>  Required action: The Bureau will take note of the information provided by the secretariat and will decide on the follow-up action.
<a href="#">T-PD(2016)02rev8</a>	Draft practical guide on the use of personal data in the police sector
T-PD(2017)16	Compilation of comments on the draft practical guide on the use of personal data in the police sector
<a href="#">T-PD(2013)11</a>	Recommendation No. R (87) 15 - "Twenty-five years down the line - final report" by Joseph A. Cannataci)
	<a href="#">Recommendation No. R (87) 15 of the Committee of Ministers to member states regulating the use of personal data in the police sector</a>
	<b>7. Work programme</b>  Required action: The Bureau will discuss the implementation of the work programme for 2018-2019 and will consider the opportunity of launching a price.
	<b>8. Cooperation with other Council of Europe Bodies</b>  Required action: The Bureau will take note of the information provided by the secretariat.  <ul style="list-style-type: none"> <li>• <a href="#">Steering Committee on Media and Information Society (CDMSI)</a></li> <li>• <a href="#">Committee of experts on Internet Intermediaries (MSI-NET)</a></li> <li>• <a href="#">Cybercrime Committee (T-CY)</a></li> <li>• <a href="#">Bioethics Committee (DH-BIO)</a></li> <li>• <a href="#">Study on the rights of children in biomedicine</a></li> <li>• <a href="#">Report on Ethical Issues Raised by Emerging Sciences and Technologies (report by Roger Strand &amp; Matthias Kaiser)</a></li> <li>• <a href="#">20th anniversary of the Oviedo Convention</a></li> <li>• <a href="#">European Committee on Crime Problems (CDPC)</a></li> <li>• <a href="#">Council of Europe action plan on combating transnational organised crime (2016-2020)</a></li> <li>• <a href="#">Ad hoc Committee for the Rights of the Child (CAHENF)</a> and <a href="#">Drafting Group of Specialists on Children and the Digital Environment (CAHENF-IT)</a></li> </ul>
	<b>9. Overview of activities and major developments related to the work of the committee</b>

	<ul style="list-style-type: none"> <li>Required action: The Bureau will take note of the information provided by the Secretariat as well as by Gert Vermeulen, Full Professor, Chair of Department Criminology, Institute for International Research on Criminal Policy (IRCP) regarding the Mauritius Agreement; as for ICANN's work by the Secretariat and by Nigel Hickson, VP; UN and IGO engagement, ICANN, Geneva, Switzerland.</li> <li><a href="#">ICANN59 (Johannesburg, 26-29 June 2017)</a></li> <li><a href="#">Conference of the « Association francophone des autorités de protection des données personnelles » (AFAPDP) - 10th Francophone Conference and 11th General Assembly (Gammarth, 4-5 September 2017)</a></li> <li><a href="#">39th International Conference of Data Protection and Privacy Commissioners (ICDPPC) (Kowloon Shangri-la, Hong-Kong, 25-29 September 2017) - Mauritius cooperation agreement</a></li> </ul>
	<b>10. 35th Plenary meeting</b>
T-PD35(2017)OJ	Draft agenda
	<b>11. Opinions</b>
	Required action: The Bureau will take note of the information provided by the Secretariat.
<a href="#">T-PD(2017)07Bil</a>	Compilation of opinions
	<b>12. Observers</b>
	Required action: The Bureau will take note of the information provided by the observers.
	<b>13. Any Other Business</b>

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### Order of business

	11 September 2017	12 September 2017	13 September 2017
<b>Opening</b>	09:30 am	09:30 am	9:30 am
<b>Morning</b>	Items 1,2,3,4 and 5	Items 4,5 and 6	Remaining items
<b>Lunch</b>	01:00-2:30 pm	01:00-2:30 pm	01:00 pm
<b>Afternoon</b>	Items 4,5 and 6	Items 5, 6 and 9 ( <a href="#">Mauritius Agreement</a> )	
<b>End</b>	18h	18h	
<b>Informal gathering</b>	8 pm		

