

Strasbourg, 26 July / juillet 2018

T-PD(2018)16Mos

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

**COMITE CONSULTATIF DE LA CONVENTION POUR LA PROTECTION DES
PERSONNES A L'EGARD DU TRAITEMENT AUTOMATISE
DES DONNEES A CARACTERE PERSONNEL**

COMPILATION OF INTERVENTIONS / COMPILATION DES INTERVENTIONS

TABLE OF CONTENTS

ARGENTINA / ARGENTINE - PRESENTATION BY EDUARDO BERTONI.....	2
AUSTRALIAN PRIVACY FOUNDATION / FONDATION AUSTRALIENNE POUR LE RESPECT DE LA VIE PRIVÉE (APF) - PRESENTATION BY GRAHAM GREENLEAF	3
INTERNATIONAL COMMITTEE OF THE RED CROSS / COMITÉ INTERNATIONAL DE LA CROIX-ROUGE (ICRC / CICR).....	4
MEXICO / MEXIQUE – PRESENTATION BY MARÍA PATRICIA KURCZYN VILLALOBOS .	5

ARGENTINA / ARGENTINE - PRESENTATION BY EDUARDO BERTONI

PRESENTATION BY EDUARDO BERTONI, DIRECTOR OF THE ACCESS TO PUBLIC INFORMATION AGENCY – ARGENTINA - DURING THE 36TH PLENARY MEETING OF THE CONSULTATIVE COMMITTEE OF THE CONVENTION FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING OF PERSONAL DATA (CONVENTION 108)

Strasbourg, June 21st, 2018

Madam Chair, Dear Colleagues,

Thank you very much for inviting for the first time Argentina as an observer of this Plenary and thanks for the opportunity to present the advances that took place in Argentina during the last two years. I will be very brief:

First and regarding the changes in the institutional framework of the Argentine DPA

The National Personal Data Protection Directorate, dependent of the Ministry of Justice and Human Rights, was the Argentine data protection authority (DPA) until last year.

As from September 2017, the Access to Public Information Agency, autarchic and autonomous entity created by law in 2016, has become the Argentine data protection authority (DPA) as well as the access to public information agency.

As a result of this legislative change, the data protection authority has gained independence, a key element for the protection of personal data according to international standards.

Second and regarding the Convention 108.

On September 27th, 2017 the Committee of Ministers agreed to the request of Argentina to be invited to accede to the Convention 108.

In March 2018, the President of Argentina, joined by the Minister of Foreign Affairs, sent to the Congress a draft bill for the approval of Convention 108 and its Additional Protocol.

The Access to Public Information Agency's Director actively participated in two sessions addressed by the Senate Commission for Foreign Affairs.

As a result of these sessions, the Commission submitted a legal opinion recommending the approval of Convention 108 and its Additional Protocol on April 18th by the Senate.

Third and regarding a new data protection law

The Argentine Data Protection Authority started in 2016 the process for changing the current data protection law that was enacted in 2000.

The draft bill is intended to provide a high level of protection of personal data, to adapt our regulation to the new international standards and, at the same time, to bring new possibilities of innovation and investment in Argentina.

In 2017, Argentina's President, Mr. Mauricio Macri, announced at the Opening Session of the National Congress that the Executive will send to the Congress a draft bill to change the current law.

Currently the document drafted by the Argentine DPA -published in the Data Protection Latin American Journal- is under study of the Chief of the Cabinet of Ministers and we expect that it will be submitted to the Congress -probably with changes- soon.

Finally

The Agency is part of the Red Iberoamericana de Protección de los Datos (Ibero-American Network of Data Protection) and in 2017 was elected to be part of the Executive Committee of the network

Moreover, the Agency joined several Working Groups in the ICDPPC and in the ICIC since 2017.

Thank you very much

AUSTRALIAN PRIVACY FOUNDATION / FONDATION AUSTRALIENNE POUR LE RESPECT DE LA VIE PRIVÉE (APF) - PRESENTATION BY GRAHAM GREENLEAF

I want to suggest use of an informal name for the new Convention. Names are important, they can give a clear signal of what an agreement is about, or alternatively cause confusion. In 1981 those drafting Convention 108 were far sighted: they recognising that the Convention had the potential to include parties outside Europe, and so did not include 'Council of Europe' or 'European' in the name of the Convention.

However, over time, it became customary to refer to 'Council of Europe Convention 108'. Outside Europe, this did and still does cause confusion, and the question was often asked 'why should we seriously consider joining a European treaty?' While reminders about the origins of the Cybercrime Convention sometimes helped, this was often not enough.

The Secretariat's choice of 'Convention 108+' as an informal name is very smart, a simple signal that this goes beyond the content of 108. However, in my view we need to go further, and to clearly signal with an informal name the increasing globalisation of 108, which will be even stronger with 108+. The word 'global' most simply and directly captures this.

Therefore, my suggestion as an Observer, is that the Consultative Committee could consider the informal but consistent use of 'Global data protection Convention 108+'.

