

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 24 November 2017

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

35th Plenary meeting

Strasbourg, 22-24 November 2017

ABRIDGED REPORT

Directorate General of Human Rights and Rule of Law

1. The Consultative Committee of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter 'Convention 108'), established under Article 18 of Convention 108, held its 35th plenary meeting¹ in Strasbourg from 22 to 24 November 2017, with Ms Alessandra Pierucci (Italy) in the chair. The agenda as adopted by the Committee and the list of participants are set out in Appendix 1 and Appendix 2.

The Committee:

2.1. took note of the information provided by Jan Kleijssen, Director of the Information Society and Action against crime Directorate regarding in particular the signing of an agreement with key internet players – in the form of an exchange of letters – between the Secretary General and representatives of eight leading technology firms and six associations and regarding the complex budgetary situation of the Organisation. Mr Kleijssen welcomed the first participation of Tunisia as member of the Committee;

2.2. took note of the latest developments concerning the modernisation of Convention 108, in particular of the imminent finalisation of the work by the Rapporteur Group on Legal Co-operation and of the scheduled adoption by the Parliamentary Assembly of its opinion on the modernisation. The Committee called for the urgent finalisation of the work by the Committee of Ministers;

2.3. took note of the state of accessions to Convention 108 and its Additional Protocol and, in particular, welcomed the accession of Tunisia to Convention 108 and to its Additional Protocol as of 1 November 2017 as well as the request for accession made by the United Mexican States;

2.4. examined the draft recommendation on the protection of health-related data, held an exchange of views with the expert, Jeanne Bossi Malafosse, and agreed that a revised version of the draft recommendation would be circulated for written comments (deadline 15 December 2017) with a view to its finalisation by the Bureau at its forthcoming meeting (18-20 December 2017) and submission to the competent Committees of the Council of Europe for comments. Based on those comments, a final version of the draft Recommendation will be submitted to the Committee for approval at the next plenary meeting;

2.5. examined the draft guide on the use of personal data in the police sector and after thorough discussions agreed that the outstanding issues, including the scope of the draft guide, would be finalised after a call for written comments (deadline 15 January 2018) with a view to an adoption of the guide by written procedure;

2.6. took note of the Activity Report 2015-2017 presented by the Council of Europe Data Protection Commissioner and urged the Organisation to rapidly review the 1989 Regulation instituting a system of data protection for personal data files at the Council of Europe, requesting to be consulted on the draft text and highlighting the importance for the credibility of this Organisation to ensure level of data protection to the processing carried out by the Organisation equivalent to the level proposed in the modernised Convention;

2.7. took note of the information provided by the Secretariat on the latest developments related to ICANN, in particular on the side event on "Privacy and ICANN" organised during the 39th International Conference of Data Protection and Privacy Commissioners (ICDPPC) which took place in Hong Kong on 27 September 2017 and took note of the presentation of the draft "Privacy and data protection principles

¹ 72 participants in all: 41 women and 31 men.

guide for ICANN related data processing” and agreed that the draft guide would be submitted for written comments with a view to subsequent finalisation and adoption by written procedure;

2.8. took note of the information provided by Massimo Marelli, Head of Data Protection Office, International Committee of the Red Cross, regarding the Handbook co-edited by the International Committee of the Red Cross and the Brussels Privacy Hub and welcomed this important work;

2.9. took note of the information provided by Pamela McCormick, Registry Lawyer at the European court of Human Rights, on the recent case-law of the court in the field of the protection of privacy and personal data;

2.10. took note of the information on the co-operation with other Council of Europe bodies and, in particular, the work of the Steering Committee on Media and Information Society (CDMSI) and its Committee of Experts on Internet Intermediaries (MSI-NET), of the Ad-Hoc Committee for the Rights of the Child (CAHENF), of the Committee of the Cybercrime Convention (T-CY), of the Committee on Bioethics (DH-BIO) and of the European Commission for the Efficiency of Justice (CEPEJ) in the field of predictive justice, welcoming the work of the Working Group on the quality of justice of CEPEJ presented by Clementina Barbaro and Yannick Meneceur, supporting the participation of a member of the Consultative committee in this work in 2018;

2.11. took note of the information provided by the Secretariat concerning co-operation programmes implemented in the field and agreed to circulate the draft “Guidelines safeguarding privacy in the Media” for written comments in view of their adoption by the Committee at its next Plenary meeting;

2.12. took note of the information provided by the Secretariat on the compilation of opinions, in particular regarding the opinion on the request for accession by Mexico, taking note of the information provided by Patricia Kurczyn Villalobos, Commissioner of INAI;

2.13. instructed its Secretariat, in the context of the implementation of the work programme for 2018-2019, to initiate the selection of consultants for the preparation of a preliminary report on artificial intelligence to be presented at the next Plenary and to pursue the preparatory work regarding the launch of the ‘Stefano Rodotà Data Protection Award’;

2.14. took note of the major developments at national and international level in the data protection field and in particular the events organised by the Association of Francophone Personal Data Protection Authorities on the occasion of the 10th anniversary of the AFAPDP (4-5 September 2017, Tunis and 11 December 2017 in Paris) of the 39th International Conference of Data Protection and Privacy Commissioners (25- 29 September 2017, Hong-Kong, China) and the Internet Governance Forum to be held in Geneva on 18-21 December 2017;

2.15. decided in favour of the admission of the Transparency Council of Chile, the Data protection Commission of Ghana, the State of Israel and of the Privacy Commission of New-Zealand, as observers to the Committee;

2.16. confirmed that the next meetings of the Bureau would be held in Geneva from 18 to 20 December 2017 and in Paris from 26 to 28 March 2018, and that the next plenary meeting of the Committee would be held in Strasbourg from 19 to 21 June 2018.