## **APPENDIX II.**

### **LIST OF PARTICIPANTS**

#### **MEMBERS OF THE BUREAU / MEMBRES DU BUREAU (T-PD-BUR)**

##### **CYPRUS / CHYPRE**

Maria Michaelidou, Office of the Commissioner for Personal Data Protection, P.O. Box 23378, 1682 Nicosia, Cyprus

##### **FRANCE**

Agnès Maitrepierre, Chargée de mission auprès du Directeur des affaires juridiques du Ministère des affaires étrangères et du développement international, 57 Boulevard des Invalides, 75700 Paris

##### **GEORGIE / GEORGIA**

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##### **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, Ministère d'Etat, Bâtiment Zurich, 3 boulevard Roosevelt, L-2450 Luxembourg

##### **PORTUGAL**

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

##### **SERBIA / SERBIE** (apologised / excusée)

Nevena Ružić, Head of Office, Commissioner for Information of Public Importance and Personal Data Protection, 42 Svetozata Markovica, 11 000 Belgrade

##### **SWITZERLAND / SUISSE**

Jean-Philippe Walter, (first Vice-Chair / premier Vice-président), Préposé fédéral à la protection des données et à la transparence (FPD), Chancellerie fédérale, Feldeggweg 1, 3003 Berne

#### **MEMBERS OF THE COMMITTEE / MEMBRES DU COMITE (T-PD)**

##### **BELGIUM / BELGIQUE**

Valérie Verbruggen, Conseiller Juridique, Commission de la protection de la vie privée, 35 Rue de la presse, 1000 Bruxelles

##### **GERMANY / ALLEMAGNE**

Uwe Wusterhausen, Federal Ministry of the Interior, Unit: Data Protection (V II 4), Alt-Moabit 140, D-10557

Paul Gaitzsch, Federal Ministry of the Interior, Unit: Data Protection in the Security Sector (OES I 3), Alt-Moabit 140, D-10557 Berlin, Germany

Nick Kai Schneider, Federal Ministry of Health, Units: Data Protection Reform / EU Health Policy and coordination of EU matters, Friedrichstr. 108, D-10117 Berlin, Germany

**LATVIA / LETTONIE**

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**MALTA / MALTE**

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**SENEGAL**

Awa Ndiaye, Présidente, Commission de protection des données personnelles (CDP), 34, Mermos VDN, Dakar

**TURKEY / TURQUIE**

Abdullah Aydin, Magistrat, Conseiller juridique à l’Ambassade de Turquie

**OBSERVERS / OBSERVATEURS**

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

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**EUROPEAN COMMISSION / COMMISSION EUROPEENNE**

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

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**INTERNATIONAL CHAMBER OF COMMERCE (ICC) / CHAMBRE INTERNATIONALE DU COMMERCE (CIC)**

Jacques Beglinger, Attorney-at-law, D.E.S.S., Member of the Executive Committee, Swiss Holdings, Federation of Industrial and Service Groups in Switzerland – Bern

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

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## **MEXICO / MEXIQUE**

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Catalina López Portillo, Chargée des Affaires Politiques à l'Ambassade du Mexique en France

Marisol Camacho, Division des Affaires Multilatérales de l'Ambassade du Mexique en France

## **OTHER PARTICIPANTS / AUTRES PARTICIPANTS**

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

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## **MOROCCO / MAROC**

Omar Seghrouchni, Commissaire à la CNDP, Imm. Les patios, bd Annakhil, 3<sup>ème</sup> étage, Hay Riad Rabat

## **EXPERTS**

Jeanne Bossi-Malafosse, Avocat à la Cour, DELSOL Avocats, Avocats aux Barreaux de Lyon et Paris  
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## **INVITED GUESTS / INVITES**

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Martyna Kusak, Faculty of Law and Administration, Chair of Criminal Procedure, Collegium Iuridicum,  
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Nigel Hickson, VP; UN and IGO Engagement, ICANN, Geneva, Switzerland

Veridiana Alimonti, former trainee at the Data Protection Unit of the Council of Europe, lawyer and researcher, R. Cardoso de Almeida, 650, Perdizes, São Paulo, Brazil. Tel.: +55 11 99364 1591.

**SECRETARIAT**

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Direction Générale Droits de l'Homme et Etat de Droit**

**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**

Kamal Zimmermann

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