**INTERNATIONAL COMMITTEE OF THE RED CROSS / COMITÉ INTERNATIONAL DE LA
CROIX-ROUGE (ICRC / CICR)**

QUOTE

"The ICRC (International Committee of the Red Cross) mentioned two projects.

- The ICRC has commissioned Privacy International to carry out a study on surveillance of humanitarian metadata, that is the metadata generated by humanitarian organisations in the course of their activities (for example through the use of messaging apps with beneficiaries, bank transfers). This findings of the study will also be used to prepare a practical tool for humanitarian workers.

- The ICRC is planning a second edition of the handbook on Data Protection in humanitarian action, with updates of the existing sections and new issues such as artificial intelligence, block chain and digital identity. The ICRC is hoping to launch the project with a first workshop on the margins of the International Conference of the DP and Privacy Commissioners (ICDPPC) (October) with working series starting in January 2019. The ICRC will certainly draw from the T-PD work on those issues and expressed its gratitude for being an observer organisation at T-PD meetings."

UNQUOTE

MEXICO / MEXIQUE – PRESENTATION BY MARÍA PATRICIA KURCZYN VILLALOBOS

CONVENTION 108+ Common ground for data protection June 21st, Room 9 Conseil of Europe Strasbourg

Dear participants:

It is my honor to address you on behalf of the National Institute for Transparency, Access to Information and Personal Data Protection, known as INAI, as well as of the Mexican State. I would like to join in the congratulations to the Consultative Committee for the conclusion of the negotiations towards the modernization of Convention 108. In Mexico, the Data Protection authority and the Foreign Affairs Ministry, hereby represented by Ambassador Santiago Oñate, have been following this process with great interest through our participation as observers.

The invitation to the Mexican State to accede to the Convention 108 and its Additional Protocol means an exceptional achievement; we are very proud to be recognized for our dedication and commitment receiving such invitation and I am proud to announce that today the Mexican Representation before the Council of Europe is expecting the papers to deposit the instrument of accession with the Secretary General.

Let me take this occasion to share with you our vision regarding the benefits that are expected as a Party to the Convention and its Additional Protocol that enables us to identify and follow the important meaning of Data Protection and that we look forward with confidence to a very successful and very effective compliance with Convention 108.

My 6 fellow commissioners at INAI and myself will be working hard to convince the Legislative Power, to make the necessary adjustments of our legislation as recommended, and we will do our best efforts to apply the Convention and its Protocol as effectively and rapidly as possible.

Concerning the substantive part, I would like to remind you that our Constitution considers the Data protection, as well as privacy, as a human right and, therefore, its regulation is mandatory for both the private and the public sectors but it is relevant to emphasize that the domestic legal framework will be reinforced and improved by Convention 108 and its protocol because the international treaties on human rights to which Mexico is a Party, are together with the Constitution itself, the Supreme Law of the Federal Republic, therefore Provisions of the Convention are mandatory for all local and federal authorities and, in extremely case of discrepancy with national law, they will have to apply the *pro persona* principle.

Thereon I could briefly mention some other benefits:

1. For the authority in data protection, a wide range of opportunities opens up to formalize our international cooperation networks in order to facilitate assistance as well as the exchange of information among supervisory authorities in the attention and resolution of claims related to any data breach.
2. A second point is the strengthening for the people of the States Parties to turn to the supervisory authorities to receive assistance and to have representation against any violation of their right to the protection of personal data specially when; as seen today, automated processing, requires States to cooperate and to create mechanisms that facilitate data subjects to exercise this right beyond their national borders.
3. Considering that Personal Data is currently a fundamental asset for the development of the contemporary digital economy, Mexico benefits by setting the rules to protect data transfers between national companies and institutions and those of the States Parties. We look forward to generate trust not only between the companies but also between data subjects and the supervisory authorities all over the world.

4. Furthermore, under the legal certitude of this homogeneous framework, an increase in scientific, financial and humanitarian wider protection is expected; which translates in the reinforcement of Mexico's Data Protection with the signatory countries of the Convention.

On the other side, we recognize the relevance of modernized Convention, as an instrument with an important universal vocation and one of its virtues is that its content is consistent with the recently adopted European Union's GDPR.

In a not so distant future, a significant number of States from the five continents will adhere to the Convention as said before by Prof. Graham and, in this sense, we will increasingly come closer to the existence of an international regime that guarantees, in an effective manner, the human right to data protection.

A concrete example would be the Standards for Personal Data Protection for Ibero-American States as a very important effort.

On the other hand, I would like to share with you a personal perspective on the importance of the Consultative Committee resulting from my attendance in plenary meetings, as well as in bureau meetings, in which I was able to observe that this is a dynamic deliberative space that allows for the discussion and adoption of guidance documents on emerging issues that pose challenges to the protection of the right which gathers us today.

I conclude by reiterating my gratitude to all of you with the conviction that, at the next meeting, the Mexican State will no longer participate as an observer, but rather as a State Party to the Convention.

My deep appreciation for the Ministers and the support of the Committee, specially to Alessandra and Sophie, Peter as well and our enormous recognition to Ambassador Santiago Oñate and his entire team always aware to this process.

Thank you very much for your attention.