APPENDIX I

AGENDA

	1. Opening of the meeting
T-PD(2017)RAP34Abr	Abridged report of the 34 th Plenary meeting (Strasbourg, 19-21 June 2017)
T-PD-BUR(2017)42RAP	Abridged report of the 42 nd Bureau meeting (Paris, 11-13 September 2017)
T-PD-BUR(2017)41RAP	Abridged report of the 41 st Bureau meeting (Paris, 29 March - 31 March 2017)
T-PD(2016)WPRRev	Work programme of the T-PD 2016-2017
T-PD(2017)WP2018-2019	Work programme of the T-PD 2018-2019
T-PD(2017)Rules	T-PD's rules of procedure
	2. Adoption of the agenda
	3. Statement by the secretariat
	4. Modernisation of Convention 108
	Required action: The Committee 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"> • Draft explanatory report of the modernised Convention 108
	<ul style="list-style-type: none"> • PACE Report - Draft Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its explanatory report
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
	5. State of Play – Accession
	Required action: The Committee will take note of the information provided by the secretariat.
	<ul style="list-style-type: none"> • 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.
	Required action: The Committee will take note of the information provided by the expert and will examine the revised version of the draft Recommendation together with the draft explanatory memorandum with a view to their approbation.
T-PD(2017)03Rev	Draft Recommendation on the protection of health related data
T-PD(2017)15	Draft explanatory memorandum

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. Data protection and police
	Required action: The Committee will examine the final version of the draft guide and adopt it.
T-PD(2016)02rev11	Draft practical guide on the use of personal data in the police sector
T-PD(2017)16Rev	Compilation of comments on the draft practical guide on the use of personal data in the police sector
T-PD(2013)11	Recommendation No. R (87) 15 - "Twenty-five years down the line - final report" (by Joseph A. Cannataci)
Recommandation N° R (87) 15	Recommendation No. R(87) 15 regulating the use of personal data in the police sector
	8. Data Protection and Humanitarian action Required action: Required action: The Committee will take note of the information presented by Mr Massimo Marelli, Head of Data Protection Office, ICRC Geneva, regarding the Handbook co-edited by the International Committee of the Red Cross and the Brussels Privacy Hub. <ul style="list-style-type: none"> • HANDBOOK
	9. ICANN Required action: The Committee will take note of the information presented by the Secretariat and will decide on the necessary follow-up.
T-PD(2017)20	Draft guide
	10. Case-Law
	Required action: The Committee will take note of the information provided by the Secretariat and by the representative of the European Commission.
	Presentation on the recent Court's case-law: Ms. Pamela McCormick, Registry Lawyer, ECtHR.
	Case Law (ECHR Compilation)
	Guide Article 8.
	11. Cooperation with other Council of Europe bodies and entities
	Exchange of letters - leading technology companies
	Required action: The Committee will take note of the information provided by the secretariat.
	<ul style="list-style-type: none"> • Steering Committee on Media and Information Society (CDMSI) ○ MSI-NET • CAHENF (Draft Recommendation CM/REC(2018)x of the Committee of Ministers to Member States on Guidelines to respect, protect and fulfil children's rights in the digital

	<p>environment (revised draft, 24 October 2017))</p> <ul style="list-style-type: none"> • Cybercrime Committee (T-CY) • Bioethics Committee (DH-BIO) • European Committee on Crime Problems (CDPC) <p>○ Council of Europe action plan on combating transnational organised crime (2016-2020)</p> <ul style="list-style-type: none"> • Economic crime • CEPEJ
	12. Cooperation projects
	Required action: The Committee will take note of the information provided by the secretariat and will decide on the necessary follow-up.
T-PD(2017)21	Guidelines safeguarding privacy in the Media
HELP in the 28	Data Protection and privacy rights
T-PD(2017)13	CoE cooperation projects in the data protection field (Information Document)
	13. Opinions
	Required action: The Committee will take note of the information provided by the secretariat.
T-PD(2017)07Bil	Compilation of opinions
	14. Work programme 2018-2019
	Required action: The Committee will take note of the information provided by the secretariat and will decide on the necessary follow-up.
T-PD(2017)WP2018-2019	Work programme 2018-2019
	ward proposal
	15. Overview of activities and major developments in the field of data protection
	Required action: The Committee will take note of the information provided by the secretariat.
	<ul style="list-style-type: none"> • 10th Conference of Francophone Personal Data Protection Authorities (AFAPDP), (4-5 September 2017, Tunis, Tunisia) et 10th Anniversary (11 December 2017, Paris, France);
	<ul style="list-style-type: none"> • 39th International Conference of Data Protection and Privacy Commissioners (“ICDPPC”), (25- 29 September 2017, Hong-Kong, China). • Internet Governance Forum (IGF), 18-21 December 2017, Geneva, Switzerland
	16. Data Protection Commissioner
	Required action: The Committee will take note of the information provided by the Council of Europe Data Protection Commissioner.
	Activity report
	Secretary General’s Regulation

	17. Observers
	Required action: The Committee will examine the requests received and will take note of the information provided by the observers.
T-PD(2017)10	Observers - State of play and admission criteria
	18. Next meetings
	Required action: The Committee will take note of the proposed dates for the next meetings.
	19. Any other business

APPENDIX II

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

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